

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Application for rate ) DOCKET NO. 950495-WS  
increase and increase in service ) ORDER NO. PSC-95-1100-FOF-WS  
availability charges by Southern ) ISSUED: September 6, 1995  
States Utilities, Inc. for )  
Orange-Osceola Utilities, Inc. )  
in Osceola County, and in )  
Bradford, Brevard, Charlotte, )  
Citrus, Clay, Collier, Duval, )  
Highlands, Lake, Lee, Marion, )  
Martin, Nassau, Orange, Osceola, )  
Pasco, Putnam, Seminole, St. )  
Johns, St. Lucie, Volusia, and )  
Washington Counties. )

The following Commissioners participated in the disposition of this matter:

SUSAN F. CLARK, Chairman  
J. TERRY DEASON  
JOE GARCIA  
JULIA L. JOHNSON  
DIANE K. KIESLING

ORDER DENYING PETITIONS FOR FULL COMMISSION  
REVIEW OF ORDER NO. PSC-95-0829-PCO-WS

BY THE COMMISSION:

BACKGROUND

Southern States Utilities, Inc. (SSU or utility) is a Class A utility, which provides water and wastewater service to 139 service areas in 22 counties. On June 28, 1995, SSU filed an application requesting increased water and wastewater rates and increased service availability charges. SSU requested rate relief in 22 counties, but its original application did not include SSU's facilities in Hernando, Hillsborough and Polk Counties. At our August 1, 1995, Agenda Conference, we determined that SSU's failure to include those three counties in its request constituted a deficiency. Therefore, an official filing date was not established. On August 2, 1995, SSU filed the deficiencies related to Hernando, Polk, and Hillsborough Counties. That date has been established as the official filing date.

DOCUMENT NUMBER-DATE

08673 SEP-6 1995

FPSC-RECORDS/REPORTING

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On July 12, 1995, the Prehearing Officer issued Order No. PSC-95-0829-PCO-WS, establishing an initial service hearing schedule. That order set dates for 12 service hearings at locations throughout the state. The first service hearing was scheduled for August 17, 1995, in Ft. Myers, Florida, and the last one was scheduled for September 28, 1995, in New Port Richey.

On July 14, 1995, the Office of Public Counsel (OPC) filed a notice of intervention. OPC's intervention was acknowledged by Order No. PSC-95-0901-PCO-WS, issued on July 26, 1995. On July 21, 1995, SugarMill Woods Civic Association, Inc. (SugarMill Woods) filed a petition for leave to intervene in this docket. On August 8, 1995, Counsel for SugarMill Woods filed a petition for intervention on behalf of Spring Hill Civic Association (Spring Hill). Those petitions were granted by Order No. PSC-95-1034-PCO-WS, issued August 21, 1995

SUGARMILL WOODS' PETITION FOR FULL COMMISSION REVIEW

The service hearing in Citrus County was scheduled to be held on August 24, 1995. On July 24, 1995, SugarMill Woods filed a timely Petition for Full Commission Review of Order No. PSC-95-0829-PCO-WS. SugarMill Woods contended that the service hearing should be rescheduled in order to allow customers time to familiarize themselves with the rate filing, minimum filing requirements (MFRs), and the rate case synopsis, so that they may prepare for the service hearing. Specifically, SugarMill Woods requested that the Commission reschedule the service hearing to begin no later than 60 days after SSU's full rate filing and MFRs have been received by the local business office or main county library in each service area.

On August 4, 1995, the Commission issued Order No. 95-0942-PCO-WS, cancelling all service hearing dates for the month of August. The service hearing for Citrus County was subsequently rescheduled to January 24, 1996. In an August 8, 1995, letter, counsel for SugarMill Woods advised our staff that the rescheduling of the service hearing more than adequately addressed SugarMill Woods' complaint.

We agree that the new date more than adequately addresses the purpose of SugarMill Woods' petition. We find that Order No. PSC-95-0942-PCO-WS and the rescheduling of the Citrus County customer service hearing has rendered SugarMill Woods' petition moot.

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SPRING HILL'S MOTION FOR FULL COMMISSION REVIEW

On August 8, 1995, Spring Hill filed a Petition for Full Commission Review of Order No. PSC-95-0829-PCO-WS, alleging that the service hearing date scheduled for Hernando County was unsatisfactory. The petition specifically requested that the Hernando County service hearing be rescheduled so as to begin not sooner than 60 full days after SSU's full rate filing and MFRs have been received by the local business office or main county library.

