

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application of SOUTHERN STATES)	DOCKET NO. 891319-WU
UTILITIES, INC. for amendment of)	ORDER NO. 22828
Certificate No. 106-W to include)	ISSUED: 4-17-90
Wedgeood service area in Lake County)	
_____)	

ORDER ESTABLISHING PROCEDURE

On November 20, 1989, Southern States Utilities, Inc. (SSUI) filed an application to amend its water Certificate to include the territory being served by Wedgewood at Grand Isle/Herbert C. Stenger in Lake County.

On December 7, 1989, the Office of Public Counsel (OPC) filed its Notice of Intervention in the proceedings. We acknowledged the OPC's intervention in Order No. 22326, issued December 20, 1989.

On January 19, 1990, a written objection to the proposed amendment by SSUI was received from the Wedgewood Homeowner's Association.

A Prehearing Conference has been scheduled for September 4, 1990, and a full evidentiary hearing has been scheduled for October 15, 1990.

Scope

The scope of this proceeding shall be based upon the issues raised by the parties and the Commission staff (Staff) during the prehearing conference, unless modified by the Commission. The hearing will be conducted according to the provisions of Chapter 120, Florida Statutes, and the rules and regulations of this Commission.

Discovery

When interrogatories or requests for production are served on a party and the respondent intends to object to or ask for clarification of an interrogatory or request for production, the objection or request for clarification shall be made within ten (10) days of service of the interrogatory or request for production. This procedure is intended to reduce delay time in discovery.

DOCUMENT NUMBER-DATE

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Prehearing Statements

Pursuant to Rule 25-22.038(3), Florida Administrative Code, a prehearing statement shall be required of all parties in this docket on or before August 15, 1990. Staff will also file a Prehearing Statement on this date. Failure of a party to timely file a prehearing statement shall be a waiver of any issue not raised by other parties or by the Commission. In addition, such failure shall preclude the party from presenting testimony in support of its position. Such prehearing statements shall set forth the following information in the sequence listed below.

(a) the name and address of all known witnesses that may be called by the party, and the subject matter of their testimony;

(b) a description of all known exhibits that may be sponsored by the party, their contents, whether they may be identified on a composite basis, and the witness sponsoring each;

(c) a statement of basic position in the proceeding;

(d) a statement of each question of fact the party considers at issue, the party's position on each such issue;

(e) a statement of each question of law the party considers at issue, the party's position on each such issue and which of the party's witnesses will address the issue;

(f) a statement of each policy question the party considers at issue, the party's position on each such issue and which of the party's witnesses will address the issue;

(g) a statement of issues that have been stipulated to by the parties;

(h) a statement of all pending motions or other matters the party seeks action upon; and

(i) a statement as to why any requirement set forth in this Order cannot be complied with by either party.

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The original and twelve copies of each prehearing statement shall be filed with the Division of Records and Reporting on or before the close of business on August 15, 1990. A copy of the prehearing statement shall also be mailed to all other parties no later than its filing with the Commission.

Prefiled Testimony and Exhibits

In accordance with Rule 25-22.048, Florida Administrative Code, each party shall be required to prefile all written testimony that it intends to sponsor. Commission Staff may file prefiled testimony in this case. Written testimony shall be typed on 8 1/2 inch x 11 inch transcript quality paper, double-spaced, with 25 numbered lines, on consecutively numbered pages, each with a sufficient left margin to allow for binding.

A copy of any prefiled exhibit sponsored by a witness shall be attached to his or her testimony and marked for identification. All other known exhibits shall be marked for identification at the prehearing conference. After an opportunity for opposing parties to object to introduction of the exhibits and to cross-examine the witness sponsoring them, exhibits may be offered into evidence at the hearing. Exhibits accepted into evidence at the hearing shall be numbered sequentially.

The utility shall file the original and twelve copies of its prefiled written testimony and exhibits with the Division of Records and Reporting on or before the close of business on June 1, 1990. Any objector or intervenor shall file the original and twelve copies of their prefiled written testimony and exhibits on or before the close of business on July 9, 1990. Staff shall file its direct testimony, if any, on July 30, 1990.

The original and twelve copies of all prefiled rebuttal testimony and associated exhibits shall be filed with the Division of Records and Reporting on or before the close of business on August 15, 1990.

A copy of all prefiled testimony and exhibits shall be mailed to all other parties no later than their filing with the Commission.

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Prehearing Conference

A prehearing conference will be held on September 4, 1990. The conditions of Rule 25-22.038(5)(b), Florida Administrative Code, shall be observed. Any party who fails to attend the prehearing conference, unless excused by the Prehearing Officer, will have waived all issues and positions raised in that party's prehearing statement.

Prehearing Procedure: Waiver of Issues

Any issue not raised by a party prior to the issuance of the Prehearing Order shall be waived by that party, except for good cause shown. Any party seeking to raise a new issue after the issuance of the Prehearing Order shall demonstrate that: it was unable to identify the issue because of the complexity of the matter; discovery or other prehearing procedures were not adequate to fully develop the issue; due diligence was exercised to obtain facts touching on the issue; information obtained subsequent to the issuance of the prehearing order was not previously available to enable the party to identify the issue; and introduction of the issue could not be to the prejudice or surprise of any party. Specific reference shall be made to the information received, and how it enabled the party to identify the issue.

Unless a matter is not at issue for that party, each party shall diligently endeavor in good faith to take a position on each issue prior to issuance of the Prehearing Order. When a party is unable to take a position on an issue, it shall bring that fact to the attention of the Prehearing Officer. If the Prehearing Officer finds that, in fact, the party has acted diligently and in good faith to take a position, and further finds that the party's failure to take a position will not prejudice other parties or confuse the proceeding, the party may maintain "no position at this time" prior to hearing and thereafter identify its position in a post-hearing statement of issues. In the absence of such a finding by the Prehearing Officer, the party shall have waived the entire issue. When an issue and position have been properly identified, any party may adopt that issue and position in its post-hearing statement.

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Controlling Dates

The following dates have been established to govern the key activities of this case.

1) The utility shall file its prefiled written testimony and exhibits on or before June 1, 1990.

2) The objector and any intervenor shall file prefiled written testimony and exhibits on or before July 9, 1990.

3) Staff shall file direct testimony, if any, on or before August 15, 1990.

4) Rebuttal testimony and exhibits shall be filed on or before August 15, 1990.

5) Each party and Staff shall file a prehearing statement as set forth in the body of this Order on or before August 15, 1990.

6) A prehearing conference shall be held in Tallahassee on September 4, 1990, at a time and location to be determined.

7) The formal administrative hearing shall be held on October 15, 1990 in Lake County at a time and location to be determined.

By ORDER of Commissioner Thomas M. Beard, as Prehearing Officer, this 17th day of APRIL, 1990.


THOMAS M. BEARD, Commissioner
and Prehearing Officer

(S E A L)

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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.