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REPLY TO: Tallahassee

May 17, 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. 911082-WS

Dear Mr. Tribble:

On behalf of Southern States Utilities, Inc. ("SSU") enclosed for filing in the above-referenced docket is an original and fifteen copies of the testimony of Joseph P. Cresse and John F. Guastella. 5309-93 5308-93

Copies of this filing have been served on the parties of record in this docket pursuant to the attached certificate of service. Thank you for your assistance in processing this filing. Please contact me if you have any questions.

Sincerely,

for

Kenneth A. Hoffman

KAH/rl
Enclosures

cc: Brian P. Armstrong, Esq.
Mr. Forrest L. Ludsen
Parties of Record

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing testimony of Joseph P. Cresse and John F. Guastella was furnished by U.S. Mail on this 17th day of May, 1993, to the following:

H. F. Mann, Esq.
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Jacksonville, FL 32239

By: ______________ for
KENNETH A. HOFFMAN, ESQ.

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11 BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION
12 Docket No. 911082-WS
13 DIRECT TESTIMONY
14 OF
15 JOSEPH P. CRESSE
16 On Behalf of Southern States Utilities, Inc.
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1 Q. PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.

2 A. My name is Joseph P. Cresse. My address is P. O.
3 Box 1876, Tallahassee, Florida 32302-1876.

4 Q. PLEASE DESCRIBE YOUR EDUCATIONAL AND PROFESSIONAL
5 BACKGROUND AND EXPERIENCE.

6 A. I am currently employed as a non-lawyer Special
7 Consultant with the law firm of Messer, Vickers,
8 Caparello, Madsen, Lewis, Goldman & Metz, P.A. I
9 graduated from the University of Florida with a
10 B.S.B.A. Major in Accounting in 1950. A copy of my
11 resume is attached as Exhibit JPC-1.

12 Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?

13 A. I was requested by Southern States Utilities, Inc.
14 (SSU) to convey my comments and recommendations on
15 certain new and amended rules proposed by the
16 Commission in Order No. PSC-93-0455-NOR-WS issued
17 March 24, 1993 ("Rulemaking Order").

18 I will also provide comments in response to
19 specific rule proposals and comments submitted by
20 the Office of Public Counsel on April 23, 1993.

21 Q. DO YOU HAVE ANY COMMENTS ON THE PROPOSED AMENDMENT
22 TO RULE 25-30.436?

23 A. Yes. The proposed amendment to section (2) of this
24 rule is found on page 131 of the Rulemaking Order
25 and provides as follows:

(2) The applicant's petition for rate relief will not be deemed filed until the appropriate filing fee has been paid and all minimum filing requirements have been met. If the applicant has not filed its petition pursuant to section 367.081, F.S., applicant's ~~including~~ prepared direct testimony shall be filed with the minimum filing requirements ~~where appropriate~~. At a minimum, the direct testimony shall explain why the rate increase is necessary and address those areas anticipated at the time of filing to be at issue.

The Commission should recognize in its rules that testimony of witnesses does not need to be filed with the minimum filing requirements (MFRs). The rule should be amended to permit testimony to be filed not later than 30 days after being notified by the Director that the application has been accepted.

There are at least two reasons why this should be permitted:

1. If changes are made in any schedules in the MFRs, it could require substantial changes in the entire testimony and thus added cost could be

1 avoided by deferring the filing of testimony until
2 the basic data has been determined to be
3 acceptable.

4 2. I don't believe it would do harm to Staff
5 or any intervenor since it takes them some time to
6 review the MFRs in the first place.

7 In summary it would save rate case expense,
8 without doing any harm to the process. Further,
9 the 30 day time period for the filing of direct
10 testimony is consistent with Commission precedents
11 in Southern States' recent rate cases.

12 I recommend that the second sentence of
13 section (2) be revised as follows:

14 If the applicant has not filed its petition
15 pursuant to section 367.081(8), F.S., applicant's
16 prepared direct testimony shall be filed within 30
17 days of the date of notification by the Director of
18 the Division of Water and Wastewater that the
19 application and MFRs have been accepted as being
20 complete.

21 Q. PLEASE COMMENT ON THE ACQUISITION ADJUSTMENT POLICY
22 AS OUTLINED ON PAGE 62 OF THE RULEMAKING ORDER.

23 A. The Commission's policy, which I support is found
24 in proposed Rule 25-30.0371 (Rate Base Established
25 at Time of Transfer) and states as follows:

1 (2) In the absence of extraordinary
2 circumstances, the purchase of a utility
3 system at a premium or at a discount shall not
4 affect the rate base calculation.

