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REPLY TO: Tallahassee

April 6, 1993

Mr. Steve Tribble, Director
Division of Records and Reporting
Florida Public Service Commission
101 East Gaines Street
Tallahassee, Florida 32399-0850

HAND DELIVERY

Re: FPSC Docket No. 920199-WS

Dear Mr. Tribble:


Enclosed for filing in the above-referenced docket are the following documents:

1. Original and fifteen copies of Southern States Utilities, Inc.'s Motion for Reconsideration of Order No. PSC-93-0423-FOF-WS;
2. A disk in Word Perfect 5.0 containing a copy of the document entitled "SSU.Recon"; and
3. Original and fifteen copies of Southern States' Motion for Stay of Order No. PSC-93-0423-FOF-WS.

Please acknowledge receipt of these documents by stamping the extra copy of this letter "filed" and returning the same to me.

Thank you for your assistance with this filing.

Sincerely,


Kenneth A. Hoffman

ACK _____
 AFA 1 _____
 APP _____
 CAF _____
 CMU _____
 CRK _____
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 LIN 1 _____
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Enclosures

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FPSC-RECORDS/REPORTING

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DOCUMENT NUMBER-DATE
03748 APR-6 8
FPSC-RECORDS/REPORTING

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application of Southern)
States Utilities, Inc. and Deltona)
Utilities, Inc. for Increased)
Water and Wastewater Rates in) Docket No. 920199-WS
Citrus, Nassau, Seminole, Osceola,) Filed: April 6, 1993
Duval, Putnam, Charlotte, Lee,)
Lake, Orange, Marion, Volusia,)
Martin, Clay, Brevard, Highlands,)
Collier, Pasco, Hernando, and)
Washington Counties.)

**SOUTHERN STATES UTILITIES, INC.'S
MOTION FOR RECONSIDERATION
OF ORDER NO. PSC-93-0423-FOF-WS**

SOUTHERN STATES UTILITIES, INC. ("Southern States" or "Utility"), pursuant to Rule 25-22.060, Florida Administrative Code, and Order No. PSC-93-0423-FOF-WS ("Final Order"), respectfully submits this Motion for Reconsideration to the Florida Public Service Commission ("Commission") to reconsider and correct two errors and mistakes of fact and law with respect to the determination of other post-employment benefit ("OPEB") expenses and the Hernando County bulk wastewater rate reflected in the Final Order Setting Rates issued in this docket. As a part of this Motion for Reconsideration, Southern States also requests the Commission to take official recognition of the rebuttal testimony of Mr. Phillips and rebuttal testimony and exhibits of Mr. Neuwirth entered into the record in Docket No. 920655-WS and attached hereto as Composite Exhibit "A". In support of this Motion, Southern States states as follows:

1. On March 22, 1993 the Commission issued Order No. PSC-93-0423-FOF-WS, its Final Order Setting Rates, on Southern States's application for increased water and wastewater rates. While Southern States does not necessarily agree with every adjustment to the application made by the Final Order, there are two adjustments made by the Final Order that are so clearly erroneous in fact and law that

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Southern States is compelled to seek their correction through this Motion.

A. APPROPRIATE AND JUSTIFIED AMOUNT OF OPEBS

2. The first matter to be reconsidered and corrected is the Commission's decision at pages 52-53 of the Final Order to reject the substantive OPEBS plan communicated by Southern States Utilities, Inc. ("Southern States") to Southern States employees and, instead, base OPEB costs on a proposal which was never even seriously considered by Southern States. The adoption of OPEB costs other than those based on the substantive plan (subject to other adjustments such as the appropriate interest rate, etc.) is inconsistent with Commission policy applying SFAS 106 in prior Commission precedent.

3. Southern States included \$914,754 for SFAS 106 (OPEB) related expenses in the MFRs. This amount is derived by applying an allocation factor of 63.7126% to total (Southern States and Lehigh Utilities, Inc.) OPEB expenses of \$1,435,469 under Southern States' substantive plan.¹ The allocated amount of \$914,754 represents OPEB expenses requested for all of Southern States' systems -- except the Marco Island water and wastewater systems -- under the Commission's jurisdiction at the time of filing of the application.²

4. The Final Order held that it was appropriate to use the lowest cost (Proposed Plan 2) of three alternatives (to the substantive plan) presented to Southern States in a report issued in May, 1992 -- rather than the cost arising out of the substantive plan communicated to employees. The Final Order, at 52-53, cites five reasons purporting to

¹See Volume I, Book 2, pg. 202 of MFRs (Exhibit 39).

²The Final Order incorrectly states that the \$914,754 represents Lehigh Utilities, Inc.'s share of total OPEB expenses. See Final Order, at 51.

support the use of Proposed Plan 2, each of which will be addressed below.

