

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Investigation Into the) DOCKET NO. 930880-WS
Appropriate Rate Structure for) ORDER NO. PSC-94-0355-PHO-WS
SOUTHERN STATES UTILITIES, INC.) ISSUED: 03/28/94
for all Regulated Systems in)
Bradford, Brevard, Citrus, Clay,)
Collier, Duval, Hernando,)
Highlands, Lake, Lee/Charlotte,)
Marion, Martin, Nassau, Orange,)
Osceola, Pasco, Putnam,)
Seminole, St. Johns, St. Lucie,)
Volusia, and Washington)
Counties.)
_____)

Pursuant to Notice, a Prehearing Conference was held on March 21, 1994, in Tallahassee, Florida, before Commissioner Julia L. Johnson, as Prehearing Officer.

APPEARANCES:

KENNETH A. HOFFMAN, ESQUIRE, Rutledge, Ecenia, Underwood, Purnell, & Hoffman, P.A., P.O. Box 551, Tallahassee, Florida, 32302-0551, and BRIAN P. ARMSTRONG, ESQUIRE, Southern States Utilities, Inc., 1000 Color Place, Apopka, Florida, 32703
On behalf of Southern States Utilities, Inc.

MICHAEL TWOMEY, ESQUIRE, Route 28, Box 1264, Tallahassee, Florida, 32310, and MICHAEL GROSS, ESQUIRE, c/o the Office of the Attorney General, Department of Legal Affairs, The Capitol, Tallahassee, Florida, 32399-1050
On behalf of Citrus and Hernando Counties.

DEBORAH STEPHENS MINNIS, ESQUIRE, MacFarlane, Ausley, Ferguson & McMullen, P.O. Box 1531, Tampa, Florida, 33601
On behalf of Cypress and Oak Village Association.

SUZANNE F. SUMMERLIN, LILA A. JABER, AND ROBERT J. PIERSON, ESQUIRES, Florida Public Service Commission, 101 East Gaines Street, Tallahassee, Florida 32399-0863
On behalf of the Commission Staff.

PRENTICE PRUITT, ESQUIRE, Florida Public Service Commission, 101 East Gaines Street, Tallahassee, Florida 32399-0862
On behalf of the Commissioners.

DOCUMENT NUMBER-DATE

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FPSC-RECORDS/REPORTING

PREHEARING ORDER

I. CASE BACKGROUND

By Order No. PSC-93-0423-FOF-WS, issued March 22, 1993, in Docket No. 920199-WS, the Florida Public Service Commission (Commission) approved an increase in Southern States Utilities, Inc.'s (SSU or utility) rates and charges which set rates based on a uniform statewide rate structure. On October 8, 1993, Citrus County and Cypress and Oak Village Association (COVA) filed a Notice of Appeal of Order No. PSC-93-0423-FOF-WS at the First District Court of Appeal.

At the September 28, 1993, Agenda Conference, the Commission, on its own motion, initiated an investigation to address the question of what rate structure is most appropriate for SSU. By Order No. PSC-93-1582-PCO-WS, issued October 29, 1993, the Prehearing Officer directed Staff and all of the parties to file a list of issues to be considered in this docket. By Order No. PSC-93-1795-PCO-WS, issued December 16, 1993, the Prehearing Officer, after reviewing all of the issues filed, set issues and revised dates for filing testimony and exhibits. The Prehearing Officer rejected those issues deemed to be irrelevant, inappropriate, or incorporated into concepts of other issues. The issues accepted by the Prehearing Officer are incorporated into this Prehearing Order.

On December 27, 1993, Citrus and Hernando Counties, hereinafter referred to as the "Counties," timely filed a Motion for Reconsideration of Order No. PSC-93-1795-PCO-WS and requested oral argument. On January 10, 1994, SSU timely filed a Response to the Motion for Reconsideration and Request for Oral Argument. The Commission granted the Counties' Motion for Oral Argument and heard arguments from SSU and the Counties at the January 18, 1994, Agenda Conference. Order No. PSC-94-0176-FOF-WS, issued February 11, 1994, memorialized the Commission's decision to deny the Counties' Motion for Reconsideration. By that Order, the Commission also clarified the wording of the fourth issue in Order No. PSC-93-1795-PCO-WS to be "What is the appropriate rate structure and how should it be implemented?"

