

LAW OFFICES

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

A PROFESSIONAL ASSOCIATION

SUITE 701
215 SOUTH MONROE STREET
POST OFFICE BOX 1876
TALLAHASSEE, FLORIDA 32302-1876
TELEPHONE (904) 222-0720
TELECOPIER (904) 224-4359

SUITE 900
2000 PALM BEACH LAKES BOULEVARD
WEST PALM BEACH, FLORIDA 33409
TELEPHONE (407) 640-0820
TELECOPIER (407) 640-8202

REPLY TO: Tallahassee

June 7, 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: Docket No. 920199-WS

Dear Mr. Tribble:

Enclosed for filing in the above-referenced docket are the original and fifteen copies of Southern States' Response to Petitions of Spring Hill Civic Association, Inc. and Senator Ginny Brown-Waite for Intervention and Reconsideration.

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
Kenneth A. Hoffman

- ACK _____
- AFA 1
- APP _____
- CAF _____
- CMU KAH/rl
- CTR Enclosures
- EAG _____
- LEG 1
- LIN 4
- OPC 1
- RCH _____
- SEC 1
- WAS _____
- OTH _____

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DIVISION OF RECORDS

DOCUMENT NUMBER-DATE
06100 JUN-7 93
REC-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 Citrus, Nassau, Seminole, Osceola, Duval, Putnam, Charlotte, Lee, Lake, Orange, Marion, Volusia, Martin, Clay, Brevard, Highlands, Collier, Pasco, Hernando, and Washington Counties.

Docket No. 920199-WS Filed: June 7, 1992

SOUTHERN STATES' RESPONSE TO PETITIONS OF SPRING HILL CIVIC ASSOCIATION, INC. AND SENATOR BROWN-WAITE FOR INTERVENTION AND RECONSIDERATION

SOUTHERN STATES UTILITIES, INC. ("Southern States" or "Company"), pursuant to Rules 25-22.037, 25-22.039, and 25-22.056, Florida Administrative Code, respectfully responds to the Petitions for Intervention and Reconsideration of Spring Hill Civic Association, Inc. ("SHCA") and State Senator Ginny Brown-Waite and requests that the Florida Public Service Commission ("Commission") deny the Petitions for Intervention or, if intervention is granted, deny the Requests for Reconsideration. In support of this Response, Southern States states as follows:

RESPONSE TO INTERVENTION

1. On May 26, 1993, the Company received copies of the Petitions filed by SHCA and Senator Brown-Waite for intervention and reconsideration of Order No. PSC-93-0423-FOF-WS (the "Final Order") which was issued March 22, 1993.

2. The Final Order was issued after ten (10) customer hearings throughout the State including one held on September 9, 1992 in Brooksville, Florida, near where the customers of the Spring Hill systems are located, and a five-day final, technical

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hearing beginning on November 6, 1992 in Tallahassee. The hearings were noticed in local newspapers, individual customer notices and the Florida Administrative Weekly. In addition, during the technical hearing, extensive testimony was provided by Mr. Anthony Mosca, a commissioner serving on the Hernando County Board of County Commissioners, on behalf of the customers of the Spring Hill systems.

3. Rule 25-22.039, Florida Administrative Code, requires that petitions for leave to intervene must be filed "at least five days before the final hearing." The petitions for intervention filed by SCHA and Senator Brown-Waite approximately two months after the issuance of the Final Order violate Rule 25-22.039 and should be denied as untimely and improper. See, e.g., 92 FPSC 11:77 (Order No. PC-92-1264-PCO-EI, Nov. 3, 1992). The rationale for this rule has been stated clearly and succinctly by the Commission:

it is obvious that the intent of the rule is to limit the ability of a party to intervene to the period prior to a decision by the Commission. It would at the very least invite a chaotic situation, if the Commission were to allow non-parties to participate and make their arguments after the Commission made its final decision in a case.

Order No. 25799, at 12. Neither SHCA nor Senator Brown-Waite has presented any basis for deviation from the rule or exception to this policy.

4. Moreover, there is no need nor basis for granting SHCA or Senator Brown-Waite intervenor status on a going forward basis. In Docket No. 871394-TP involving alternative operator service ("AOS")

providers, petitioners who sought intervention after the final hearing were denied reconsideration but granted intervenor status on a going forward basis. Docket No. 871394-TP, Order No. 22243, at 13 (Nov. 29, 1989). However, the AOS proceeding was a generic, industry-wide docket involving the establishment of policies affecting all industry providers of operator services. At the time the interventions were granted on a going forward basis, future, additional proceedings were contemplated. The present case is entirely different as it is a ratemaking proceeding that by its own terms is without generic or industry-wide application. Thus, there is no justification for granting SHCA nor Senator Brown-Waite intervenor status on a going forward basis.

5. Because SHCA and Senator Brown-Waite were not parties to these proceedings prior to the issuance of the Final Order, they have no standing to now seek reconsideration by seeking intervention and reconsideration. Order No. 22243, at 13.


6. In addition to the grounds supporting denial of SHCA's and Senator Brown-Waite's petition for intervention, Southern States notes that it is inappropriate to treat their requests for reconsideration as an amicus memorandum in support of reconsideration by Cypress and Oak Villages Association of Homosassa and Citrus County. Order No. 25799, at 1-2.

RESPONSE TO RECONSIDERATION

7. Although intervention should be denied based on the above-stated Commission rule and precedents, if granted, the requests for reconsideration submitted by SHCA and Senator Brown-

Waite should be denied as they have not been filed within 15 days following issuance of the Final Order, as required under the Final Order, at 112, and Rule 25-22.060(3)(a), F.A.C.¹, and for the reasons stated in Southern States' Response to the Motions for Reconsideration filed by Office of Public Counsel, COVA and Citrus County, which Response is incorporated herein by reference, concerning the Commission's decision to grant Southern States uniform statewide rates.

Respectfully submitted,


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

and

BRIAN P. ARMSTRONG, ESQUIRE
Southern States Utilities, Inc.
1000 Color Place
Apopka, Florida 32703
(407) 880-0058

Attorneys for Southern States
Utilities, Inc.

¹Failure to timely file a motion for reconsideration constitutes waiver of the right to do so under Rule 25-22.060(1)(d), F.A.C.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing Southern States' Response to Petitions of Spring Hill Civic Association, Inc. and Senator Brown-Waite for Intervention and Reconsideration was furnished by U. S. Mail, this 7th day of June, 1993, to the following:

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

Larry M. Haag, Esq.
County Attorney
107 N. Park Avenue
Suite 8
Inverness, Florida 34450

Matthew Feil, Esq.
Catherine Bedell, Esq.
Florida Public Service Commission
Division of Legal Services
101 East Gaines Street
Room 226
Tallahassee, Florida 32399


Michael B. Twomey, Esq.
Assistant Attorney General
Department of Legal Affairs
Room PL-01, The Capitol
Tallahassee, FL 32399-1050

Susan W. Fox, Esq.
MacFarlane Ferguson
111 Madison Street, Suite 2300
P. O. Box 1531
Tampa, Florida 33601

Spring Hill Civic Asso.
4575 Kirkland Avenue
Spring Hill, FL 34606

Michael S. Mullin, Esq.
P. O. Box 1563
Fernandina Beach, Florida 32034

Senator Ginny Brown-Waite
20 N. Main Street
Brooksville, FL 34601

By: 
KENNETH A. HOFFMAN, ESQ.