

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 21, 1993

**SOUTHERN STATES' RESPONSE TO PETITION OF
CYPRESS VILLAGE PROPERTY OWNERS ASSOCIATION
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 Petition for Intervention and Reconsideration filed by CYPRESS VILLAGE PROPERTY OWNERS ASSOCIATION ("CVPOA") 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 June 15, 1993, the Company received a copy of the Petition filed by CVPOA for intervention and reconsideration of Order No. PSC-93-0423-FOF-WS (the "Final Order") which was issued March 22, 1993.¹

2. The Final Order was issued after ten (10) customer hearings throughout the State including customer hearings held on

¹Southern States did not receive a copy of an "Attached Exhibit" referred to in paragraph 2 of CVPOA's Petition.

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August 19, 1992 in Ocala, Florida and on September 9, 1992 in Brooksville, Florida, near where the customers of the Sugar Mill Woods systems are located, and a five-day final, technical 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, customers of the Sugar Mill Woods systems were actively and adequately represented in all material aspects of this proceeding through the efforts of Intervenor Cypress and Villages Association of Homosassa ("COVA") including discovery, the customer hearings, the technical hearing, and submission of a post-hearing brief and motion for reconsideration.

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 petition for intervention filed by CVPOA almost three months after the issuance of the Final Order violates 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. CVPOA has not presented any basis for deviation from the rule or exception to this policy.

4. Moreover, there is no need nor basis for granting CVPOA 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 CVPOA intervenor status on a going forward basis.

5. Because CVPOA was not a party to these proceedings prior to the issuance of the Final Order, it has 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 CVPOA's petition for intervention, Southern States notes that it is inappropriate to treat its request for reconsideration as an amicus memorandum in support of the requests for reconsideration filed 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 request for reconsideration submitted by CVPOA should be denied as it has 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.², 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,



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²Failure 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 Petition of Cypress Village Property Owners Association for Intervention and Reconsideration was furnished by U. S. Mail, this 21st day of June, 1993, to the following:

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