This matter is currently scheduled for an administrative hearing on April 14-15, 1994, in Orlando, Florida.

II. PROCEDURE FOR HANDLING CONFIDENTIAL INFORMATION

A. Any information provided pursuant to a discovery request for which proprietary confidential business information status is requested shall be treated by the Commission and the parties as

confidential. The information shall be exempt from Section 119.07(1), Florida Statutes, pending a formal ruling on such request by the Commission, or upon the return of the information to the person providing the information. If no determination of confidentiality has been made and the information has not been used in the proceeding, it shall be returned expeditiously to the person providing the information. If a determination of confidentiality has been made and the information was not entered into the record of the proceeding, it shall be returned to the person providing the information within the time periods set forth in Section 367.156, Florida Statutes.

B. It is the policy of the Florida Public Service Commission that all Commission hearings be open to the public at all times. The Commission also recognizes its obligation pursuant to Section 367.156, Florida Statutes, to protect proprietary confidential business information from disclosure outside the proceeding.

In the event it becomes necessary to use confidential information during the hearing, the following procedures will be observed:

- 1) Any party wishing to use any proprietary confidential business information, as that term is defined in Section 367.156, Florida Statutes, shall notify the Prehearing Officer and all parties of record by the time of the Prehearing Conference, or if not known at that time, no later than seven (7) days prior to the beginning of the hearing. The notice shall include a procedure to assure that the confidential nature of the information is preserved as required by statute.
- 2) Failure of any party to comply with 1) above shall be grounds to deny the party the opportunity to present evidence which is proprietary confidential business information.
- 3) When confidential information is used in the hearing, parties must have copies for the Commissioners, necessary staff, and the Court Reporter, in envelopes clearly marked with the nature of the contents. Any party wishing to examine the confidential material that is not subject to an order granting confidentiality shall be provided a copy in the same fashion as provided to the Commissioners, subject to execution of any

appropriate protective agreement with the owner of the material.

- 4) Counsel and witnesses are cautioned to avoid verbalizing confidential information in such a way that would compromise the confidential information. Therefore, confidential information should be presented by written exhibit when reasonably possible to do so.
- 5) At the conclusion of that portion of the hearing that involves confidential information, all copies of confidential exhibits shall be returned to the proffering party. If a confidential exhibit has been admitted into evidence, the copy provided to the Court Reporter shall be retained in the Commission Clerk's confidential files.

III. POST-HEARING PROCEDURES

Rule 25-22.056(3), Florida Administrative Code, requires each party to file a post-hearing statement of issues and positions. A summary of each position of no more than 50 words, set off with asterisks, shall be included in that statement. If a party's position has not changed since the issuance of the prehearing order, the post-hearing statement may simply restate the prehearing position; however, if the prehearing position is longer than 50 words, it must be reduced to no more than 50 words. The rule also provides that if a party fails to file a post-hearing statement in conformance with the rule, that party shall have waived all issues and may be dismissed from the proceeding.

A party's proposed findings of fact and conclusions of law, if any, statement of issues and positions, and brief, shall together total no more than 60 pages, and shall be filed at the same time. The prehearing officer may modify the page limit for good cause shown. Please see Rule 25-22.056, Florida Administrative Code, for other requirements pertaining to post-hearing filings.

IV. PREFILED TESTIMONY AND EXHIBITS; WITNESSES

Testimony of all witnesses to be sponsored by the parties and Staff has been prefiled. All testimony which has been prefiled in this case will be inserted into the record as though read after the witness has taken the stand and affirmed the correctness of the testimony and associated exhibits. All testimony remains subject to appropriate objections. Each witness will have the opportunity to orally summarize his or her testimony at the time he or she

takes the stand. Upon insertion of a witness' testimony, exhibits appended thereto may be marked for identification. After all parties and Staff have had the opportunity to object and cross-examine, the exhibit may be moved into the record. All other exhibits may be similarly identified and entered into the record at the appropriate time during the hearing.

Witnesses are reminded that, on cross-examination, responses to questions calling for a simple yes or no answer shall be so answered first, after which the witness may explain his or her answer.

The Commission frequently administers the testimonial oath to more than one witness at a time. Therefore, when a witness takes the stand to testify, the attorney calling the witness is directed to ask the witness to affirm whether he or she has been sworn.

