

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application of Southern	)	DOCKET NO.:	891320-WU
States Utilities, Inc. for amend-	)	ORDER NO.	24199
ment of Certificate No. 106-W to	)	ISSUED:	3-5-91
include for Grand Terrace service	)		
area in Lake County	)		
	)		

The following Commissioners participated in the disposition of this matter:

THOMAS M. BEARD, Chairman  
 BETTY EASLEY  
 GERALD L. GUNTER  
 MICHAEL MCK. WILSON

ORDER REVIVING AND FINALIZING PROVISIONS OF  
 PROPOSED AGENCY ACTION ORDER NO. 23656

BY THE COMMISSION:

CASE BACKGROUND

In May of 1989, the developer of Grand Terrace transferred the Grand Terrace water system to Southern States Utilities, Inc. (SSUI). On November 20, 1989, SSUI filed an application for transfer of Grand Terrace. On October 23, 1990, we issued Order No. 23656 approving the transfer of the Grand Terrace system to SSUI and issuing an Order to Show Cause, both as final agency action. Additionally, this order established rate base, rates and charges as proposed agency action.

On November 7, 1990, SSUI filed a Conditional Motion for Reconsideration on the transfer. This motion was conditioned on whether the Office of Public Counsel (OPC) would protest the proposed agency action portion of the order. On November 13, 1990, OPC filed a Petition on Proposed Agency Action objecting to the proposed agency action and requesting a hearing. In its petition, OPC objected to the transfer and to the nonrecognition of a negative acquisition adjustment in the rate base calculation. As noted above, the approval of the transfer is final agency action; no timely objection to the transfer was filed pursuant to Section 367.045(4), Florida Statutes. Also, issued as final agency action in the original order was an Order to Show Cause why SSUI should

DOCUMENT NUMBER-DATE

02168 MAR -5 1991

-PSC-RECORDS/REPORTING

ORDER NO. 24199  
DOCKET NO. 891320-WU  
PAGE 2

not be fined \$1,000 for violation of §367.081(1), Florida Statutes, for charging unauthorized rates. SSUI's failure to file a written response to the show cause order constituted an admission and waived any right to a hearing by SSUI. On February 4, 1991 SSUI paid the 1,000 fine.

The only portion of the order which was issued as proposed agency action is the order establishing rate base for purposes of transfer and setting rates and charges. OPC's Petition on Proposed Agency Action and Request for Hearing was a timely objection to the proposed agency action. OPC specifically objected to our nonrecognition of a negative acquisition adjustment.

On January 10, 1991, SSUI withdrew its Motion for Reconsideration. Also, on January 10, 1991, SSUI requested by letter that the Commission issue a modified proposed agency action which would defer any decision as to rate base issues. On January 22, 1991, SSUI refiled its request in the form of a motion proposing to finalize this docket without protracted litigation by requesting that we issue a modified proposed agency action which would not set rate base at this time. OPC filed a timely response opposing SSUI's motion. On February 19, 1991, OPC filed Notice of Withdrawal of Petition on Proposed Agency Action.

At the February 19, 1991, Agenda Conference, we acknowledged withdrawal of OPC's objection to the proposed agency action. In light of OPC's withdrawal and since there are no other issues or protests pending in this docket, we find it appropriate to revive the proposed agency action portion of Order No. 23656 and declare it to be final and effective.

It is, therefore,

ORDERED by the Florida Public Service Commission that the proposed agency action portion of Order No. 23656 is revived and is hereby determined to be final and effective as of February 19, 1991. It is further

ORDERED that the rates and charges set forth in Order No. 23656 shall be effective for service rendered on or after the stamped approval date of the tariff. It is further

ORDERED that Docket No. 891320-WU be and is hereby closed.

ORDER NO. 24199  
DOCKET NO. 891320-WU  
PAGE 3

By ORDER of the Florida Public Service Commission this 5th  
day of March, 1991.

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STEVE TRIBBLE, Director  
Division of Records and Reporting

( S E A L )

CB

by: Kay Flynn  
Chief, Bureau of Records

ORDER NO. 24199  
DOCKET NO. 891320-WU  
PAGE 4

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 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.