5. The first reason given in support of Proposed Plan 2 is Mr. Gangnon's testimony that Southern States is considering several proposed plans contained in the May, 1992 actuarial study as alternatives to Southern States' substantive plan. This conclusion is based upon Staff's contention at page 164 of the Staff Recommendation that the rebuttal testimony of Southern States's witness Mr. Gangnon that "there are no present plans to reduce either the kinds or level of post-retirement benefits now or in the future" (Tr. 452)³ conflicts with his deposition statement that the utility was considering the proposed plans in the May, 1992 study as a means to reduce costs. (Exh. 38, p. 36).

6. There is no contradiction in Mr. Gangnon's testimony.⁴ The fact that in the past Southern States reviewed and considered alternatives to its substantive plan in no way contradicts or diminishes Mr. Gangnon's unchallenged testimony at the hearing that he knew of no plans to reduce the benefits provided under the Company's current substantive plan. Further, Mr. Gangnon confirmed the position stated in his prefiled rebuttal testimony at the hearing when he testified that:

The level of benefits ... were offered to the employees after careful consideration of the management and the Medical Plan Board of Governors. The level of benefits and the costs having been considered by management as part of an overall compensation package needed to attract and retain qualified employees. The benefits appear to be in line with the other OPEB benefits offered by other Florida companies that I'm aware of.

³The Staff Recommendation approved by the Commission on this issue (Issue 50) incorrectly cites page 375 of the transcript in referring to Mr. Gangnon's rebuttal testimony. The correct cite is page 452 of the transcript.

⁴Indeed, one would have expected Staff or OPC to address the alleged "contradiction" in testimony at the hearing. No such attempt was made.

Tr. 455.

7. In light of the Final Order's critical mischaracterization of Mr. Gangnon's testimony, together with the on-going, pervasive nature of the OPEBs issue (the OPEB costs based on the substantive plan also are presently at issue in Docket Nos. 911188-WS and 920655-WS), Southern States requests the Commission to take official recognition of the rebuttal testimony of Bert T. Phillips and the rebuttal testimony and exhibits of Peter J. Neuwirth entered into the record in Docket No. 920655-WS.⁵ Copies of this testimony and exhibits are attached hereto as Composite Exhibit "A". In the past, the Commission has exercised its discretion to permit official recognition of documents submitted following the evidentiary hearing. See, e.g., Order No. 20489 issued in Docket No. 871394-TP. Further, such sworn testimony entered into the record in another proceeding may be entered into the record in this proceeding under Sections 90.202(b) and 120.61, Florida Statutes, particularly where, as here, the adversarial parties are the same. See Southern California Funding, Inc. v. Hutto, 438 So.2d 426, (Fla. 1st DCA 1983), rev. den., 449 So.2d 265 (Fla. 1984); Allstate Insurance Company v. Greyhound Rent-A-Car, Inc., 586 So.2d 482 (Fla. 4th DCA 1991).

8. The testimony of Mr. Phillips and Mr. Neuwirth, the material portions of which were not challenged in Docket No. 920655-WS, lend further support to the testimony presented by Mr. Gangnon in this docket and unequivocally refute the faulty factual premise relied on by Staff and adopted by the Commission in the Order. The testimony of Messrs. Phillips and Neuwirth confirms that:

⁵See Tr. 294-297, 906-933, Hearing Exhibit 44 (Exhibits PJN-1 and PJN-2) in Docket No. 920655-WS.

a. Southern States does not plan to reduce OPEBs to the level indicated in any of the alternative plans indicated in the May, 1992 study;

b. Proposed Plan 2 contains a \$10,000 lifetime maximum medical benefit which is extraordinarily low⁶ and would place Southern States at a severe competitive disadvantage relative to other utilities in the labor market;

c. Southern States' current substantive plan provides a conservative (low) level of benefits in comparison with eight major utilities in Florida and 77 utilities across the nation; and

d. Southern States' current substantive plan already contains numerous, significant cost containment measures implemented by the Company.

9. The second reason stated in the Final Order in support of Proposed Plan 2 pertains to alleged "inconsistencies in witness Gangnon's testimony." This second reason appears to be no more than a restatement of the Commission's first reason, discussed supra, for rejecting Southern States' substantive plan. Review of the Staff Recommendation approved by the Commission under Issue 50 reflects no discussion of alleged inconsistencies in Mr. Gangnon's testimony (other than the subject previously addressed in paragraphs 5 through 8 of this Motion) nor are any such inconsistencies found in the record.

10. The third reason stated in the Final Order in support of Proposed Plan 2 is Mr. Gangnon's alleged "scant knowledge of the policy behind, as well as the mechanics of, the Utility's SFAS 106 request." Mr. Gangnon shoulders extensive tax and accounting responsibilities for

⁶Mr. Neuwirth's testimony reflects that none of the eight Florida utilities compared to Southern States had a lifetime maximum less than \$750,000.00.

