

69

**DOCKET NO. 920199-WS
1992 FPSC RATE CASE**

LATE FILED HEARING EXHIBIT NO. 69

TITLE

RATE CASE EXPENSE EXPLANATION

WITNESS

FORREST LUDSEN

Case Nos. 1D98-0713 and 1D98-0727
Florida Water Services Corporation vs. Florida Public Service Commission ("PSC");
Sugarmill Woods Civic Association, Inc. vs. Southern States Utilities, Inc. and the
PSC
vs. Joseph J. DeRouin, et al.

PSC Docket No. 920199-WS
VOLUME

FLORIDA PUBLIC SERVICE COMMISSION

DOCKET
NO. 920199-WS EXHIBIT NO. 69
COMPANY/
WITNESS: F. Ludsen
DATE: _____

DOCUMENT NUMBER-DATE

13965 NOV 30 1992

FPSC-RECORDS/REPORTING

Southern States Utilities, Inc.
Late Filed Exhibit no. 69
Forrest L. Ludsen
Docket no. 920199-WS

Attached is a memorandum dated 11/18/92 from Mr. Kenneth Hoffman which provides an explanation of legal rate case expenses as requested in Late Filed Exhibit no. 69. Accounting and Engineering services were not required for completion of filing deficiencies and therefore no such costs are included in rate case expense.

LAW OFFICES

MESSER, VICKERS, CAPARELLO, MADSEN, LEWIS, GOLDMAN & METZ

A PROFESSIONAL ASSOCIATION

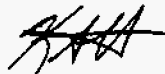
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WEST PALM BEACH, FLORIDA 33409
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Tallahassee

REPLY TO:

MEMORANDUM

TO: Mr. Forrest L. Ludsen VIA TELECOPIER AND U. S. MAIL
FROM: Kenneth A. Hoffman, Esq. 
DATE: November 18, 1992
RE: Docket No. 920199-WS; Input for Late-Filed Hearing Exhibit No. 69

During the final hearing, you were asked to provide late-filed exhibit no. 69 entitled "Rate Case Expense Explanation." My notes reflect that you were asked to provide explanations pertaining to specific entries on pages 311, 330, 346 and 351 of the rate case expense exhibit (Exhibit 41). You were also asked to provide how much Southern States was billed for services expended on matters pertaining to deficiency responses including legal, accounting and engineering services. This memorandum will provide background information to assist you in the preparation of late-filed Exhibit No. 69.

1. Page 311 - Explain cost of copies from PSC - the total charge is \$682.00. This reflects the cost to obtain copies of customer complaints filed with the Commission. These copies were requested by Brian Armstrong for review and use in the preparation of the prefiled direct testimony of Charles Sweat.

2. Page 330 - Subject to check by review of the transcript, I believe that the question on this page arose regarding the entry pertaining to a work session with Laura Wilson regarding the possibility of seeking recovery of attorneys' fees and costs for frivolous pleadings. You will note that on page 331, there is also an entry of 2.0 hours (\$180.00 based on Ms. Wilson's hourly rate of \$90.00 per hour) for legal research performed by Laura Wilson on this issue. Based on my review of the pleadings, we determined that it was prudent to research this issue after Public Counsel filed a letter with the Chairman dated May 21, 1992 in which public Counsel maintained that the MFRs were deficient because prefiled

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testimony was not filed contemporaneously with the MFRs. Based on Ms. Wilson's legal research and in light of the general difficulty in prevailing on a motion for attorneys' fees and costs based on alleged frivolous pleadings, we determined that Southern States should not pursue this matter further.

3. Page 346-347 - Again, subject to review of the transcript, I think the question arose here on our entries pertaining to monitoring the PSC's agenda conference discussion of Public Counsel's Motion for Full Commission Assignment in the GTEFL rate case. In my judgement, this work was prudent and necessary because Public Counsel also had filed a Motion for Full Commission Assignment in our rate case that was to be heard by the Commission later the same day during the Agenda Conference. We believed that monitoring the Commission discussion of the motion in the GTEFL rate case and the Commission's decision thereon would assist us in articulating our arguments before the Commission on the OPC Motion for Full Commission Assignment in our rate case. As it turned out, there was extensive discussion on the OPC motion in the GTEFL rate case and virtually no discussion on the OPC Motion for Full Commission in our rate case. The Commission ruled on both motions at the same time and denied both motions. To the extent the Commission determines that the time devoted to monitoring the OPC Motion for Full Commission in the GTEFL rate case should not be recovered in our rate case, I estimate that of the total of 7.80 hours shown on pages 346-347, approximately 1.50 hours (\$210.00 based on my hourly rate of \$140.00 per hour) were devoted to "monitor PSC Agenda Conference discussion of Public Counsel's Motion for Full Commission Assignment in GTEFL rate case." Similarly, of the 2.00 total hours entered for Floyd Self on page 346 of the exhibit, we estimate that 1.00 hour (\$120.00 based on Mr. Self's hourly rate of \$120.00 per hour) was devoted to "monitor PSC Agenda Conference discussion on Public Counsel's Motion for Full Commission on GTE Florida rate case."

4. Page 351 - entries regarding telephone conference with Bob Rose regarding OPC discovery request related to correspondence from Mr. Rose and review letter from Mr. Rose - as discussed in my other memorandum to you addressing Late-Filed Hearing Exhibit No. 70, these tasks pertain to the Lehigh rate case and should not have been included in the invoice on the GIGA rate case. My estimate is that the time devoted to these tasks were 0.40 hours (\$56.00 based on my hourly rate of \$140.00 per hour) which would reduce the entry on page 351, as it pertains to the GIGA rate case, to 1.60 hours (\$224.00).

5. The last item requested in Late-Filed Exhibit No. 69 pertains to the total amount billed by this firm pertaining to responding to alleged deficiencies in the MFRs. Based on my review

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of our invoices and estimates of time devoted to responding to alleged deficiencies, approximately 11.3 hours of my time was devoted to matters pertaining to deficiency responses with approximately 2.3 hours devoted to tasks which ultimately served to obtain withdrawal by Staff of one of the alleged deficiencies. Therefore, I believe it would be appropriate to use an estimate of 9.00 hours of my time as that dedicated to curing deficiencies. Floyd Self had 1.7 hours and Laura Wilson had 5.0 hours on tasks pertaining to responding to alleged deficiencies. Multiplying by our respective hourly rates¹ yields a total amount of \$1,914.00 for legal services pertaining to addressing and responding to alleged deficiencies.

cc: Brian P. Armstrong, Esq. via telecopier and U. S. Mail

¹Hourly rates are as follows: Kenneth A. Hoffman - \$140 per hour; Floyd R. Self - \$120 per hour; and, Laura L. Wilson - \$90 per hour.

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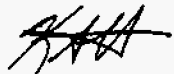
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