

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application of POINT O' WOODS)	DOCKET NO. 890233-WS
UTILITIES, INC. for transfer of)	ORDER NO. 22918
Certificates Nos. 188-W and 133-S in)	ISSUED: 5-9-90
Citrus County to SOUTHERN STATES)	
UTILITIES, INC.)	
)	

The following Commissioners participated in the disposition of this matter:

- MICHAEL McK. WILSON, CHAIRMAN
- THOMAS M. BEARD
- BETTY EASLEY
- GERALD L. GUNTER
- JOHN T. HERNDON

ORDER APPROVING SETTLEMENT AGREEMENT AND
REVIVING AND DECLARING PAA ORDER TO BE
FINAL AGENCY ACTION

BY THE COMMISSION:

Case Background

On February 14, 1989, Southern States Utilities, Inc. (SSUI) filed an application to amend its certificates in Citrus County to include territory being served by Point O'Woods Utilities, Inc. (POUI). On November 6, 1989, through Order No. 22150, we approved the transfer of the certificates to SSUI and established rate base for purpose of transfer as proposed agency action. On November 27, 1989, the Office of Public Counsel (OPC) filed a timely protest to our aforementioned Order, alleging that we failed to include a \$49,043 negative acquisition adjustment in our determination of rate base for POUI at the time of transfer. The matter was scheduled for an administrative hearing on June 27, 1990. However, on February 26, 1990, the parties filed a joint motion for approval of a settlement agreement.

SETTLEMENT AGREEMENT

The agreement states that the parties believe it would be more appropriate to address the issues raised in Public Counsel's protest in SSUI's next rate case proceeding in

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connection with the POUI water and wastewater systems. The issues specifically relate to the proper level of rate base; whether an acquisition adjustment is appropriate; whether "extraordinary circumstances" exist; and deciding the question of which party has the burden of proving the existence of "extraordinary circumstances." The agreement also provides that the net book value of the POUI systems, as of July 20, 1988, was \$76,661 and \$240,699, for the water and wastewater systems, respectively.

Upon due consideration, we find that the parties' settlement agreement reasonably disposes of the issues raised in OPC's protest; therefore, the parties' joint motion for approval of such agreement is hereby granted. Further, our Order No. 22150, issued November 6, 1989, is hereby revived and declared to be final agency action as amended by the parties' settlement agreement discussed herein.

It is, therefore,

ORDERED by the Florida Public Service Commission that the Joint Motion for Approval of Settlement filed herein by Southern States Utilities, Inc. and the Office of Public Counsel in settlement of the Office of Public Counsel's November 27, 1989 protest to Order No. 22150 is hereby granted. It is further

ORDERED the Order No. 22150, issued November 6, 1989, is hereby revived and declared to be final agency action as amended by the parties' settlement agreement approved herein. It is further

ORDERED that the parties' settlement agreement attached hereto as Attachment 1, is hereby incorporated by reference. It is further

ORDERED that this docket is hereby closed.

By ORDER of the Florida Public Service Commission
 this 9th day of MAY, 1990.


 STEVE TRIBBLE, Director
 Division of Records and Reporting

(S E A L)

JRF

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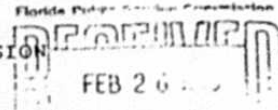
NOTICE OF JUDICIAL REVIEW

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 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.

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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application of POINT)
O'WOODS UTILITIES, INC. for) Docket No. 890233-WS
transfer of Certificates 188-W)
and 133-S in Citrus County to) Filed: 2/26 , 1990 LEGAL DIVISION
SOUTHERN STATES UTILITIES, INC.)

JOINT MOTION FOR APPROVAL OF SETTLEMENT

SOUTHERN STATES UTILITIES, INC. (SSU), by and through its undersigned attorneys, 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' Petition on Proposed Agency Action Order No. 22150 Establishing Rate Base."

2. This dispute centers on the recognition or nonrecognition of combined water and sewer negative acquisition adjustment in an amount of \$49,043. By P.A.A. Order No. 22150, 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. Further, the Commission, by Order No. 891309-WS, issued on January 2, 1990, has initiated an investigation into its acquisition adjustment policy. Such generic proceedings offer a more cost-effective forum for resolution of this policy dispute than that available on a case-by-case approach.

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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 Point O'Woods water and sewer systems. The parties therefore request Commission approval of their proposed settlement, as follows.

5. The parties specifically agree that the net book value of the Point O'Woods water and sewer systems, as of July 20, 1988, was \$76,661 and \$240,699, respectively.

6. The agreed net book value of the water and sewer systems notwithstanding, the proper level of rate base associated with the systems, 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 Point O'Woods water and sewer systems should not be determined in this docket.

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 Point O'Woods water and sewer systems.

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11. Within fifteen (15) days from receipt of written notice from OPC, SSU also agrees to provide OPC with access in Tallahassee to any documents responsive to Requests Nos. 1 and 3 of Citizens' First Request for Production of Documents not subject to objection or claim of privilege, together with a statement of objections and claims of privilege, if any. In any event, SSU agrees to preserve such documents for consideration in the next rate case associated with the Point O'Woods water and sewer systems.

12. While SSU made available to Commission Staff any material Staff requested, no record was kept to indicate which documents were actually shown or given to Staff. SSU is therefore unable to comply with Request No. 2 of Citizen's First Request for Production of Documents seeking all materials shown or given to Staff by SSU in conjunction with Staff's inspection of the Point O'Woods systems.

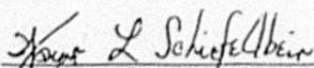
13. Upon issuance of an order indicating Commission approval of this settlement and joint motion, the parties agree that the docket should be closed.

14. 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' Petition on Proposed Agency Action Order No. 22150 Establishing Rate Base" resume.

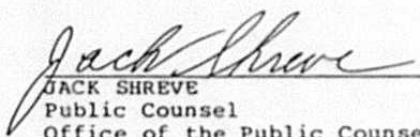
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Respectfully submitted,



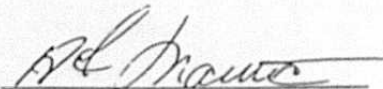
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by hand delivery to JAMES R. PRIER, ESQ., Div. of Legal Services, Florida Public Service Commission, 101 East Gaines Street, Tallahassee, Fl 32399-0850 and WAYNE L. SCHIEFELBEIN, Esq., Gatlin, Woods, Carlson & Cowdery, 1709-D Mahan Drive, Tallahassee, FL 32308, this *26* day of *February*, 1990.



H. F. Mann, II
Associate Public Counsel