Minnesota Power, Topeka Group, Inc., Southern States and Southern States. The fact that Mr. Gangnon did not have all of the details at his deposition on the tip of his tongue concerning such matters as the number of Southern States employees enrolled in the substantive plan or certain aspects regarding the history of benefits provided by Southern States is irrelevant. Numerous late-filed deposition exhibits concerning this information were requested by Staff and provided by Mr. Gangnon consistent with Commission discovery practice and procedure. Mr. Gangnon's lack of recall concerning such information at the time of his deposition was remedied by his submission of late-filed deposition exhibits (entered into the record) and provides no substantive factual basis to substitute Proposed Plan 2 for Southern States' current substantive plan for ratemaking purposes.⁷

11. The fourth reason cited in the Final Order in support of Proposed Plan 2 is OPC witness Ms. Montanaro's testimony "that there is an overall trend to reduce OPEB costs." This conclusion stems from the Staff Recommendation, at 164, where Ms. Montanaro's deposition testimony (Ex. 22, page 53) is cited for support.⁸ This citation fails to provide competent and substantial evidence in support of the conclusion that the paltry level of benefits provided under Proposed Plan 2 is appropriate. During her deposition, Ms. Montanaro was asked by Staff if two newspaper

⁷For example, the Staff Recommendation approved by the Commission states that "witness Gagnon (sic) was not familiar with SSU's policy decisions behind its decision to provide OPEBs. (Exh. 38, page 12)." The Staff's observation is irrelevant. Review of the cited page of Mr. Gangnon's deposition (Exh. 38, page 12) reveals Mr. Gangnon's testimony that he was not involved in Southern States' policy decision to offer OPEBs. Southern States strongly maintains that Mr. Gangnon's lack of knowledge on this specific matter provides no basis whatsoever to implement Proposed Plan 2 for ratemaking purposes.

⁸The Staff Recommendation, at 164, incorrectly refers to Exhibit 6. Ms. Montanaro's deposition and attached exhibits were admitted into the record as Exhibit 22. (Tr. 156-157).

articles attached to her deposition established a trend to control and reduce the cost of retiree benefits. She agreed. Her response was based on an article from the Wall Street Journal which did not even address cost containment; another article, published in the Tallahassee Democrat, containing two paragraphs generally pertaining to cost containment; and, an unidentified edition of the Journal of Accounting. Such is not competent or substantial evidence.

12. Ms. Montanaro's concurrence in Staff's question was nothing more than a conclusory statement without any competent evidentiary support. The most notable fact from the record evidence is the absence of any evidence that the level of OPEBs offered by Southern States under its substantive plan is unreasonable in any way. Ms. Montanaro did not conduct a comprehensive analysis and comparison of post-retirement benefits provided by Southern States and other utilities. Such analysis was in fact conducted by Mr. Neuwirth and led to the conclusion that Southern States' current substantive plan is conservative in comparison to other utilities. Indeed, as confirmed by Mr. Neuwirth, Southern States has implemented cost containment measures which are incorporated in the current substantive plan. Ms. Montanaro's willingness to issue a generic statement regarding cost containment trends based on skeletal underlying facts or analysis is no substitute for an actuarial comparative analysis applied to Southern States' current substantive plan such as that performed by Mr. Neuwirth and provides no competent or substantial evidentiary basis to impose Proposed Plan 2 for ratemaking purposes. Neither Ms. Montanaro nor the articles presented to her contained any information which could be used to compare the level of benefits of unidentified companies with Southern States' OPEBs. Thus, no evidence exists as to whether, even after the alleged trend to reduce

OPEBs took hold, the resulting level of OPEBs for the unidentified masses of employers would not remain more generous than those afforded by Southern States. Further, given Southern States' firm intention to continue provision of its current substantive plan, Ms. Montanaro's surface reflection on industry trends is irrelevant, and it was error to rely upon it as a basis to impose Proposed Plan 2.

13. The fifth and final reason cited in the Final Order in support of Proposed Plan 2 is Ms. Montanaro's testimony "that SSU may restructure its benefits plan to reduce costs in the future." Again, there is no competent and substantial evidence supporting this finding. The Final Order is based on the following statement found at page 164 of the Staff Recommendation: "witness Montanaro stated that SSU has plans for modifying its OPEB plan. (Tr. 2000)" Review of page 2000 of the transcript reflects Ms. Montanaro's statement that Southern States reviewed alternatives (including Proposed Plan 2) presented in the May, 1992 actuarial study to its current substantive plan. Southern States does not dispute this fact. However, the Staff and Commission failed to consider the undisputed testimony of Mr. Gangnon, reiterated and confirmed by Mr. Phillips and Mr. Neuwirth in the Marco Island rate case (see Composite Exhibit "A"), that "there are no present plans to reduce either the kinds or levels of post-retirement benefits (offered to Southern States' employees) now or in the future." (Tr. 452). Accordingly, Ms. Montanaro's statement that Southern States considered alternative OPEB plans in May, 1992 fails to consider critical unrebutted evidence that such alternatives were considered and rejected, that there are no present plans to modify the current substantive plan, and, hence, provides no basis for substituting Proposed Plan 2 for ratemaking purposes.