V. ORDER OF WITNESSES

<u>Witness</u>	<u>Appearing For</u>	<u>Issues #</u>
<u>Direct</u>		
Bert T. Phillips	Utility	2
E. Timothy Barnes	"	2
Vito F. Pennacchio	"	2
William E. Grantmyre (Rebuttal)	"	2
Victoria Jean Tschinkel	"	2
Phillip L. Waller	"	2
Mark. T. Stewart	"	2
Raphael A. Terrero	"	2
William (Dave) Denny	"	2
Scott W. Vierima	"	2
Forrest L. Ludsen	"	2-4
Robert T. Mann	COVA	1,2,4

<u>Witness</u>	<u>Appearing For</u>	<u>Issues #</u>
<u>Direct cont.</u>		
James Desjardin	"	2,4
Buddy L. Hansen	COVA	2,4
Mark A. Cicchetti	Counties	1-4
Richard W. Radacky	"	1-4
John Williams	Staff	2,4
Troy Rendell	"	
Jerrold E. Chapdelaine	"	3
<u>Rebuttal</u>		
Forrest L. Ludsen	Utility	2-4
Jerry W. Ford	"	2
David G. Gartzke	"	2
Buddy L. Hansen	COVA	2,4
Mark A. Cicchetti	Counties	1-4
Richard W. Radacky	"	1-4

VI. BASIC POSITIONS

UTILITY: In Docket No. 920199-WS, the Commission established statewide uniform rates for the 127 systems encompassed in SSU's application for a rate increase in that proceeding. The evidence in this proceeding clearly establishes and confirms that as a matter of policy, a statewide uniform rate structure is appropriate and provides significant benefits for the ratepayers of SSU.

SSU provides high quality water and wastewater service to approximately 160,000 customers throughout the State of Florida, approximately 125,000 of whom receive service subject to Commission jurisdiction at this time. These services are provided through centralized management, financial, accounting, purchasing, engineering, legal, and other operational and administrative functions performed through SSU's home office in Apopka, Florida. All of these operational and administrative functions serve and benefit SSU's customers throughout the State at costs which reflect the efficiencies, maximization of resources, and savings achieved through economies of scale. In short, as reflected by its consolidated capital structure and tariffs, SSU operates as one consolidated utility which provides high quality water and wastewater service to its customers throughout the State.

The implementation of uniform rates is not a new phenomena in this State or across the country. This Commission has authorized implementation of uniform rates for systems operated by SSU in a number of counties as well as for over twenty other utilities subject to Commission jurisdiction. Uniform rates also are common for systems subject to county jurisdiction including Citrus County and Hernando County, intervenors in this proceeding.

The short and long-term benefits which flow from uniform rates are particularly appropriate for a large consolidated utility such as SSU. These benefits include:

1. insulation of customers from rate shock particularly in light of ever-increasing environmental standards, water supply exigencies, and water quality issues;
2. administrative and operational efficiencies including reduced rate case expense, and promotion of economies of scale in operations and maintenance expenses;
3. promotion of incentive to acquire distressed systems which lack operational incentive and expertise, as well as the financial resources to maintain a high quality of service at reasonable rates;

4. reduced financing costs and increased access to capital;
5. stabilization of rates and ease of understanding of rates by customers who are charged the same price for essentially the same service; and
6. facilitation of conservation rates on a statewide basis.

In evaluating the issues in this proceeding, the Commission must be cognizant of the fact that it is virtually impossible and certainly not cost effective to derive a true stand-alone rate for every customer who receives service. In other words, there is a "subsidy" in every rate structure approved by the Commission. Despite the pleas of intervenors for stand-alone rates in this proceeding, it is not true stand-alone rates which they seek. If the many administrative and operational services were provided to customers on a true stand-alone basis with each group of customers responsible for supporting the costs of separate engineering, accounting, legal, billing, chemical, plant operator and other operations and maintenance expenses, the cost and resulting rates would exceed the uniform rates ordered in Docket No. 920199-WS. The simple fact is that all customers of SSU are beneficiaries of the reduced cost of capital and economies of scale achieved through SSU's consolidated operations. In addition, it must be emphasized that the amount of contributions-in-aid-of-construction (CIAC) paid by customers is but one of a significant number of factors which impact rates for a particular group of customers. In fact, the evidence in this proceeding shows that there is no direct relationship between the level of CIAC paid and the revenue requirements for a specific group of customers or the resulting rates. Rates are impacted by geographic considerations (such as location of facilities, plant and customers), the age of plant, treatment type, the supply and quality of water available, CIAC and other factors. There are clearly two key factors which impact rates: number of customers per system and average consumption per month - not CIAC. Accordingly, the Commission should reject the Intervenor's contention that exceptions to the uniform rate structure should be considered based solely on the level of CIAC paid.