5 First, I think the Commission should keep in
6 mind that all transfers of utility property from
7 one owner to another must be approved by the
8 Commission, and as far as I know, the Commission
9 will not approve the transfer unless it determines
10 that the transfer is in the best interest of the
11 utility's customers. Secondly, the Commission has
12 traditionally set rates on original prudently
13 incurred costs, and approval of a transfer at
14 original cost (less depreciation, i.e., net book
15 value) for ratemaking purposes does not impose any
16 additional revenue requirements on ratepayers.
17 Third, usually the acquiring utility incurs
18 substantial costs prior to acquiring a utility that
19 are not recognized by the Commission. Finally, if
20 control of the acquired utility was made by
21 acquisition of its stock, at a price below book
22 value, the argument would not be made that the
23 utility's investment should be written down to the
24 acquisition price of the stock, the same as the
25 argument would not be made that the value of assets

1 should be increased if the value of stock exceeds
2 book value. I believe that, maybe without
3 realizing it, those who argue for adjusting book
4 value are advocating "fair market value"
5 regulation, a concept that I thought had been
6 substantially discredited in the mid 1940's. There
7 may be valid reasons or extraordinary circumstances
8 where the Commission should deviate from original
9 cost, however, the proposed rule permits those
10 issues to be brought to the Commission's attention.
11 Public Counsel's 4-23-93 comments on pp. 13-14
12 include many of the same arguments rejected by the
13 Commission in Order No. 25729 and the reasoning
14 stated in that Order is sound. For ease of
15 reference I have attached Order No. 25729 as
16 Exhibit JPC-2 to this testimony.
17 Q. DO YOU HAVE ANY SUGGESTIONS FOR CHANGE WITH RESPECT
18 TO PROPOSED NEW RULE 25-30.432 ADDRESSING USED AND
19 USEFUL IN RATE CASE PROCEEDINGS?
20 A. Yes.
21 Q. WHAT IS YOUR FIRST PROPOSAL ON THE ISSUE OF USED
22 AND USEFUL?
23 A. My first proposal pertains to section (1) of
24 proposed new Rule 25-30.432 found on page 96 of the
25 Rulemaking Order. Section (1) states:

1 (1) The Commission shall allow
2 a utility to recover through
3 authorized rates, charges and fees,
4 the costs incurred in meeting its
5 statutory obligations to provide
6 safe, efficient and sufficient
7 service. The utility's investment,
8 prudently incurred, in meeting its
9 statutory obligations shall be
10 considered used and useful.

11 Although, the intent of this paragraph is
12 clear, the wording is ambiguous or confusing and
13 should be changed. In my opinion, a utility,
14 whether it is electric, telephone or water and
15 wastewater, is entitled to an opportunity to earn a
16 fair rate of return on its prudent investments and
17 to recover its prudently incurred operating
18 expenses. To maximize long range benefit for its
19 customers, a utility should be encouraged to do
20 long range least cost planning and implementation
21 of those plans. If that is done the utility will
22 have capacity in excess of the amount necessary to
23 serve its existing customers at any given time. A
24 reserve margin is recognized in electric generating
25 capacity, and telephone companies do not have 100%

1 line fill in their networks, nor should they.
2 Regulators have traditionally recognized that
3 reserve capacity is necessary for both the
4 immediate need and the long term need of its
5 customers. Regulators also have recognized that
6 used and useful adjustments should not serve to
7 prohibit a utility from earning on its total
8 prudent investment. Since such adjustments would
9 only cause utility rates to be higher in the long
10 run. As a result of this, the Florida Commission
11 encourages a long-term least cost strategy and
12 should make that policy clear by amending proposed
13 Rule 25-30.432(1) to read as follows:
14 <u>25-30.432 Used and Useful in Rate Case</u>
15 <u>Proceedings.</u>
16 <u>(1) The Commission shall allow a utility to</u>
17 <u>recover, through authorized rates, charges and</u>
18 <u>fees, the costs incurred in meeting its statutory</u>
19 <u>obligations to provide safe, efficient and</u>
20 <u>sufficient service. The utility's investment,</u>
21 <u>prudently incurred, in meeting its statutory</u>
22 <u>obligations shall be considered used and useful and</u>
23 <u>the Commission shall allow either AFPI or a current</u>
24 <u>return on all prudent investment necessary in</u>
25 <u>meeting its obligation to provide utility service.</u>

1 The above language will more clearly explain
2 Commission policy and make the statement consistent
3 with subsequent used and useful adjustments
4 outlined in the later portion of the proposed
5 rules. The language simply clarifies that prudent
6 investment not allowed in current rates will be
7 allowed to be recovered through AFPI charges at a
8 future time.

