

upon its completion on May 19, 1989, prior to any customers connecting to the system.

Upon becoming aware of the transfer, the Commission Staff advised SSUI on September 18, 1989, that it would have to file an application with the Commission for approval of the transfer. As stated above, the application was filed by SSUI on November 20, 1989. Since SSUI filed its application within two months of being advised of the necessity of filing, we are not initiating show cause proceedings against SSUI for not obtaining Commission approval of the transfer prior to the closing.

Application

Except for the failure of SSUI to file its application prior to consummation of the transfer, the application is in compliance with Section 367.071, Florida Statutes, and other pertinent statutes and administrative rules concerning an application for transfer. In particular, the application contains:

1. A filing fee in the amount of \$150, as prescribed by Rule 25-30.020, Florida Administrative Code.
2. Proof of notice to all interested 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.
3. Proof of notice to all customers of record pursuant to Rule 25-30.030(g), Florida Administrative Code.
4. 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.

No objections have been received and the time for filing such has expired.

According to the Department of Environmental Regulation, the Grand Terrace system has no current operating problems. It should also be noted that Val Coursey, the prior owner, is not interested in entering the utility business. Therefore, since SSUI is in the business of acquiring and operating utility systems, and has the

expertise and financial ability to provide quality service to the Grand Terrace system, we find that the transfer is in the public interest and it is approved.

Certificate No. 106-W, held by SSUI, is hereby amended to include the territory served by Grand Terrace, as described in Attachment A of this Order. SSUI is directed to return the Certificate to this Commission within 30 days of the date of this Order for amendment.

Rate Base

An audit of the Utility's books and records has been conducted to determine the rate base at the time of transfer. Since the system was new when it was purchased by SSUI, our calculation of rate base is based upon the cost of the assets and associated land, without adjustments for depreciation, contributions-in-aid-of-construction (CIAC) and associated amortization. We have verified through Val Coursey's 1989 tax return that the Utility assets have not been costed off to lot sales.

In its application, SSUI submitted \$68,594 as depreciable plant. Based upon our findings during the review of Val Coursey's books, depreciable plant has been increased to \$75,839. Further, SSUI did not include land value (plant site) in its filing. From the audit, we have determined land costs to be \$1,806 per lot at the time the land was dedicated to public service. Therefore, the value of the land (plant site) is \$5,418.

An acquisition adjustment results when the purchase price differs from the original cost calculation. It is Commission policy that in the absence of extraordinary circumstances the purchase of a utility system at a premium or discount shall not affect the rate base calculation.

It should be noted, however, that at the August 21, 1990 Agenda Conference, the Office of Public Counsel (OPC) took issue with the Commission Staff's recommendation because it did not recognize the negative acquisition adjustment. In its objection, OPC outlined four points which it believes show extraordinary circumstances. OPC's concerns are discussed below.

OPC believes that rate base should reflect the original cost of the assets when dedicated to public service. OPC is of the opinion that since Val Coursey sold the Utility to SSUI prior to

servicing any customers, SSUI dedicated the assets to public service when it began providing service. Under this scenario, this exchange would be a sale of assets instead of a transfer, with Val Coursey acting as a contractor. There would be no acquisition adjustment and rate base would be equal to the price SSUI paid for the assets (\$32,935) and not the original cost to the contractor (\$81,257).

Servicing customers is not the same as "dedicated to public service," which does not concern the date customers first receive service. Section 367.021(12), Florida Statutes, defines "utility" as follows:

"Utility" means water or wastewater utility and, except as provided in s. 367.022, includes every person, lessee, trustee, or receiver owning, operating, managing, or controlling a system, or proposed construction of a system, who is providing, or proposes to provide, water or wastewater service to the public for compensation. (Emphasis added)

Pursuant to this definition, as of December 24, 1987, the date Mr. Coursey applied to DER for permits for the water system, we believe it is reasonable to conclude that Grand Terrace met the definition of utility based upon its intent to provide service. Therefore, Grand Terrace was a utility and its assets were dedicated to public service when it first proposed to provide service; thus, we believe its purchase by SSUI should be treated as a normal transfer.

Further, OPC is concerned about our policy regarding negative acquisition adjustments, which provides an incentive for problem utilities to be acquired at a price less than rate base. OPC contends that no such incentive was necessary for this acquisition since, at the time of the acquisition, there were no problems.