14. Finally, the use of SFAS 106 requires reliance on the Utility's substantive plan over any other plan. As the Commission recognized in the United rate case decision, the substantive plan is the actual operational plan employed by a company. Order No. PSC-92-0708-FOF-TL, at 37 (July 24, 1992) (the "United Order"). In the United Order, the Commission accepted the substantive plan, by which United had traditionally increased benefits. By accepting the substantive plan the Commission expressly rejected a written plan that reflected the current benefits and assumed no benefits increases. United Order, at 36-37. Southern States's current, substantive plan is reflected in its MFRs and supported by the rebuttal testimony and hearing summary presented by witness Gangnon. To reduce OPEB costs to a level commensurate with the costs of a plan not approved or adopted by the Utility over the Utility's substantive plan is a violation of SFAS 106 principles and Commission precedent reflected in the United Order.

15. The Commission's factual and legal errors in using a plan other than Southern States' substantive plan identified and supported on the record is a proper basis for reconsideration. See, e.g., Diamond Cab Company of Miami v. King, 146 So.2d 889, 891 (Fla. 1962). Accordingly, Southern States requests that the OPEB expenses at page 53 of the Final Order be corrected to \$679,550 and \$235,025 for water and wastewater, respectively, prior to the imposition of undisputed adjustments which are not addressed in this motion.

B. HERNANDO COUNTY BULK WASTEWATER RATE

16. In the MFRs, Southern States requested that the bulk wastewater rate for Hernando County be reduced from \$2.31 per 1,000 gallons to \$1.93 per 1,000 gallons and that the requested base facility charges be authorized. No issue was raised by the Commission, its Staff

or any party as to the reasonableness of the proposed charges. Therefore, Southern States did not have an opportunity to address or rebut facts, not introduced into evidence, upon which the Commission and its Staff must have relied to: (1) deny the rate proposed by Southern States; (2) increase the bulk wastewater gallonage rate to \$4.09 per 1,000 gallons; and (3) authorize a higher base facility charge than the charge requested by the Company. The Company believes its right to due process has been violated by this action.


However, and perhaps more importantly, the Commission's action threatens to reduce the volume of wastewater to be received by Southern States from Hernando County in the future. Hernando County is the only bulk wastewater customer served by Southern States in this proceeding. Unlike the Company's general service customers, Hernando County owns all of the collection and pumping facilities leading up to Southern States' wastewater treatment plant. Therefore, the cost of providing service to Hernando County is lower than the cost of serving the Company's other general service customers. Hernando County has paid Southern States more than \$700,000 in service availability charges to receive bulk service from the Company. Hernando County's desire to have Southern States continue to treat volumes of wastewater for the County has been negatively impacted by the rate increase reflected in the Commission's Order. The County now is investigating other treatment alternatives. The loss of Hernando County, and potentially Southern States' Hernando County systems, as a large water and wastewater customer base would have an adverse impact on Southern States' remaining customers and eliminate a degree of the economies previously achieved by Southern States. For all of the foregoing reasons, Southern States requests that the Commission reconsider the rate established in the Final Order and modify

the gallonage rate for bulk wastewater service to Hernando County to \$1.93 per 1,000 gallons and authorized the base facility charges as requested in the Company's MFRs.

WHEREFORE, SOUTHERN STATES UTILITIES, INC., respectfully requests that the Commission enter an order granting its Motion for Reconsideration, including its request for official recognition of the testimony and exhibits included in Composite Exhibit "A", and that OPEB expense amounts and the Hernando County bulk wastewater gallonage rate and base facility charges be modified to the proper amounts stated herein.

Respectfully submitted this 6th day of April, 1993.

Respectfully submitted,


KENNETH A. HOFFMAN, ESQUIRE
Messer, Vickers, Caparello, Madsen,
Lewis, Goldman & Metz, P.A.
Post Office Box 1876
Tallahassee, Florida 32302-1876
904/222-0720

and

BRIAN P. ARMSTRONG, ESQUIRE
Southern States Utilities, Inc.
100 Color Place
Apopka, Florida 32703
407/880-0058

Attorneys for Applicants Southern
States Utilities, Inc. and
Deltona Utilities, Inc.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing Southern States Utilities, Inc.'s Motion for Reconsideration was furnished by hand delivery(*) and/or U. S. Mail this 6th day of April, 1993, to the following:

Harold McLean, Esq.*
Office of Public Counsel
111 West Madison Street
Room 812
Tallahassee, Florida 32399-1400

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County Attorney
107 N. Park Avenue
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Inverness, Florida 34450

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Fernandina Beach, Florida 32034

By:


KENNETH A. HOFFMAN, ESQ.