9 Q. PLEASE COMMENT ON SECTION (4) OF PROPOSED RULE 25-
10 30.432 FOUND ON PAGES 97 AND 98 OF THE RULEMAKING
11 ORDER.

12 A. The purpose of this paragraph again is designed to
13 encourage least cost long range planning on the
14 part of water and wastewater utilities and should
15 be adopted as written by the Commission. However,
16 Public Counsel in Comments filed 4-23-93 states
17 that it is opposed to this proposed rule apparently
18 because it feels the benefits of long range least
19 cost services should benefit both existing as well
20 as future customers. It's my belief that section
21 (4) accomplishes this goal, i.e., current
22 ratepayers will not pay in excess of what it would
23 cost to serve them if smaller more expensive
24 facilities were constructed, yet current customers
25 will benefit when the utility utilizes the

1 additional capacity, and will avoid future rate
2 increases caused by having to construct new more
3 expensive additions to plant. I agree, however,
4 with the Public Counsel that the utility should be
5 allowed AFPI on prudent investment not allowed in
6 current rates as stated on page 22 of its Comments.
7 Q. DO YOU HAVE ANY SUGGESTIONS FOR IMPROVEMENTS OF THE
8 PROPOSED UNACCOUNTED-FOR-WATER RULE FOUND ON PAGE
9 102 OF THE RULEMAKING ORDER?
10 A. Yes, the last sentence of subsection (5)(c)4. of
11 proposed Rule 25-30.432 should be amended as
12 follows:
13 The Commission may ~~impute revenues or~~ reduce
14 purchased power, ~~and~~ chemical expenses and other
15 incremental costs where inadequate ~~explanation~~
16 justification is given for unaccounted for water in
17 excess of this amount.
18 The above revision would make it clear that
19 the costs of excessive unaccounted for water will
20 not be borne by the customers since the incremental
21 costs of pumping and treating that water will not
22 be allowed for ratemaking; however, it eliminates
23 the concept of imputing revenues, since it would be
24 inappropriate to impute revenues for unaccounted
25 for water. I substitute the word justification for

1 explanation since I believe that is what the rule
2 intends.
3 Q. DO YOU HAVE ANY SUGGESTIONS FOR IMPROVING THE
4 PORTION OF SECTION (3) OF PROPOSED RULE 25-30.433
5 ADDRESSING DEFERRED DEBITS FOUND ON PAGE 122 OF THE
6 RULEMAKING ORDER?
7 A. Yes. The proposed rule would eliminate
8 consideration of deferred non-recurring expenses as
9 a part of rate base. The provision simply is
10 unfair to the utility as it deprives the utility of
11 its right to recover prudently incurred expenses.
12 Therefore, I suggest that the following sentence be
13 deleted from section (3) of the proposed rule: "No
14 other deferred debits shall be considered in rate
15 base when the formula method of working capital is
16 used." Not all utilities will have non-recurring
17 expenses or other deferred debits that are
18 appropriate for rate base treatment; however,
19 deletion of the above sentence will allow those
20 issues to be presented on a case by case basis.
21 The rule as presently written would deny the
22 opportunity to recover the carrying cost on the
23 unamortized balance and should not be adopted by
24 the Commission.
25 Q. PUBLIC COUNSEL ALSO RECOMMENDS THAT NON-USED AND

1 USEFUL PLANT ADJUSTMENTS SHOULD BE APPLIED TO
2 PROPERTY TAXES ON PAGES 47 AND 48 OF ITS COMMENTS.
3 DO YOU AGREE?
4 A. No. I believe all property taxes are a current
5 expense and should be recognized as such by the
6 Commission. Utilities have no control over the
7 annual assessments made by property appraisers, or
8 the rates imposed by the various governmental
9 units. While utilities can and do object to the
10 level of assessment, the final decision is not
11 theirs. I assume Public Counsel would capitalize
12 any property taxes paid that was disallowed for
13 current rates, but all that does is defer to future
14 ratepayers a current cost. It appears to me that
15 utilities should not have to absorb any taxes
16 imposed by government at either the local, state or
17 federal level since they certainly cannot stay in
18 business unless those legitimately imposed taxes
19 are paid. Since property taxes are an annual
20 recurring cost, all of these costs should be
21 treated as operating expense.
22 Q. PUBLIC COUNSEL HAS SUGGESTED (PAGE 51 OF ITS
23 COMMENTS) THAT NON-UTILITY INVESTMENT SHOULD BE
24 REMOVED FROM THE EQUITY COMPONENT OF WORKING
25 CAPITAL. DO YOU AGREE?