The Commission's policy on acquisition adjustments does not require the seller to prove hardship. We believe that the transfer to SSUI is in the public interest based upon SSUI's financial strength and technical ability. We believe that ownership and operation by SSUI of small systems will lead to lower rates and eliminate potential operational and regulatory problems inherent in small developer-owned utilities.

OPC is also concerned that since Val Coursey sold the Grand Terrace System below cost, it will show the loss on its tax return. Historically, in analyzing developer tax returns, we have only considered whether the Utility was included in costs of goods sold. The tax treatment by a developer of a gain or loss on the sale of a utility system has not been taken into account. This is true whether or not the system is in operation at the time of the transfer.

Finally, OPC is concerned that the transfer was consummated by SSUI prior to the Commission's approval and that SSUI charged unauthorized rates. It is OPC's contention that this is an extraordinary circumstance and consideration should be given to the desirability of approving a transfer to a utility which does not follow Commission rules.

Although we have had problems with SSUI regarding timeliness of filing applications and the charging of unauthorized rates, we believe that our treatment of such applications and our issuance of show cause orders to SSUI for charging unauthorized rates have adequately addressed this concern. Further, such should not impact on rate base.

We do not find that OPC has presented sufficient reasons for inclusion of an acquisition adjustment in the calculation of rate base. Therefore, a negative acquisition has not been included in the calculation of rate base since the circumstances in this transaction do not appear to be extraordinary.

Based on the foregoing, we find the appropriate rate base, for purposes of this transfer, is \$81,257 for the water system as of the date of transfer. Our calculation of rate base is shown on Schedule No. 1, with adjustments shown on Schedule No. 2.

The rate base calculation is used purely to establish net book value of the property being transferred and does not include the normal ratemaking adjustments of working capital calculations and used and useful adjustments.

Rates and Charges

On May 1, 1989, Val Coursey implemented rates, prior to the closing and prior to any customers connecting to the system. SSUI has requested that it be allowed to continue the rates and charges implemented by Val Coursey, which are as follows:

Water

	<u>SSUI Requested</u>		<u>Present</u>
	<u>Rate*</u>		<u>Lake County</u>
	<u>Monthly</u>	<u>Bi-Monthly</u>	<u>Bi-Monthly</u>
Base Facility Charge	\$ 8.62	\$17.24	\$11.14
Gallonage Charge (Per 1,000 Gallons)	1.18	1.18	1.40

*Rate currently in effect for the customers of the Grand Terrace System.

We initially considered approving the present Lake County Uniform Rate for this system since it appears to be lower. However, using the bi-monthly comparison, customers who use over 28,000 gallons bi-monthly (14,000 gallons per month) would see an increase in their bills. Since the existing rate is reasonable and is in line with other small utilities within Lake County, the rate requested by SSUI is hereby approved.

Further, SSUI has requested to implement the following miscellaneous service charges:

Miscellaneous Service Charges

	<u>Normal Working</u>	<u>After Normal</u>
	<u>Hours</u>	<u>Working Hours</u>
Initial Connection	\$ 10.00	\$ 15.00
Normal Reconnection	10.00	15.00
Violation Reconnection	10.00	15.00
Premises Visit in Lieu of Disconnection	5.00	N/A

We find these charges to be reasonable and they are approved. These charges shall be effective the date that the tariff sheets are approved.

SSUI has also requested that it be allowed to charge its uniform service availability charges of \$225 for connection to the

water system. SSUI has provided notice of the these charges in accordance with Rule 25-30.565, Florida Administrative Code. No objections have been filed. These charges are consistent with those SSUI charges its other systems within Lake County. Therefore, SSUI's request to charge its uniform service availability charges is hereby approved.

Further, SSUI has requested that it be allowed to charge a \$40 customer deposit, which is equal to twice an average monthly bill at 10,000 gallons. This is in conformance with Rule 25-30.311(7), Florida Administrative Code. The customer deposit will be administratively approved by Commission Staff when the tariff sheets are approved.

SSUI is directed to file tariff sheets reflecting the transfer and the rates and charges approved herein within 30 days of the date of this Order.

Show Cause

On May 1, 1989, eighteen days before the transfer, Val Coursey implemented rates and charges. At that time the system had been constructed, but no customers were connected. After the transfer, SSUI installed meters and began charging as customers connected to the system.