1 Q. ARE YOU THE SAME BERT T. PHILLIPS THAT FILED
2 DIRECT TESTIMONY IN THIS PROCEEDING?

3 A. Yes, I am.

4 Q. WHAT IS THE PURPOSE OF YOUR REBUTTAL TESTIMONY?

5 A. I will address certain portions of the testimony of Public Counsel's
6 witness Ms. Victoria A. Montanaro. But first I must point out that Staff
7 has misconstrued Ms. Montanaro's testimony in the Company's prior
8 rate case (Docket No. 920199-WS). In that proceeding, Ms. Montanaro
9 simply acknowledged that the Company had examined options in May
10 1992 for reducing OPEBs. She did not, and could not, testify that "SSU
11 has plans to modify its OPEB plan" as Staff suggested in its
12 recommendation on this issue in Docket No. 920199-WS. Rather, Ms.
13 Montanaro simply stated that the Company "was reviewing options to
14 modify its benefit plan." I state categorically that Southern States does
15 not plan to reduce OPEBs to the level indicated in any of the alternative
16 plans indicated in Milliman & Robertson's study dated May 29, 1992.
17 These options were reviewed by the Company's Board of Governors
18 and me long before the Lehigh and prior Southern States rate hearings
19 and each alternative was rejected. The only action which would cause
20 Southern States to reduce OPEBs at this time would be action by this
21 Commission denying recovery of this prudent business expense. Denial
22 by the Commission of the recovery of the present OPEB Plan in this

1 proceeding and the previously filed Lehigh and Southern States cases
2 would result in additional costs to the investors in Southern States of
3 approximately \$700,000 per year. This lost income would not be
4 tolerable and would force me to reduce these benefits to a level for
5 which the Commission allows recovery. I certainly would fear the
6 consequences of such an action on employee morale, employee relations
7 and inevitably, Southern States' ability to attract and retain qualified,
8 experienced utility employees.

9 **Q. WHY ARE YOU SO CONVINCED THAT A REDUCTION OF**
10 **OPEBS TO THE LEVEL INDICATED IN PLAN 2 WOULD**
11 **NEGATIVELY IMPACT SOUTHERN STATES' ABILITY TO**
12 **ATTRACT AND RETAIN QUALIFIED UTILITY EMPLOYEES?**

13 **A. OPEBs, like pension benefits, must be treated as an integral part of the**
14 **employee compensation package. As the largest investor owned**
15 **water/wastewater utility in the state with approximately 150 systems and**
16 **expectations of further expansions, Southern States must offer**
17 **prospective as well as current employees a compensation package which**
18 **is competitive with other utilities, particularly those located in Florida.**
19 **As Company witness Peter J. Neuwirth, a professional actuary and**
20 **employee benefits specialist, will testify Southern States' existing**
21 **OPEBs already provide the lowest level of benefits to retirees over the**
22 **age of 65 out of the eight Florida utilities analyzed by Mr. Neuwirth.**

1 Mr. Neuwirth further demonstrates that the OPEBs offered under Plan 2
2 are extremely noncompetitive with other Florida utilities as well as
3 utilities nationally. Surely, Southern States could not expect to attract
4 or perhaps even retain qualified, experienced utility employees by
5 offering the paltry OPEBs indicated in Plan 2. Moreover, Southern
6 States believes that an arbitrary reduction of our OPEB expenses would
7 constitute inappropriate micromanagement of our utility in the absence
8 of any evidence that our OPEBs are somehow excessive or the cost is
9 unreasonable. The evidence presented by Mr. Neuwirth confirms that
10 our OPEBs are not excessive and the cost is reasonable.

11 **Q. ARE YOU SUGGESTING THAT SOUTHERN STATES WILL**
12 **NOT ATTEMPT TO REDUCE OPEBS IN THE FUTURE?**

13 **A.** Not at all. However, I would like to point out that Southern States
14 already has taken significant steps to control OPEBs and other benefit
15 costs, as confirmed by Mr. Neuwirth. Therefore, the mere reference in
16 trade publications and newspaper articles of general circulation to the
17 effect that many companies are reducing OPEB benefits is irrelevant. It
18 is as likely as not that the companies referred to in the publications and
19 articles had not previously taken the cost control measures Southern
20 States already had taken to reduce OPEB costs. In the absence of
21 evidence to the contrary -- specifically, evidence of comparability of the
22 OPEB benefits offered by the "other companies", and particularly

1 Florida utilities, with our OPEBs, we believe it is totally inappropriate
2 for the Commission to rely on such paltry evidence to reduce our OPEB
3 expenses.