1 A. No, I do not. It is generally agreed that funds
2 invested cannot be traced to their source. This
3 issue concerns itself with the question of whether
4 a utility's cost of capital, including debt, would
5 be greater than it would be if the company was not
6 involved in non-utility business within the same
7 business entity? The issue is a proper concern for
8 regulators to look at, and to make a determination
9 on, but the rule proposed by Public Counsel is a
10 totally inappropriate answer to this concern.
11 The cost of equity can be reasonably
12 determined independently of the company's own
13 activities, and is done so by using comparables.
14 The leverage graph currently used by the Commission
15 and referenced in the proposed rules is used to
16 determine a utility's cost of equity for its
17 utility business only. The only other concern then
18 is whether or not the embedded cost of debt is
19 greater than it would be, if the company was not
20 involved in non-utility businesses.
21 Q. HOW CAN THE COMMISSION DETERMINE THAT THE EMBEDDED
22 COST OF DEBT IS NOT GREATER THAN IT WOULD BE IF THE
23 UTILITY WAS NOT INVOLVED IN NON-UTILITY BUSINESSES?
24 A. I wish I had a simple answer to that question, but
25 I don't. I suggest, however, that the matter

1 should be pursued in a generic docket since it
2 affects all utilities regulated by the Commission.
3 In the interim I recommend that the Commission not
4 adopt Public Counsel's proposal since it could and
5 probably would lead to unfair and indefensible
6 results.

7 Q. CAN YOU GIVE AN EXAMPLE?

8 A. Yes, assume a company's business assets are 50%
9 dedicated to utility and 50% to non-utility.
10 Assume also the capital structure was 50% equity
11 and 50% debt. If the Commission adopted Public
12 Counsel's proposal, there would be no equity left
13 in the capital structure of the utility. A far
14 better solution would be to reduce the interest
15 cost of debt to the level it would be for utility
16 operations only if that could be determined. In
17 most utilities that I am aware of the amount
18 invested in non-utility operations is too small to
19 have much, if any, impact on the overall cost of
20 debt.

21 Q. DO YOU HAVE ANY COMMENTS ON PUBLIC COUNSEL'S
22 PROPOSAL FOR THE TREATMENT OF TAX LOSS CARRY
23 FORWARDS?

24 A. Yes, I believe the Commission should recognize that
25 tax loss carry forwards exist solely because during

1 some prior period income was insufficient to cover
2 operating expense plus interest cost. The real
3 issue is whether or not losses incurred in prior
4 years should affect future rates. I don't believe
5 they should. It seems ridiculous to say that if
6 you charged higher rates in prior years, and did
7 not suffer losses, the rates you charge in future
8 years will be greater, than they will be if you
9 suffered losses in prior years. Rates are set
10 prospectively, and the tax loss carry forwards
11 should be available to the utility to offset prior
12 year losses, not be used to offset rate increases
13 for future periods. Rates should be designed to
14 allow a fair rate of return prospectively.
15 Customer rates should not be reduced because the
16 utility provided service at a loss in prior years,
17 and that is exactly what would happen if Public
18 Counsel's proposal was adopted.
19 Q. DOES THIS COMPLETE YOUR TESTIMONY?
20 A. Yes.

JOSEPH P. CRESSE

Presently employed as a non-lawyer Special Consultant with the law firm of Messer, Vickers, Caparello, Madsen, Lewis, Goldman & Metz P.A. in Tallahassee, Florida; former Chairman of the Public Service Commission having served seven years on the Commission; former State Budget Director for State of Florida under Governor Reubin Askew, and former Assistant Secretary for the Department of Administration, State of Florida.

Resides in Tallahassee, Florida, with wife, Beverly; has two children; born in Indiana, and attended public schools in Frostproof, Florida; attended University of Florida - graduated in 1950 B. S. B. A. Major in Accounting; served in the U. S. Army as Staff Sergeant; member of Beta Alphi PSI Fraternity.