On February 16, 1990, SSUI responded to an inquiry from Commission Staff regarding the unauthorized rates. In its response SSUI stated that:

Rates and charges shown in . . . the application, . . . including a customer deposit of \$40.00 and service availability charges of \$225.00 were implemented by James V. Coursey, President, on behalf of Val Coursey Homes, Inc., effective May 1, 1989. Such rates were implemented prior to the purchase by Southern States Utilities, Inc. which occurred on May 19, 1989, when the Grand Terrace was exempt from regulation by the Florida Public Service Commission. Southern States Utilities, Inc. provided Val Coursey Homes, Inc., with the information necessary to determine what rates would be appropriate for the Grand Terrace System pursuant to Florida Public Service Commission rules relating to ratemaking. Therefore, Val Coursey Homes, Inc. implemented rates prior to the transfer that approximated rates that would be charged if

the system had been subject to the jurisdiction of the Florida Public Service Commission.

SSUI has been in operation since 1961, and is the owner or operator of over 140 system within the State of Florida, many of which are under this Commission's jurisdiction. Therefore, SSUI is fully aware that rates and charges must be approved by this Commission prior to implementation.

In its response, SSUI accepted no responsibility for implementation of the rates although it is the sole beneficiary of the unauthorized rate implementation. Further, contrary to SSUI's response, Grand Terrace was jurisdictional, based on well capacity, at the time the rates were implemented. SSUI assisted Mr. Coursey in developing the rates, installed meters and began charging the rates as customers connected to the system. Since SSUI requested approval of the rates in its application, it is obvious that SSUI was aware that the rates would need Commission approval.

The Commission should be able to expect a utility such as SSUI to conduct its operations on a more professional level than is demonstrated in this incident. A fine of \$1,000 seems appropriate in this case to encourage SSUI to comply with State Statutes and Commission Rules in the future.

Therefore, SSUI is hereby ordered to show cause why it should not be fined \$1,000 for violation of Section 367.081(1), Florida Statutes, for charging unauthorized rates.

It is, therefore,

ORDERED by the Florida Public Service Commission that the transfer of assets (Grand Terrace water system) from Val Coursey Homes, Inc., Post Office Box 412, Tavares, Florida, to Southern States Utilities, Inc., 1000 Color Place, Apopka, Florida 32703, is hereby approved. Southern States Utilities, Inc. shall return Certificate No. 106-W to this Commission within 30 days of the date of this Order for appropriate entry. It is further

ORDERED that rate base, which for transfer purposes reflects net book value, is \$81,257 for the water system. It is further

ORDERED that Southern States Utilities, Inc. shall charge the customers of the Grand Terrace water system the rates and charges approved in the body of this Order. It is further

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ORDERED that Southern States Utilities, Inc.'s request to collect its uniform service availability charges is hereby approved. The uniform service availability charges shall be effective for connections on or after the stamped approval date of the tariff. It is further

ORDERED that Southern States Utilities, Inc.'s request to implement its uniform miscellaneous service charges, as set forth in the body of this Order, is hereby approved. These charges shall be effective for service rendered on or after the stamped approval date on the tariff. It is further

ORDERED that Southern States Utilities, Inc. shall file tariff sheets reflecting the rates and charges approved in the body of this Order within 30 days of the date of this Order. It is further

ORDERED that Southern States Utilities, Inc.'s request to collect a deposit of \$40.00 is hereby approved. It is further

ORDERED that the provisions of this Order, issued as proposed agency action, shall become final and effective unless an appropriate petition in the form provided by Rule 25-22.36, Florida Administrative Code, is received by the Director, Division of Records and Reporting, 101 East Gaines Street, Tallahassee, Florida 32399-0870, by the close of business the date set forth in the "Notice of Further Proceedings or Judicial Review" attached hereto. It is further

ORDERED that Southern States Utilities, Inc. shall show cause, in writing, why it should not be fined \$1,000 for violation of Section 367.081(1), Florida Statutes, for charging unauthorized rates. It is further

ORDERED that Southern States Utilities, Inc.'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 November 12, 1990. It is further

ORDERED that Southern States Utilities, Inc.'s written response to the show cause must contain specific allegations of fact and law. It is further

ORDERED that Southern States Utilities, Inc.'s failure to file a written response to this show cause order within the prescribed

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time period will constitute and admission of noncompliance with the statutory and regulatory provisions cited in the body of this Order and a waiver of any right to a hearing. It is further

ORDERED that in the event Southern States Utilities, Inc. 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 23th day of OCTOBER, 1990.



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.