4 Q. DOES THAT CONCLUDE YOUR REBUTTAL TESTIMONY?

5 A. Yes, it does.

- 1 Q. PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.
- 2 A. Peter J. Neuwirth. My business address is 549
3 Pleasantville Road, Briarcliff Manor, NY 10510.
- 4 Q. BY WHOM ARE YOU EMPLOYED AND IN WHAT CAPACITY?
- 5 A. I am employed by Godwins Inc. and hold the title of
6 Regional Director. I serve as a consulting actuary and
7 employee benefits consultant.
- 8 Q. WHAT IS YOUR EDUCATIONAL BACKGROUND?
- 9 A. I hold a Bachelor of Arts degree in Mathematics and
10 Linguistics from Harvard College.
- 11 Q. WHAT CERTIFICATION OR LICENSES DO YOU HOLD?
- 12 A. I am a Fellow of the Society of Actuaries, a Member of
13 the American Academy of Actuaries, and an Enrolled
14 Actuary under ERISA (the federal pension reform act).
- 15 Q. HOW LONG HAVE YOU BEEN EMPLOYED BY GODWINS?
- 16 A. I have been employed by Godwins for three years.
- 17 Q. PLEASE DESCRIBE THE GODWINS FIRM.
- 18 A. Godwins is an international consulting organization
19 specializing in employee benefits -- actuarial,
20 communications, and other human resource consulting
21 services. Our worldwide actuarial practice is devoted,
22 in large measure, to helping companies manage the
23 financial aspects of their pension and other employee
24 benefit plans.
- 25 Q. DOES YOUR FIRM HAVE OFFICES IN FLORIDA?

1 A. Yes. Our firm has very substantial operations in
2 Florida. We currently maintain four Florida offices
3 (Orlando, Coral Gables, Tampa and Jacksonville) with a
4 total staff of over 100. We provide the full range of
5 employee benefit consulting services from these offices
6 to our Florida clients.

7 Q. PLEASE STATE THE DUTIES OF YOUR CURRENT POSITION WITH
8 GODWINS.

9 A. In my current position, I serve as an actuary and
10 employee benefit consultant to a number of corporate
11 clients. In my role as consulting actuary, I am
12 responsible for the calculation of the liabilities of
13 my clients' pension and postretirement welfare benefit
14 plans and the determination of annual funding and/or
15 expense accrual requirements for these programs. I
16 also serve as Director of Actuarial and Retirement
17 Services for the New York Metropolitan Region. In that
18 capacity, I have overall responsibility for all
19 retirement consulting services provided by our staff of
20 approximately 35 employees.

21 Q. WHAT EXPERIENCE DO YOU HAVE IN PREPARING ACTUARIAL
22 VALUATIONS OF POSTRETIREMENT LIFE AND MEDICAL
23 OBLIGATIONS AND CONSULTING ON FAS 106?

24 A. Our firm has performed actuarial valuations and FAS 106
25 consulting for over 50 retiree medical plans including
26 those of a number of regulated utilities. I personally

1 have been responsible for retiree life and medical
2 valuations for approximately ten clients. In addition,
3 I have helped several clients redesign their
4 postretirement medical benefits programs in advance of
5 the adoption of FAS 106. Prior to my employment at
6 Godwins, I worked for Price Waterhouse where I was
7 responsible for the firm's national consulting
8 initiative on postretirement life and medical benefits.

9 Q. HAVE YOU PREVIOUSLY TESTIFIED ON ISSUES RAISED BY FAS
10 106?

11 A. I have prepared testimony on behalf of GTE for the
12 California Public Utilities Commission and have
13 testified before the FCC staff on behalf of eleven
14 telephone companies, including seven Regional Bell
15 Operating Companies. I have also testified before the
16 Iowa Utilities Board on behalf of Interstate Power
17 Company.

18 Q. WHAT IS THE PURPOSE OF YOUR PREPARED TESTIMONY?

19 A. The purpose of my testimony is to:
20 ■ enter into the record the "Actuarial Valuation of
21 the Retiree Health and Death Benefits provided by
22 SSU Services Inc." and comment on the costs and
23 assumptions presented therein. The report is dated
24 January 28, 1992 and was prepared by Milliman &
25 Robertson, Inc., an actuarial consulting firm. A

1 copy of the report is included as Exhibit ____ (PJM-
2 1) to my testimony:

- 3 ■ discuss the testimony of Victoria A. Montanaro,
4 Docket No. 920655-WS, focusing on what I believe to
5 be some misunderstandings by Ms. Montanaro both as
6 to the FAS 106 calculations performed by Milliman
7 & Robertson and the current plan of benefits
8 available to retirees from SSU Services Inc.;
- 9 ■ discuss how the benefits provided by SSU compare to
10 the benefits provided by other utilities, both in
11 Florida and nationally.