Career accomplishments include recipient of Florida Senate and House Resolution of Commendation; Administrator of the year in 1975; recipient of University of Florida Distinguished Alumnus Award; served on the Executive Committee of National Assn. of State Budget Officers, National Assn. of Regulatory Utility Commissioners, and President of the Southeastern Assn. of Regulatory Utility Commissioners; assisted in passage and implementation of the Career Service System, State of Florida; assisted in the implementation the Governmental Reorganization Act; implementation of program budgeting and computerizing substantial budgeting information; assisted in development of Education funding program for the State of Florida; assisted in development of financial plan to reduce appropriations to operate within available funds when revenue of the State was approximately 10% less than anticipated; assisted the Governor and Legislature during Special 1978 Legislative Session in drafting and passing legislation protecting title to state sovereign lands; served as member of the Florida Advisory Council on Intergovernmental Relations; appointed by Governor as member of the Deferred Compensation Advisory Committee and elected chairman; chaired a Task Force which developed financial and organizational plans to dismantle the Inter-American Center Authority with real estate assets of the Authority preserved for public use; appointed by Governor to state team which successfully negotiated a major settlement involving oil, gas and mineral rights on state-owned submerged lands; appointed to task force overseeing litigation, State v. Mobil Oil, Sovereign Lands; member Growth Management Committee; appointed by Governor and co-chaired Telecommunications Task Force. In 1985 received the National Governor's Association award for Distinguished Service to State Government. Retired from State Government December 1985 to assume present position with Messer, Vickers law firm. Since 1985 he has been engaged in regulatory consulting work with both utilities and non-utilities. He lectures at Indiana University twice a year, and has testified before the Georgia, Florida and South Carolina Regulatory Commissions.

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Investigation of Acquisition Adjustment Policy	DOCKET NO. 891309-WS ORDER NO. 25729 ISSUED: 2/17/92

The following Commissioners participated in the disposition of this matter:

THOMAS M. BEARD, Chairman
BETTY EASLEY

ORDER CONCLUDING INVESTIGATION AND CONFIRMING ACQUISITION ADJUSTMENT POLICY

BY THE COMMISSION:

CASE BACKGROUND

On November 17, 1989, the Office of Public Counsel (OPC) filed a Petition to Initiate Rulemaking Proceedings or Alternatively to Issue an Order Initiating Investigation. OPC proposed a specific amendment to Rule 25-30.040(3)(o), Florida Administrative Code, regarding the treatment of acquisition adjustments in rate base.

By Order No. 22361, issued January 2, 1990, we denied OPC's request to initiate rulemaking and instead initiated an investigation of our policy on acquisition adjustments. As part of our investigation, we requested and received written comments from interested persons and held an informal workshop on March 28, 1990, to discuss the Commission's current policy and OPC's proposed changes. By proposed agency action (PAA) Order No. 23376 issued August 21, 1990, we declined to make any changes to our acquisition adjustment policy. On September 11, 1990, OPC filed a protest to Order No. 23376. Pursuant to Section 120.57(2), Florida Statutes, we afforded all parties the opportunity to be heard on this matter at an oral presentation on July 29, 1991. This Order contains our final disposition of this proceeding.

ACQUISITION ADJUSTMENT POLICY

Our policy on acquisition adjustments since approximately 1983 has been that absent extraordinary circumstances, the purchase of a utility system at a premium or discount shall not affect rate base. The purpose of this policy, as stated in PAA Order No. 23376, has been to create an incentive for larger utilities to

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acquire small, troubled utilities. We believe that this policy has done exactly what it was designed to do. Since its implementation, many small utilities have in fact been acquired by larger utilities, and we have changed rate base in only a few cases.

OPC charges that the relationship between rate base and utility investment is broken upon the sale of a utility. An acquiring utility must therefore establish the extent to which its own investment is prudent without regard to the seller's rate base or investment level. OPC believes that investors in the selling utility recover their investment through the sale of the utility; the buyer's investment is represented by the purchase price. By not allowing the buyer to increase rate base to equal the purchase price through a positive acquisition adjustment, OPC claims, the Commission is not allowing the buyer to earn a return on imprudent investment.

OPC seems to view positive and negative acquisition adjustments somewhat differently. For positive acquisition adjustments, OPC believes that appropriate standards must be established for the buyer to show, and for the Commission to evaluate, the prudence of the acquisition at a premium so the sale of a utility does not increase customer rates without any new assets being devoted to utility service. But for negative acquisition adjustments, OPC believes that the Commission has no alternative except to automatically impose an adjustment.

