

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application for transfer of) DOCKET NO. 880294-WS
Certificates Nos. 416-W and 351-S and)
majority organizational control of FOX) ORDER NO. 22233
RUN UTILITIES, INC. in Martin County)
to SOUTHERN STATES UTILITIES, INC.) ISSUED: 11-28-89
)

The following Commissioners participated in the disposition of this matter:

BETTY EASLEY
GERALD L. GUNTER

ORDER APPROVING STIPULATION AND REVIVING
ORDER NO. 19860

BY THE COMMISSION:

By Order No. 19860, issued August 22, 1988, this Commission approved the transfer of Fox Run Utilities, Inc. to Southern States Utilities, Inc. (Southern States) and established a rate base, as of the date of the transfer, for the wastewater system. However, due to the poor quality of water provided by the utility, we did not set rate base for the water system. Instead, we ordered Southern States to perform a study addressing the various alternatives available to resolve the water problems.

On February 1, 1989, Southern States submitted an engineering report to the Commission. This report addressed several alternatives for improving the water quality, as well as the cost of each of the alternatives. On April 17, 1989, the utility submitted a supplemental engineering report which provided data concerning the estimated impact that each of the alternatives would have upon rates and revised the cost of one of the alternatives downward from its original proposal. According to Southern States' study, the most cost effective alternative was to upgrade the existing water system.

Since Southern States chose to upgrade the existing system, by Order No. 21408, issued June 19, 1989, this Commission proposed to establish a water rate base of \$36,042 as of June 30, 1987, the date of the transfer. In addition, we declined to recognize Southern States' purchase of the system at a substantial discount from the net book value (negative acquisition adjustment) for ratemaking purposes.

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On July 10, 1989, the Office of Public Counsel (OPC) filed a protest to that portion of Order No. 21408 by which we established rate base. OPC argued that the negative acquisition adjustment should be recognized for ratemaking purposes and that the purchase price of the system should be established as rate base as of the date of the transfer.

On September 20, 1989, Southern States, OPC and Staff met to discuss the issues to be adopted and the procedures to be followed in this case. At the meeting, OPC and Southern States came to a tentative agreement to settle this case. On October 6, 1989, OPC and Southern States filed a joint settlement proposal. A copy of the settlement proposal is appended as Attachment A.

The essence of the proposed settlement is that, although each party believes that important issues are involved, they nevertheless realize that taking the matter of this acquisition adjustment to hearing at this time would not be cost effective. Accordingly, they agree that the net book value of the water system, as of June 30, 1987, the date of the transfer, was \$36,042. The parties also agree that the issues regarding the proper level of rate base, whether a negative acquisition adjustment should be recognized, whether extraordinary circumstances exist and who has the burden of proof regarding the recognition of a negative acquisition adjustment should be addressed in Southern States' next rate case for the Fox Run system.

Upon consideration, we find that the proposed settlement is reasonable. It does appear that it would be much more cost effective to pursue these matters during the next rate case. In addition, we note that, when establishing a rate base as of the date of a transfer, we are, essentially, merely establishing the net book value. In other words, we do not make rate base adjustments usually performed in a rate case.

Since we have approved the joint settlement proposal, we believe that Order No. 21408 should be revived, subject to the modification that, rather than establishing rate base, Order No. 21408 establishes net book value at the time of transfer. Further, since no other protests to Order No. 21408 were filed, we hereby declare Order No. 21408 to be final and effective.

It is, therefore,

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Ordered by the Florida Public Service Commission that the settlement jointly proposed by Southern States Utilities, Inc. and the Office of Public Counsel, which is appended hereto as Attachment A, is hereby approved as set forth in the body of this Order. It is further

ORDERED that Order No. 21408, issued June 19, 1989, is hereby revived and declared to be final and effective as of November 7, 1989, subject to the modifications set forth in the body of this Order. It is further

ORDERED that Docket No. 880294-WS be and is hereby closed.

By ORDER of the Florida Public Service Commission,
this 28th day of NOVEMBER, 1989.