12 **Q. WHAT FINDINGS DOES THE REPORT YOU HAVE ENTERED INTO THE**
13 **RECORD PRESENT?**

14 **A.** This report presents the net periodic postretirement
15 benefit cost (FAS 106 expense) for 1992 based on the
16 postretirement medical and life insurance plan that
17 Southern State Utilities offered to its current and
18 future retirees as of December 31, 1991. Essentially
19 this report details the liabilities which would have to
20 be recognized by Southern State Utilities in 1992, if
21 the Company had chosen to adopt FAS 106 in 1992.

22 **Q. DID YOU PERFORM THIS ACTUARIAL VALUATION STUDY?**

23 **A.** No, this actuarial valuation study was performed by
24 Milliman & Robertson Inc.

25 **Q. WHAT IS YOUR FAMILIARITY WITH THIS VALUATION STUDY?**

1 A. I have extensively reviewed the valuation study and
2 have discussed the methods and assumptions used in
3 preparing this report with the actuary who performed
4 the study.

5 Q. WOULD YOU COMMENT ON THE APPROPRIATENESS OF THIS
6 VALUATION STUDY?

7 A. In my opinion the assumptions and methods used to
8 perform this valuation study are reasonable and are
9 consistent with the requirements of both FAS 106 and
10 the Actuarial Standards Board's *Actuarial Compliance*
11 *Guideline No. 3 For Statement of Financial Accounting*
12 *Standards No. 106 Employers' Accounting for*
13 *Postretirement Benefits Other Than Pensions.*

14 Q. WHAT IS THE 1992 NET PERIODIC POSTRETIREMENT BENEFIT
15 COST (FAS 106 EXPENSE) FOR THE SSU POSTRETIREMENT
16 MEDICAL AND LIFE INSURANCE PLAN SHOWN IN THIS REPORT?

17 A. The 1992 net periodic postretirement benefit cost is
18 \$1,346,468. Of this amount, \$663,775 is the service
19 cost for benefits attributed to service during the
20 period; \$419,674 is the interest cost on the
21 accumulated postretirement benefit obligation; and
22 \$263,019 represents amortization of the transition
23 obligation over a period of 20 years.

24 Q. WHY DOES THE \$1,346,468 SHOWN IN THE REPORT DIFFER FROM
25 THE \$1,435,469 SUBMITTED BY SSU AS THE COMPANY'S FAS
26 106 COST?

- 1 A. My understanding is that the original calculation of
 2 FAS 106 cost did not include employees of the Lehigh
 3 group, due to the fact that these employees were
 4 acquired at the end of 1991 and information on these
 5 employees was not provided to the actuary. The
 6 subsequent upward adjustment in costs was based on the
 7 assumption that the demographic characteristics of
 8 Lehigh employees were congruent with those of ~~the~~
 9 *all covered participants, including active and*
~~active employees at SSU.~~ *retired employees.*
- 10 Q. DO YOU BELIEVE THAT THE APPROACH TAKEN TO ADJUST THE
 11 LIABILITIES TO REFLECT THESE NEW EMPLOYEES WAS
 12 REASONABLE?
- 13 A. Yes. In my opinion, the approach was reasonable.
- 14 Q. DO YOU BELIEVE THAT THIS ANNUAL EXPENSE FOR
 15 POSTRETIREMENT BENEFITS, (I.E. THE FAS 106 EXPENSE OF
 16 \$1,435,469) REPRESENTS A TRUE COST TO SSU?
- 17 A. Yes. The Financial Accounting Standards Board (FASB)
 18 addressed this issue extensively in the course of their
 19 deliberations on accounting for postretirement
 20 benefits. The FASB first concluded that postretirement
 21 benefits other than pensions meet the definition of a
 22 liability (for accounting purposes) as defined in FASB
 23 Concepts Statement No. 6, Elements of Financial
 24 Statements because:
- 25 ■ they embody a present duty or responsibility to one
 26 or more entities that entails settlement by

- 1 probable future transfer or use of assets at a
2 specified or determinable date, on occurrence of a
3 specified event, or on demand (the employer has a
4 duty or requirement to sacrifice assets in the
5 future to provide benefits under these programs);
6 ● the duty or responsibility embodied in these
7 programs obligates a particular entity, leaving it
8 little or no discretion to avoid the future
9 sacrifice of assets;
10 ■ the transaction or other event obligating the
11 entity has already happened. The FASB has
12 determined that this condition is met when the
13 employee renders service in exchange for the future
14 benefits.

15 Because the FASB had thus concluded that postretirement
16 medical benefits constitute a liability that accrues
17 over the working career of covered employees, it
18 further held that the portion of the liability that
19 accrued each year (plus a specified portion of
20 previously unrecognized accruals) must be recognized as
21 a cost, or expense, of the employer's business
22 operations. Therefore, the annual expense calculated
23 under FAS 106 represents a "real cost"
24 under Generally Accepted Accounting Principles.