OPC asserts that if the negative acquisition adjustment is not imposed upon the buyer, the Commission is creating a mythical investment above the actual commitment of capital by the buyer. This error, OPC argues, is further compounded by the buyer's recovering depreciation expense on this mythical investment.

OPC also argues that this Commission does not have the statutory authority to give the buyer the rate base of the seller. Section 367.081(2)(a), Florida Statutes, refers to "the investment of the utility." OPC claims that the seller is not the "utility" referred to in this definition, the buyer is. Therefore, OPC concludes, the "investment of the utility" must be the prudent investment made by the buyer.

The other parties to this proceeding, Southern States Utilities, Inc., Deltona Utilities, Inc., United Florida Utilities Corporation, and Jacksonville Suburban Utilities Corporation

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(collectively, the utility companies) make several arguments in response to OPC. First, they point out that OPC suggests an inconsistent use of purchase price. Where a negative acquisition adjustment pertains, the investment of the utility means the purchase price paid by the buyer, but where a positive acquisition adjustment is considered, the investment of the utility means the net book value, or rate base, of the seller. The utility companies also argue that if the Commission were to adopt OPC's view, the incentive for larger utilities to rescue small, distressed utilities would be erased. Further, the utility companies assert that OPC's position conflicts with prior unchallenged Commission decisions allowing positive acquisition adjustments. In conclusion, the utility companies also argue that our current policy comports with our broad authority to interpret and implement our statutory authority in a manner which best serves the long term interests of the ratepayers.

On the point of statutory interpretation, we disagree with OPC. We do not think that Section 367.081(2)(a), Florida Statutes, limits us from including in rate base only that which an acquiring utility has invested in the system, i.e., the purchase price, as OPC asserts. This Commission has consistently interpreted the "investment of the utility" as contained in Section 367.081(2)(a), Florida Statutes to be the original cost of the property when first dedicated to public service, not only in the context of acquisition adjustments, but elsewhere as well. In our current policy on acquisition adjustments, we do not deviate from this interpretation, nor do we exceed our statutory authority. Furthermore, OPC has cited no authority to support its contention that we have misinterpreted the statute.

We still believe that our current policy provides a much needed incentive for acquisitions. The buyer earns a return on not just the purchase price but the entire rate base of the acquired utility. The buyer also receives the benefit of depreciation on the full rate base. Without these benefits, large utilities would have no incentive to look for and acquire small, troubled systems. The customers of the acquired utility are not harmed by this policy because, generally, upon acquisition, rate base has not changed, so rates have not changed. Indeed, we think the customers receive benefits which amount to a better quality of service at a reasonable rate. With new ownership, there are beneficial changes: the elimination of financial pressure on the utility due to its inability to obtain capital, the ability to attract capital, a

reduction in the high cost of debt due to lower risk, the elimination of substandard operating conditions, the ability to make necessary improvements, the ability to comply with the Department of Environmental Regulation and the Environmental Protection Agency requirements, reduced costs due to economies of scale and the ability to buy in bulk, the introduction of more professional and experienced management, and the elimination of a general disinterest in utility operations in the case of developer owned systems.

Some utilities that are actively acquiring troubled utilities have found that our policy has given them the ability to make some purchases at a premium because of the balancing effect created by purchases made at a discount. Thus, our current policy offers enough incentive for utilities to make multiple purchases at a discount and still purchase a troubled utility that can only be purchased at a premium.

At the July 29, 1991, oral presentations, OPC stated that any incentive for acquisition should be in the form of a higher rate of return. We do not believe that this would create the necessary incentive. To illustrate, if an acquired system with a net book value of $100,000 was purchased for $80,000 and we raised the return on equity by 200 basis points, a utility with 50% equity would benefit after taxes by approximately $470. If the award were 400 basis points, the incentive after taxes would be approximately $940. We do not think that this is an adequate incentive for the acquisition of any troubled system.

In consideration of the foregoing, we conclude this investigation of our acquisition adjustment policy without making any change thereto. We note that our staff has opened a docket, Docket No. 911082-WS, wherein rules on acquisition adjustments will be addressed.

It is, therefore

ORDERED by the Florida Public Service Commission that this investigation of current Commission policy on acquisition adjustments is concluded and that policy, as described in the body of this Order, is hereby confirmed. It is further

ORDERED that this docket is closed.

By ORDER of the Florida Public Service Commission, this 17th day of FEBRUARY, 1992.

STEVE TRIBBLE, Director,
Division of Records and Reporting

(S E A L)

MJF

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: 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.