As identified in the body of this order, our action establishing rate base and setting rates and charges is preliminary in nature and will not become effective or final, except as provided by Rule 25-22.029, Florida Administrative Code. Any person whose substantial interests are affected by the action proposed by this order may file a petition for a formal proceeding, as provided by Rule 25-22.029(4), Florida Administrative Code, in the form provided by Rule 25-22.036(7)(a) and (f), Florida Administrative Code. This petition must be received by the

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Director, Division of Records and Reporting at his office at 101 East Gaines Street, Tallahassee, Florida 32399-0870, by the close of business on November 13, 1990. In the absence of such a petition, this order shall become effective on the date subsequent to the above date as provided by Rule 25-22.029(6), Florida Administrative Code, and as reflected in a subsequent order.

Any objection or protest filed in this docket before the issuance date of this order is considered abandoned unless it satisfies the foregoing conditions and is renewed within the specified protest period.

If the relevant portion of this order becomes final and effective on the date described above, any party adversely affected may request judicial review by the Florida Supreme Court in the case of an electric, gas or telephone utility or by 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 of the effective date 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.

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.

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ATTACHMENT A

TERRITORY SERVED

THE WEST 1/2 OF THE NORTHEAST 1/4 OF THE SOUTHWEST 1/4 OF SECTION 32, TOWNSHIP 18 SOUTH, RANGE 26 EAST, LAKE COUNTY, FLORIDA; FURTHER DESCRIBED AS: BEGIN AT THE SOUTHWEST CORNER OF THE NORTHEAST 1/4 OF THE SOUTHWEST 1/4 OF SAID SECTION 32, AND RUN THENCE NORTH 01 13' 35" WEST ALONG THE WEST LINE OF THE SAID NORTHEAST 1/4 OF THE SOUTHWEST 1/4 A DISTANCE OF 1316.32 FEET TO A POINT ON THE NORTH LINE OF THE WEST 1/2 OF THE SAID NORTHEAST 1/4 OF THE SOUTHWEST 1/4 OF SECTION 32; THENCE NORTH 89 32' 31" EAST ALONG SAID NORTH LINE OF THE WEST 1/2 OF THE NORTHEAST 1/4 OF THE SOUTHWEST 1/4 OF SECTION 32 A DISTANCE OF 663.73 FEET TO A POINT ON THE EAST LINE OF THE SAID WEST 1/2 OF THE NORTHEAST 1/4 OF THE SOUTHWEST 1/4 OF SECTION 32; THENCE SOUTH 01°07'10" EAST ALONG SAID EAST LINE OF THE WEST 1/2 OF THE NORTHEAST 1/4 OF THE SOUTHWEST 1/4 OF SECTION 32 A DISTANCE OF 1318.54 FEET TO A POINT ON THE SOUTH LINE OF THE AFORESAID NORTHEAST 1/4 OF THE SOUTHWEST 1/4 OF SECTION 32; THENCE SOUTH 89 44'11" WEST ALONG SAID SOUTH LINE OF THE NORTHEAST 1/4 OF THE SOUTHWEST 1/4 OF SECTION 32, A DISTANCE OF 661.30 FEET TO THE POINT OF BEGINNING AND POINT OF TERMINUS.

SCHEDULE 1

GRAND TERRACE
SCHEDULE OF RATE BASE
AS OF MAY 15, 1989

<u>DESCRIPTION</u>	<u>BALANCE PER SSUI</u>	<u>STAFF ADJUSTMENTS</u>	<u>BALANCE PER STAFF</u>
Utility Plant-in-Service	\$ 68,594	\$ 7,245 (1)	\$ 75,839
Land	0	5,418 (2)	5,418
Accumulated Depreciation	0	0	0
Contributions-in-Aid-of- Construction	0	0	0
CIAC Amortization	<u>0</u>	<u>0</u>	<u>0</u>
TOTAL	<u>\$ 68,594</u>	<u>\$ 12,663</u>	<u>\$ 81,257</u>

SCHEDULE 2

GRAND TERRACE

SCHEDULE OF RATE BASE ADJUSTMENTS

<u>Explanation</u>	<u>Adjustment</u>
<u>Utility Plant-in-Service</u>	
1) To reflect the inclusion of supported plant previously unrecorded	<u>\$ 7,245</u>
<u>Land</u>	
2) To include plant site at estimated cost at the time land was dedicated to public service	<u>\$ 5,418</u>