- 25 Q. ONE OF THE POINTS YOU JUST MENTIONED IS THAT THERE IS
26 A DUTY OR RESPONSIBILITY WHICH THERE IS LITTLE OR NO

1 DISCRETION TO AVOID. YET, SSU RESERVES THE RIGHT TO
2 MODIFY THE POSTRETIREMENT BENEFITS. DOES THE FACT THAT
3 THE COMPANY HAS RESERVED THE RIGHT TO MODIFY THE
4 POSTRETIREMENT BENEFITS AFFECT YOUR VIEW THAT THE COST
5 OF THESE BENEFITS REPRESENTS A TRUE LIABILITY FOR SSU?

6 A. No, it does not. The fact that a postretirement
7 benefits plan may be modified does not mean that no
8 liability for benefits exists. The FASB specifically
9 acknowledges that the promise to provide postretirement
10 benefits may not be legally enforceable in all cases.
11 This does not mean, however, that employers can
12 completely avoid the obligation at their discretion
13 without incurring costs.

14 In building the case that a liability exists, the FASB
15 notes that "although most liabilities generally rest on
16 a foundation of legal rights and duties, existence of
17 a legally enforceable claim is not a prerequisite for
18 an obligation to qualify as a liability if for other
19 reasons the entity has a duty or responsibility to pay
20 cash, transfer other assets, or to provide services to
21 another entity." Therefore, in developing FAS 106, the
22 FASB has looked beyond the legal status of the promise
23 to consider whether a liability is effectively binding
24 on the employer because of "past practices, social or
25 moral sanctions, or customs." This approach is
26 consistent with the FASB's Concepts Statement 6. In

1 FAS 106, the FASB also states that "as a practical
2 matter, it is unlikely that an employer could terminate
3 its existing obligations under a postretirement benefit
4 plan without incurring some cost." Therefore, the FASB
5 has concluded that in the absence of evidence to the
6 contrary, an employer is presumed to have accepted
7 responsibility to provide the promised benefits.
8 Once an employer actually modifies the postretirement
9 benefits plan or communicates to the plan participants
10 the intention to modify the plan at a future time, the
11 increased or decreased benefit level is taken into
12 account in determining the FAS 106 expense. Note that
13 the change is accounted for once the change has been
14 *communicated* to plan participants even if the change
15 will not occur until some time in the future. FAS 106
16 provides that the substantive plan, *i.e.*, the plan that
17 is communicated to and understood by plan participants,
18 is the basis for accounting.

19 Q. HAVE YOU REVIEWED THE DIRECT TESTIMONY OF VICTORIA A.
20 MONTANARO BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION,
21 DOCKET NO. 920655-WS?

22 A. Yes.

23 Q. IN HER TESTIMONY, MS. MONTANARO IDENTIFIED SEVERAL
24 ADJUSTMENTS WHICH SHE FELT SHOULD BE MADE TO MORE
25 FAIRLY REFLECT SSU'S POSTRETIREMENT BENEFIT COSTS.
26 THREE OF THESE PROPOSED ADJUSTMENTS DIRECTLY RELATE TO

1 THE CHOICE OF ACTUARIAL ASSUMPTIONS USED TO CALCULATE
2 FAS 106 COSTS, SPECIFICALLY THE DISCOUNT RATE, THE RATE
3 OF MARITAL DEPENDENCY AND THE AGE OF ASSUMED
4 RETIREMENT. DO YOU AGREE WITH THE PROPOSED ADJUSTMENTS
5 SHE PRESENTED IN HER TESTIMONY IN THESE AREAS?

6 A. No. In fact, I believe the reasoning behind each of
7 the proposed adjustments is flawed.

8 Q. IN YOUR JUDGEMENT, DO YOU BELIEVE THE DISCOUNT RATE
9 ADJUSTMENT IS WARRANTED OR DO YOU CONSIDER THE 8%
10 DISCOUNT RATE INITIALLY USED FOR THE FAS 106
11 CALCULATIONS TO BE REASONABLE?

12 A. I believe that 8% is a very reasonable rate to use for
13 the discount rate and that no adjustment is necessary.
14 In fact, 8% may even be considered as an overly high
15 discount rate. FAS 106 states that in choosing the
16 discount rate, one should "look to rates of return on
17 high-quality-fixed-income investments currently
18 available whose cashflows match the timing and amount
19 of expected benefit payments." In other words, the
20 discount rate can essentially be defined as the net
21 yield indicative of a fixed income portfolio designed
22 to meet future retiree medical payments. Even if the
23 current yield for a double A utility bond is between 8%
24 and 8.25%, a bond portfolio yield will be lower.
25 The primary reason for this is that a utility bond's
26 yield of 8-8.25% is directly dependent upon it's stated