At the time that Spring Hill filed its initial petition, the Hernando County service hearing date was tentatively set for September 11, 1995, but had not been confirmed by any order. Order No. PSC-95-0990-PCO-WS, issued August 11, 1995, formally established the Hernando County service hearing date. Spring Hill then filed an amended petition on August 14, 1995, in order to reference that order.

In its petitions, Spring Hill stated that SSU had not placed the rate petition, MFRs, and rate case synopsis in its business offices or main county libraries. However, Spring Hill acknowledged that pursuant to Rule 25-22.0407(3), Florida Administrative Code, the utility is not required to place any of the information until thirty days after the official filing date has been established by the Commission. Spring Hill contended that the service hearing should be rescheduled in order to allow customers time to familiarize themselves with the rate filing, MFRs, and the rate case synopsis, in order to prepare for the service hearing. Spring Hill requested that we reschedule the service hearing to begin no later than 60 days after SSU filed the information.

According to Rule 25-22.038(2), a party who is adversely affected by an order of the prehearing officer may seek reconsideration by the prehearing officer, or by the Commission panel assigned to the proceeding, within 10 days of service of the order. While it was not captioned as such, Spring Hill's petition does seek reconsideration.

The standard for reconsideration is set forth in Diamond Cab Co. of Miami v. King, 146 So. 2d 889, 891 (Fla. 1962), where the supreme court declared that the purpose of a petition for reconsideration is to bring to an agency's attention a point of law or fact which it overlooked or failed to consider when it rendered its order. In Stewart Bonded Warehouse, Inc. v. Bevis, 294 So. 2d 315, 317 (Fla. 1974), the court found that the granting of a petition for reconsideration should be based upon specific factual matters set forth in the record and susceptible to review. We have

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applied this rationale in its review of Spring Hill's Motion. We find that Spring Hill's petition fails to demonstrate a mistake of law of fact. Neither the statutes nor our rules require that we wait a certain amount of time before scheduling a service hearing.

Due to statutory time constraints and the number of service hearings, it became necessary to schedule the customer service hearings as soon as possible. Section 367.081, Florida Statutes, basically states that if we do not enter a final order within eight months of the official filing date, SSU's requested rates must go into effect. Furthermore, for practical reasons, a technical hearing should be held within five months of the official filing date in order to allow sufficient time for the filing of briefs, the recommendation and a final vote. We have scheduled 14 service hearings to hear from SSU customers throughout the state. Given the number of service hearings necessary in this docket and our calendar, it would be impossible to schedule all service hearings 60 days after SSU files its MFRs with the local business office and county library.

Based on the foregoing, we find that Spring Hill has not demonstrated a mistake of fact or law in Order No. PSC-95-0829-PCO-WS, and that Spring Hill's petition is hereby denied.

While we find it appropriate to deny Spring Hill's petition on its merits, we are not unsympathetic to the scheduling concerns. We will therefore instruct our Staff to review the calendar for any possible changes to the service hearing dates in this proceeding.

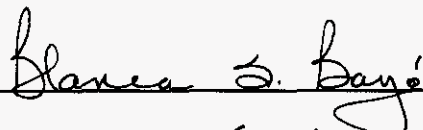
Based on the foregoing, it is, therefore,

ORDERED by the Florida Public Service Commission that SugarMill Woods Civic Association Inc.'s petition for full Commission review of Order No. PSC-95-0829-PCO-WS is moot. It is further

ORDERED that Spring Hill Civic Association, Inc.'s petition for full Commission review of Order No. PSC-0829-PCO-WS is hereby denied.

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By ORDER of the Florida Public Service Commission, this 6th  
day of September, 1995.

  
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BLANCA S. BAYÓ, Director  
Division of Records and Reporting

( S E A L )

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NOTICE OF JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.59(4), Florida Statutes, to notify parties of any administrative hearing or judicial review of Commission orders that is available under Sections 120.57 or 120.68, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing or judicial review will be granted or result in the relief sought.

Any party adversely affected by the Commission's final action in this matter may request judicial review by the Florida Supreme Court in the case of an electric, gas or telephone utility or the First District Court of Appeal in the case of a water or wastewater utility by filing a notice of appeal with the Director, Division of Records and Reporting, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, and filing a copy of the notice of appeal and the filing fee with the appropriate court. This filing must be completed within thirty (30) days after the issuance of this order, pursuant to Rule 9.110, Florida Rules of Appellate Procedure. The notice of appeal must be in the form specified in Rule 9.900(a), Florida Rules of Appellate Procedure.