

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application for amendment of ) DOCKET NO. 900227-WU  
Certificate No. 106-W in Lake County ) ORDER NO. 23459  
by Southern States Utilities, Inc. ) ISSUED: 9-11-90  
\_\_\_\_\_ )

The following Commissioners participated in the disposition of this matter:

THOMAS M. BEARD  
BETTY EASLEY  
GERALD L. GUNTER  
FRANK S. MESSERSMITH

ORDER APPROVING AMENDMENT OF CERTIFICATE

AND

ORDER TO SHOW CAUSE

BY THE COMMISSION:

Background

On July 27, 1988, Southern States Utilities, Inc. (SSUI) filed an application with this Commission for approval of the transfer of Silver Lake Estates (Silver Lake or Utility) to SSUI. During our review of the application (Docket No. 881011-WU), we learned that Silver Lake Estates was serving outside of its certificated territory.

Order No. 20647, issued on January 24, 1989, in Docket No. 881011-WU, approved the transfer and required SSUI to file an application, within 90 days of the effective date of the Order, for extension to include territory already being served. SSUI did not file the application until March 27, 1990, ten months after the date set forth in Order No. 20647.

Application

Except as stated in the background, the application is in compliance with Section 367.045, Florida Statutes, and other pertinent statutes and administrative rules concerning applications for amendment of certificate. In particular, the notarized application contains:

- 1) A filing fee in the amount of \$900, as prescribed by Rule 25-30.020, Florida Administrative Code.

DOCUMENT NUMBER-DATE

08102 SEP 11 1990

FPSC-RECORDS/REPORTING

- 2) Adequate service territory and system maps and a territory description, as prescribed by Rule 25-30.035(3)(h) and (i), Florida Administrative Code. The additional territory is described in Attachment A of this Order.
- 3) Evidence that the Utility owns the land upon which the Utility's facilities are located as required by Rule 25-30.035(3)(f), Florida Administrative Code.
- 4) Proof of notice of application to all governmental and regulatory agencies and all utilities within a four-mile radius of the territory, and proof of advertisement in a newspaper of general circulation in Lake County, as prescribed by Rule 25-30.030, Florida Administrative Code. No objections have been received and the time for filing such has expired.

SSUI has been serving the customers of Silver Lakes since 1988 and has proven its ability to operate the system. The Department of Environmental Regulation (DER) has no outstanding notices of violation against the Utility. Therefore, we find that the amendment is in the public interest and it is approved.

SSUI shall continue to charge the rates, service availability and miscellaneous service charges incorporated in its tariff for the Silver Lake system. SSUI has filed appropriate tariff sheets incorporating the additional territory and returned its certificate for entry reflecting the territory.

Show Cause

As stated previously, Order No. 20647 approved the transfer and ordered SSUI to file an application for extension of territory within 90 days of the effective date of the order to incorporate the area being served outside of Silver Lake's certificated territory. Since the effective date of the order was February 14, 1989, the application was due by May 15, 1989. The application was not filed until March 27, 1990, approximately ten months after the due date.

When asked to explain its delay in filing the application, SSUI responded:

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Initially, the application to include Silver Lake Estates in Southern States Utilities' certificated territory was not filed based on the lack of necessary information from various parties. The steps to complete the application were begun before the expiration of the 90-day period; however, the filing of the application was thereafter delayed in an effort to obtain complete information for the amendment. Due to a number of internal administrative factors, Southern States did not spend the time and resources required to obtain all of the items necessary to complete the application. Ultimately, the application process was not completed until a review of the status of certificate amendments by Southern States' management was completed. The review showed that this certificate had not been timely amended. Southern States is now attempting to correct any previous deficiencies in not filing proper certificate amendment and/or transfer applications with the FPSC, and the utility expects to file all future applications as required by FPSC rules.

Although the delay in filing does not appear to be a willful violation of Order No. 20647, SSUI should have requested an extension of time in which to comply with Order No. 20647. SSUI is a large utility, familiar with Florida Statutes and Florida Administrative Code, and is held to know that the requirements of a Commission order must be timely met.

Since SSUI could have requested an extension of time to comply with Order No. 20647, we do not find the reasons provided by SSUI for the delay to be reasonable. A fine of \$500 seems appropriate in this case to encourage SSUI to comply with Commission orders in the future. Therefore, SSUI is hereby ordered to show cause why it should not be fined \$500 for failure to comply with Commission Order No. 20647.

It is, therefore,

ORDERED by the Florida Public Service Commission that the application of Southern States Utilities, Inc., 1000 Color Place, Apopka, Florida 32703, to amend Certificate No. 106-W to include the territory described in Attachment A of this Order is hereby approved. It is further

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ORDERED that SSUI shall continue to charge the rates, service availability and miscellaneous service charges incorporated in its tariff for the Silver Lake system. It is further

ORDERED that SSUI shall show cause, in writing, why it should not be fined \$500 for failure to comply with Order No. 20647. It is further

ORDERED that SSUI's written response to the show cause must be received by the Director, Division of Records and Reporting, 101 East Gaines Street, Tallahassee, Florida 32399-0870, by the close of business on October 2, 1990. It is further

ORDERED that SSUI's written response to the show cause must contain specific allegations of fact and law. It is further

ORDERED that SSUI's failure to file a written response to this show cause order within the prescribed time period shall constitute an admission of the facts alleged in the body of this Order and a waiver of any right to a hearing. It is further

ORDERED that in the event SSUI timely files a written response which raises material questions of fact and requests a hearing pursuant to Section 120.57(1), Florida Statutes, further proceedings may be scheduled before a final determination is made.

By ORDER of the Florida Public Service Commission,  
this 11th day of SEPTEMBER, 1990.

  
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STEVE TRIBBLE, Director  
Division of Records and Reporting

( S E A L )

ALC

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.

DESCRIPTION FOR SOUTHERN STATES UTILITIES, INC.  
LAKE COUNTY  
SERVICE TERRITORY DESCRIPTION

In Township 19 South, Range 25 East, Lake County Florida:

Section 10

ALSO

The Southeast 1/4 of the Southeast 1/4.

ALSO

The South 1000 feet of the East 400 feet of the Southwest 1/4 of the Southeast 1/4.

Section 11

The South 1/2 of the Northeast 1/4.

ALSO

The North 1/2 of the Southeast 1/4.

ALSO

The East 1/2 of the Southwest 1/4.

ALSO

The Southwest 1/4 of the Southwest 1/4.

Section 14

The West 1/2 of The Northwest 1/4.

ALSO

The Northwest 1/4 of the Southwest 1/4.

Section 15

The North 700 feet of the East 2000 feet of the Northeast 1/4.

ALSO

The Northeast 1/4 of the Southeast 1/4.

ALSO

The North 350 feet of the East 700 feet of the Southeast 1/4 of the Southeast 1/4.