

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application for rate)
increase in Brevard, Charlotte/)
Lee, Citrus, Clay, Duval,)
Highlands, Lake, Marion,)
Martin, Nassau, Orange,)
Osceola, Pasco, Putnam,)
Seminole, Volusia, and)
Washington Counties by SOUTHERN)
STATES UTILITIES, INC.; Collier)
County by MARCO SHORES)
UTILITIES (Deltona); Hernando)
County by SPRING HILL UTILITIES)
(Deltona); and Volusia County)
by DELTONA LAKES UTILITIES)
(Deltona))
_____)

DOCKET NO. 920199-WS
ORDER NO. PSC-92-1020-FOF-WS
ISSUED: 09/21/92

The following Commissioners participated in the disposition of this matter:

THOMAS M. BEARD, Chairman
SUSAN F. CLARK
J. TERRY DEASON
BETTY EASLEY
LUIS J. LAUREDO

ORDER DENYING PETITION FOR FULL COMMISSION ASSIGNMENT

BY THE COMMISSION:

CASE BACKGROUND

Southern States Utilities, Inc., and Deltona Utilities, Inc., (SSUI or utility) is a Class A water and wastewater utility operating in various counties in Florida. The utility has filed an application to increase rates and charges for 127 water and wastewater systems regulated by the Florida Public Service Commission. For the systems involved in this rate application, the utility serves a total of 75,055 water customers and 25,966 wastewater customers.

On May 11, 1992, the utility filed its initial application for increased rates and charges. The filing did not satisfy the minimum filing requirements (MFRs) and was determined deficient. The deficiencies were corrected on June 17, 1992, which has been established as the official date of filing. For the systems filed

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the utility has requested final rates designed to generate total annual revenues of \$17,998,776 for water and \$10,872,112 for wastewater. This represents a total increase according to the MFRs, of \$5,064,353 or 40.16 percent for water and \$3,601,165 or 49.65 percent for wastewater. The requested rates were suspended by Order No. PSC-92-0832-FOF-WS, issued August 18, 1992. By Order No. PSC-92-0948-FOF-WS, issued August 8, 1992, the Commission authorized the collection of interim rates.

On May 21, 1992, the Office of Public Counsel (OPC) filed a Notice of Intervention in this docket which was acknowledged in Order No. PSC-92-0417-PCO-WS, issued May 27, 1992. On August 21, 1992, OPC filed, pursuant to the provisions of Section 350.01(6), Florida Statutes, a Petition For Full Commission Assignment.

In its petition OPC asserts that the importance and magnitude of this case require the assignment of the full Commission and that the risk of any delay of the case beyond the time at which the utility could place its requested rates into effect due to the assignment of the full Commission is minimal. OPC further asserts that Rule 25-22.0355, Florida Administrative Code, which requires that a request for assignment of the full Commission shall be specified in the initial pleading, is advisory and that the Commission is not compelled to consider the timeliness of this Petition.

We have considered the factors enumerated in Section 350.01(6), Florida Statutes. We agree with OPC that the magnitude of this rate proceeding is unprecedented in the water and wastewater industry. However, we disagree with OPC's assertion that the risk of failing to meet statutory deadlines would be minimal if the petition were granted. Under the present Commission workload, with several major rate cases pending in all industries, it would not be possible for the Commission to meet its statutory obligations if the full Commission were assigned to this docket. It is inherent in the Commission's fulfillment of its statutory obligations that it make assignments of Commissioners to cases based on the practical constraints involved in processing those cases. It is certainly within the overall public interest, which is the ultimate consideration set forth in Section 350.01(6), Florida Statutes, that the Commission carry out its statutory obligations within the time parameters provided in the statutes for all of the utility industries within the Commission's jurisdiction. Based on the foregoing, and our consideration of the criteria set

forth in Section 350.01(6), Florida Statutes, we find it appropriate to deny OPC's petition.

Further, we find that OPC's petition was untimely filed for the following reasons: Section 350.01(6), Florida Statutes, requires the Commission to rule on a request for the full Commission, "prior to assignment of less than the full [C]ommission to a proceeding;" OPC's petition was filed more than two months after the panel had been assigned; and, Rule 25-22.0355(4)(b), Florida Administrative Code, provides that such failure to timely file pleadings may be considered just cause for denial of such pleadings.

Based on the foregoing, it is, therefore,

ORDERED by the Florida Public Service Commission that the Petition for Full Commission Assignment filed by the Office of Public Counsel is hereby denied.

By ORDER of the Florida Public Service Commission this 21st day of September, 1992.



STEVE TRIBBLE, Director
Division of Records and Reporting

(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.

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Any party adversely affected by this order, which is preliminary, procedural or intermediate in nature, may request: (1) reconsideration within 10 days pursuant to Rule 25-22.038(2), Florida Administrative Code, if issued by a Prehearing Officer; (2) reconsideration within 15 days pursuant to Rule 25-22.060, Florida Administrative Code, if issued by the Commission; or (3) 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 wastewater utility. A motion for reconsideration shall be filed with the Director, Division of Records and Reporting, in the form prescribed by Rule 25-22.060, Florida Administrative Code. Judicial review of a preliminary, procedural or intermediate ruling or order is available if review of the final action will not provide an adequate remedy. Such review may be requested from the appropriate court, as described above, pursuant to Rule 9.100, Florida Rules of Appellate Procedure.