

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application for rate increase in Brevard, Charlotte/ Lee, Citrus, Clay, Duval Highlands, Lake, Marion, Martin, Nassau, Orange, Osceola, Pasco, Putnam, Seminole, Volusia, and Washington Counties by SOUTHERN STATES UTILITIES, INC.; Collier County by MARCO SHORES UTILITIES (Deltona); Hernando County by SPRING HILL UTILITIES (Deltona); and Volusia County by DELTONA LAKES UTILITIES (Deltona).

Docket No. 920199-WS

Order No.
PSC-93-0861-FOF-WS
Issued: June 8, 1993

MOTION FOR CORRECTION OF PROPERTY TAXES

Cypress and Oaks Villages Association, Inc. ("COVA") requests the Commission to correct the tax projections in the above-referenced case and as grounds for this request state:

1. On June 8, 1993, the Commission issued Order No. 93-0861-FOF-WS, which stayed Order No. PSC-93-0423-FOF-WS. For this reason, COVA suggests that the Commission should consider correction of certain inaccuracies in the tax calculations for Southern States Utilities, Inc. ("SSU").

2. SSU, in their Minimum Filing Requirements ("MFRs"), based the 1991 test year property taxes on a projection of the 1990 taxes for all one hundred twenty-seven (127) utilities in the rate case, and presumably did the same for the allocated general taxes. The projections were significantly in error, and the only correction made by the PSC staff was an out-of-period adjustment of (\$33,036) for Sugarmill Woods, based on evidence presented by COVA.

3. The PSC required SSU to revise the MFRs, so SSU had both time and opportunity to correct and use the actual 1991 test year

DOCUMENT NUMBER-DATE

06946 JUN 28 83

001278

FPSC-RECORDS/REPORTING

figures. SSU failed to do so, and the PSC staff was negligent in following up and auditing the property taxes. This oversight creates an inflated revenue requirement for SSU.

4. Adjustments of projected to actual taxes, similar to the adjustment for Sugarmill Woods, would have been appropriate for other utility systems. For example, SSU's MFR for Citrus Spring projected \$70,676 in property taxes, whereas SSU paid only \$52,280, for a decrease of \$18,096. For Spring Hill Utility, SSU projected taxes of \$199,264 in its MFRs, but paid only \$178,532, for a variance of \$20,732.

5. It would be manifestly unfair to require customers of every utility to intervene officially in the rate case in order to insure appropriate property tax adjustments. PSC staff should monitor these types of issues.

6. As demonstrated in COVA's Motion for Reconsideration SSU demonstrated mismanagement and neglect in ensuring the accuracy of its property tax assessments. The PSC staff then failed to uncover the error. When COVA pointed out the error, SSU responded with outrageous stonewalling tactics in efforts to prevent adjustment from being made. Consider the following:

a. Citrus County Property Appraiser, Ron Schultz, at the Public Hearing in Brooksville on September 9, 1992, professed to an error in the property tax assessment for Sugarmill Woods, resulting in an overassessment by at least 33%.

b. Schultz later confirmed the error in writing to both the PSC and SSU on September 25, 1992 and requested additional data from SSU to correct the assessment and make possible a refund to the utility for both 1990 and 1991.

c. SSU declined to provide the necessary financial data to Schultz in order to procure a refund or correct the overassessment, and continued to rely on the erroneous assessment which inflated the revenue requirements for the test year.

d. To compound the problem, the PSC at the formal hearing and in its final Order gave credence to SSU's tactics, and as a result the customers are now being required to pay for SSU's refusal to correct a simple error.

e. Prior to September 9, 1992, the projected 1992 assessment by Schultz for Sugarmill Woods was \$9,836,483. Subsequently, he decreased the assessment to \$4,000,000 (which, according to COVA, is still at least \$1,000,000 too high, judging from the Sugarmill Woods rate base and other data in the PSC Order).

f. SSU accepted the 1992 assessment of \$4,000,000 without challenge and paid taxes of \$76,293, taking no early payment discount.

g. Since there were no substantial capital or other financial differences in rate base between 1990 and 1991, the 1991 assessment for Sugarmill Woods (\$8,886,206) could also have been reduced to at least \$4,000,000, thus reducing the

1991 test year taxes from \$162,088 to \$76,002, a savings of \$86,086. This is a savings of \$50 per year for the average Sugarmill Woods customer on a stand alone basis. (Under statewide rates, the savings are only \$.80 per year for the average customer.)

h. SSU has failed to request the refund for 1990 or 1991. These refunds (again assuming the assessment is reduced only to \$4,000,000), total \$183,157. Shultz noted, however, that in his many years as Property Appraiser, he had never seen such disdain for a potential tax refund.

7. Clarification of the 1991 test year property taxes for Sugarmill Woods should enable a proper allocation of non-used and useful taxes to AFPI for both water and sewer. The following table illustrates this point, comparing utilities within Citrus County:

AFPI ALLOCATIONS

<u>UTILITY</u>	<u>NON-USED & USEFUL TAXES</u>	<u>NON-USED & USEFUL FACILITIES</u>
CITRUS SPRINGS	\$40,195	\$2,822,079
GOSPEL ISLAND ESTATES	79	2,660
PINE RIDGE UTILITIES	3,000	1,193,814 (A)
POINT O' WOODS	1,590	2,134,672
SUGARMILL WOODS	234	2,134,672 (B)

Note: (A) - Table No. 1, page 1; Pine Ridge Utilities MFR's showed property taxes of \$5,672 whereas SSU actually paid \$24,626.

(B) - As previously noted in page 2, the 1991 test year taxes actually paid by SSU for SMW was \$162,088 which should be reduced to at least \$76,002. This should still warrant a substantial allocation to AFPI as was done with other Citrus County utilities.

8. In the final Order, the PSC appears to have been selective and discriminatory towards Sugarmill Woods in the non-used and useful tax allocations.

9. Corrections to the property taxes and AFPI allocations should be made in time to reflect the adjustments in the anticipated interim rate refund.

Respectfully submitted,



SUSAN W. FOX
Florida Bar No. 241547
MACFARLANE FERGUSON
111 Madison Street/Suite 2300
Post Office Box 1531
Tampa, Florida 33601-1531
813/273-4212
ATTORNEYS FOR CYPRESS AND
OAK VILLAGES ASSOCIATION

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing has been furnished by U.S. Mail this 23rd day of June, 1993 to the following persons:

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

Michael B. Twomey, Esquire
Assistant Attorney General
Department of Legal Affairs
Room 1603 The Capitol
Tallahassee, Florida 32399-1050

Ken Hoffman, Esquire
Messer, Vickers, Caparello,
Madsen, Lewis, Goldman & Metz
215 S. Monroe Street, Suite 701
P. O. Box 1876
Tallahassee, Florida 32302-1876

Chuck Hill, Esquire
Division of Water & Sewer
Florida Public Service Commission
101 E. Gaines Street
Tallahassee, Florida 32301

Harold McLean, Esquire
Associate Public Counsel
Office of the Public Counsel
c/o The Florida Legislature
111 W. Madison Street, Room 812
Tallahassee, Florida 32399-1400

Mat Feil, Esquire
Division of Legal Services
Florida Public Service Commission
101 East Gaines Street
Tallahassee, Florida 32301

Brian Armstrong, Esquire
Southern States Utilities
General Offices
1000 Color Place
Apopka, Florida 32703

Michael Mullin, Esquire
Nassau County Board of County Commissioners
P. O. Box 1563
Fernandina Beach, Florida 32034



ATTORNEY

wp/sd