STEVE TRIBBLE, Director
Division of Records and Reporting

(S E A L)

RJP

by: Kay Flynn
Chief, Bureau of Records

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NOTICE OF FURTHER PROCEEDINGS OR 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: 1) reconsideration of the decision by filing a motion for reconsideration with the Director, Division of Records and Reporting within fifteen (15) days of the issuance of this order in the form prescribed by Rule 25-22.060, Florida Administrative Code; or 2) 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 sewer utility by filing a notice of appeal with the Director, Division of Records and Reporting 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.

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application for transfer)
of Certificate 416-W and 351-S) Docket No. 880294-WS
from FOX RUN UTILITIES, INC. in)
Martin County to SOUTHERN STATES) Filed: October 6, 1989
UTILITIES, INC.)
_____)

CORRECTED JOINT MOTION FOR APPROVAL OF SETTLEMENT

SOUTHERN STATES UTILITIES, INC. (SSU) by and through its undersigned attorney, and the Citizens of the State of Florida, by and through the Office of the Public Counsel (OPC), jointly request that the Florida Public Service Commission approve a settlement of this docket, as follows.

1. This docket is presently scheduled for formal hearing before the Commission to consider "Citizens' Protest of Proposed Agency Action Order No. 21408 Establishing Rate Base."

2. This dispute centers on the recognition or nonrecognition of a negative acquisition adjustment in the amount of \$36,037. By P.A.A. Order No. 21408, the Commission had proposed to not recognize such adjustment.

3. Each party believes that important principles are associated with that policy dispute and that it has persuasive argument regarding the issue. Both parties nonetheless acknowledge that the expense of full-blown Commission proceedings, including expert witness and attorney's fees, may well far exceed the disputed adjustments.

4. Both parties have therefore come to agree that the issues raised in this proceeding should be deferred for consideration in the next rate case sought by SSU in connection with the Fox Run water system. The parties therefore request Commission approval of their proposed settlement, as follows.

5. The parties specifically agree that the net book value of the Fox Run water system, as of June 30, 1987, was \$36,042.

6. The agreed net book value of the water system notwithstanding, the proper level of rate base associated with the Fox Run water system, and all accounting issues related to the acquisition adjustment issue, should not be determined in this docket.

7. Whether a negative acquisition adjustment should be recognized by the Commission in connection with SSU's acquisition of the Fox Run water system should not be determined in this docket.

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8. Whether "extraordinary circumstances" exist for the purpose of applying the Commission's existing acquisition adjustment policy should not be determined in this docket.

9. Whether SSU or OPC has the burden of proof regarding recognition of a negative acquisition adjustment should not be determined in this docket.

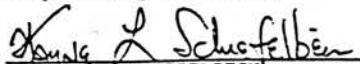
10. To the extent that any and all issues related to paragraphs 6, 7, 8, and 9 are addressed for rate making purposes, they should be heard in the next rate case associated with the Fox Run water system.


11. SSU also agrees to provide OPC with a list of documents responsive to Requests Nos. 1 and 3 of Citizens' First Request for Production of Documents and to preserve such documents for OPC inspection in the next rate case associated with the Fox Run water system.

12. Upon issuance of an order indicating Commission approval of this settlement and joint motion, the parties agree that the docket should be closed.

13. If the Commission does not approve this settlement agreement and joint motion, in its entirety and without modification, the agreement contained herein shall be deemed void and the parties ask that the Commission proceedings to consider "Citizens' Protest of Proposed Agency Action Order No. 21408 Establishing Rate Base " resume.

Respectfully submitted,


WAYNE L. SCHIEFELBEIN
Gatlin, Woods, Carlson & Cowdery
Counsel for
Southern States Utilities, Inc.
1709-D Mahan Drive
Tallahassee, FL 32308
(904) 877-7191


JACK SHREVE
Public Counsel
Office of the Public Counsel
c/o The Florida Legislature
111 W. Madison St.
Tallahassee, FL 32399-1400
(904) 488-9330