In conclusion, the evidence in this proceeding confirms the appropriateness of establishing statewide uniform rates for SSU. The uniform rates ordered for the 127 systems at issue in Docket No. 920199-WS are fair, reasonable and should be confirmed. In addition, the Commission should determine that as a matter of policy, other systems presently operated or acquired in the future by SSU should be incorporated into a uniform rate structure. In resolving the uniform rate structure issue, the Commission must also determine as a matter of public policy whether it is appropriate to authorize a second tier of uniform rates for facilities with advanced or tertiary treatment.

COUNTIES: SSU initially requested a form of uniform rates in its 1990 rate case, which involved 34 of its most financially distressed water and wastewater systems. Irrespective of the stated reasons for the dismissal of that case after hearing, it is clear that uniform rates, had they been granted, would have been uniformly high, especially when compared to the uniform rates approved in Docket No. 920199-WS.

SSU did not request uniform rates in Docket No. 920199-WS, nor did any of its witnesses support the concept in either their prefiled direct testimony or on cross-examination. SSU witnesses generally disavowed the conservation efficacy of uniform rates and specifically stated that SSU had not done the necessary studies to determine whether uniform rates would result in water conservation. Staff witness Williams testified that he was not recommending the adoption of uniform rates in that case, would not recommend it absent necessary modifications to accommodate significant variances in CIAC from system to system, and, in fact, would not even recommend the "rate cap" proposed by SSU.

Notwithstanding the lack of any proponent at hearing or any support for it in the record, the staff recommended and the Commission panel ordered the implementation of uniform rates. Both the staff recommendation and order take testimony and other evidence out of context to establish support for the supposed "benefits" resulting from uniform rates. The construction of "evidence" to support conservation benefits is especially egregious.

Uniform rates as presently approved for SSU result from a simple mathematical calculation made without any regard

for conservation or any of the other benefits claimed. The result is the unlawful "taking" of the private property of the customers of certain SSU systems through Commission-mandated utility rates that exceed the legal rates ("stand-alone" rates) necessary to provide a return on the used and useful utility investment necessary to provide the service they receive as well as return the reasonable, prudent and necessary costs of providing that service. As a consequence, customers forced to pay subsidies through the uniform rates are made, by state action, to provide SSU with an excessive and unlawful rate of return on the investment used and useful in providing their service.

Those customers receiving the subsidies do not pay the costs associated with providing their utility service. A result, in addition to the other faults noted, is unfairly discriminatory rates between customers of the same class. Action Group v. Deason, 615 So.2d 683 (Fla. 1993); Wabash Valley Electric Co. v. Young, 287 U.S. 488, 53 S. Ct. 234, 77 L. Ed. 447 (1932).

The proposition argued in the final rate order and by SSU in its customer propaganda that water conservation results from uniform rates is patently ridiculous. Again, the uniform rates result from a mathematical calculation necessary to obtain average rates and involved no thought or consideration of the issues of any kind, let alone water conservation factors. For example, subsidies were taken from customer groups simply for the reason that they had paid higher CIAC or had lower operating costs, than the average, or both. The result is that huge annual subsidies flow from customers with modest water usage to industrial park customers using over 160,000 gallons of water monthly! Likewise, customers of the Burnt Store water system pay less than one-third of the stand-alone cost to provide their water. They live in a water sensitive area and already consumed over 19,000 gallons per month per customer under the much higher stand-alone rates. It should not take a rocket scientist or economist to understand that charging less than one-third of the actual cost to provide service will send the wrong "price signal" and encourage increased consumption. Should more than common sense be required in this regard, reference to the excerpts of the Brown and Caldwell Water Conservation Rate Studies prepared for the Southwest Florida Water Management District should demonstrate that everything about the

uniform rates is counter-productive to water conservation.

The Commission's failure to grant SSU's requested bulk wastewater rate for the Hernando County Utilities Department ignored the clear and undisputed fact that the Utilities Department's usage and other characteristics were and remain singularly unique among all of the customers served by SSU's Spring Hill wastewater treatment plant. Ignoring the fact that Hernando County's CIAC resulted in an essentially negative rate base, resulted in rates that provide SSU with an excessive return on the property used and useful in serving the Utilities Department and which are unfairly discriminatory.

COVA: Although the Commission has, on its own motion, initiated an investigation to address the question of the appropriate rate structure for SSU, COVA contends that the uniform rates currently in effect are illegal, both procedurally and substantively, and constitute a deprivation of property without due process. COVA expects the uniform rate order to be overridden, either on appeal or in a subsequent legal action by the customers for constitution redress of their property rights, if the outcome of these proceedings is adverse.

STAFF: The Commission has, on its own motion, initiated an investigation to address the question of what rate structure is appropriate for SSU. As part of this investigation, the Commission will examine the advantages and disadvantages of various rate structures for all of the customers served by SSU. The Commission will address whether a uniform rate structure, a stand alone rate structure, or some other variation of those rate structures would be most appropriate. The appropriate rate structure cannot be determined until the evidence presented at hearing is analyzed.

Staff's positions are preliminary and based on materials filed by the parties and on discovery. The preliminary positions are offered to assist the parties in preparing for the hearing. Staff's final positions will be based upon all of the evidence in the record and may differ from the preliminary positions.

VII. ISSUES AND POSITIONS

ISSUE 1: Does the Commission have the authority to modify rates to affect conservation?

POSITIONS

UTILITY: Yes.

COUNTIES: No. Chapter 367, Florida Statutes, gives the Commission neither explicit nor necessarily implicit authority to modify rates to affect water conservation. Absent such statutory authority, the Commission, which is a creature of statute, must be presumed to have no such authority. Compare Chapter 366, Florida Statutes, which directly and explicitly gives the Commission energy conservation authority and responsibility. Chapter 367, Florida Statutes, does not contain the word "conservation" let alone allow or require the Commission's consideration of it in setting water and wastewater rates. Not only does the Commission not have such authority, responsibility for water conservation is exclusively been given to the Department of Environmental Protection and the regional water management districts through the language of Chapter 373, Florida Statutes.

Even if the Commission had water conservation jurisdiction, which it does not, it would have to exercise such authority in an even-handed manner that treated all similarly situated customers (both within and without SSU) in a way that would comport with equal protection considerations under both the U.S. and Florida Constitutions. The uniform rates currently in effect do not begin to accomplish any of those goals. The Commission and SSU need to confront the fact that water conservation and the wealth transfer, workload reduction and politically acceptable rate level goals of uniform rates are fundamentally and unalterably incompatible. (Cicchetti and Radacky)

COVA: No. Chapter 367, Florida Statutes contains no specific authority for the adoption of conservation rates. Chapter 373, Florida Statutes, gives jurisdiction over water conservation to the Department of Environmental Protection, and through it to the Water Management Districts. Any PSC efforts to affect conservation should be in coordination with the State water use plan adopted

by the department having appropriate jurisdiction.
(Mann)

STAFF: Yes. Pursuant to Section 367.011, Florida Statutes, the Legislature has declared the regulation of utilities to be in the public interest and to be an exercise of the police power of the state for the protection of the public health, safety, and welfare. That provision also states that the provisions of Chapter 367, Florida Statutes, shall be liberally construed for the accomplishment of this purpose. Pursuant to Chapter 367, Florida Statutes, the Commission is vested with exclusive jurisdiction over a utility's service, authority, and rates. Section 367.081, Florida Statutes, provides that the Commission shall fix rates which are just, reasonable, compensatory, and not unfairly discriminatory. The sum total of all of the above statutory mandates is that the Commission must consider something as important as conservation to the public health, safety, and welfare as a factor in its determination of appropriate rates, which includes rate structure.

ISSUE 2: What is the appropriate rate structure for Southern States Utilities, Inc.? In reaching a decision on this issue, specific consideration will be given to the following factors:

- A. Relative cost of providing service, such as treatment type;
- B. Contributions-in-aid-of-construction (CIAC) levels;
- C. The need for conservation rates and the extent to which those rates will encourage conservation;
- D. Geographic considerations, such as location of facilities, plant, and customers;
- E. Long-term benefits of uniform rates as compared to other rate structures;
- F. Cost savings to the utility in billing, rate case expense and other expenses;

- G. The effect of rate structure on customers' and Office of Public Counsel's participation in rate proceedings;
- H. The relationship between rates and acquisitions;
- I. The effect of uniform rate structure on customers as compared to other rate structures, including but not limited to, stand-alone and tiered rate structures.

POSITIONS

UTILITY: The appropriate rate structure for SSU is the statewide uniform rates approved by the Commission in Docket No. 920199-WS. The Commission must decide as a matter of public policy whether it is appropriate to establish a second, higher uniform rate level for facilities requiring advanced or tertiary treatment. (All SSU witnesses)

COUNTIES: The stand-alone rate structure is the most appropriate rate structure, except where systems have been traditionally combined for the purposes of ratemaking. (Cicchetti and Radacky)

A. RELATIVE COST OF PROVIDING SERVICE SUCH AS TREATMENT TYPE

Cost of providing service should be the primary if not the sole criteria in determining water and wastewater rates in this case. The extent that costly treatment types are required by one or more systems, the costs are reflective of the decisions the customers made in determining to locate where they have. They and they alone should bear the consequences, including the economic consequences, flowing from where they decided to locate. The consequences of these decisions should not be unfairly socialized to each and every customer of every system SSU decides to buy. If such socialization is to be mandated, it should be accomplished by the elected legislature, who might have the necessary authority, and who, in any event, could be held politically accountable for their actions. (Cicchetti and Radacky)

B. CIAC CONTRIBUTION LEVEL

CIAC contribution levels are a critically important factor. CIAC represents the customers' investment in their local water and wastewater system and that investment must be recognized in the rates of each customer paying CIAC and not on a collective basis that depends on the whim of SSU in selecting the systems it purchases. Failure to represent in a customer's rates the CIAC he or she paid constitutes an unconstitutional taking of property under the Fourteenth Amendment of the United States Constitution and Article I, Section 9 and Article X, Section 6, of the Florida Constitution. (Cicchetti and Radacky)

C. THE NEED FOR CONSERVATION RATES AND THE EXTENT TO WHICH THOSE RATES WILL ENCOURAGE CONSERVATION

Setting rates at the true cost of service with rate structure policies consistent with the State water use plan are the best means of encouraging conservation. It is not possible to encourage water conservation under uniform rates for the water and wastewater systems currently owned by SSU. Chapter 373, Florida Statutes, gives exclusive jurisdiction for water conservation to the Department of Environmental Protection and the regional water management district. Some, if not all, of the districts have begun to meet their responsibility by requiring, among other things, inclining block rates. A fundamental precept of all conservation rates is the necessity for rates to reflect, at a minimum, the actual costs of providing the service. Providing rate and revenue subsidies, as do uniform rates here, is totally counter-productive to conservation.

D. GEOGRAPHIC CONSIDERATIONS SUCH AS LOCATION OF FACILITIES PLANT AND CUSTOMERS

Florida law recognizes that the State's water resource problems vary from region to region, both in magnitude and complexity, and it is the responsibility of the Department of Environmental Regulation and the water management districts to deal with these problems. To the extent that geographic location affects cost (such as living in water depleted areas), those costs are appropriately addressed by relying primarily, if not exclusively, on cost of service factors in setting rates, under the present SSU circumstances, cannot. (Cicchetti and Radacky)

E. LONG-TERM BENEFITS OF UNIFORM RATES AS COMPARED TO OTHER RATE STRUCTURES

The Counties adopt COVA's position on this issue and add the following: To the extent that there are any legitimate cost savings resulting from SSU's consolidated ownership of these many systems, these savings are passed through the allocation of common costs. (Cicchetti and Radacky)

F. COSTS SAVINGS TO THE UTILITY IN BILLING, RATE CASE EXPENSE AND OTHER EXPENSES.

The Counties adopt COVA's position on this issue and add the following: To the extent that there are any legitimate cost savings resulting from SSU's consolidated ownership of these many systems, these savings are passed through the allocation of common costs. (Cicchetti and Radacky)

G. THE AFFECT OF RATE STRUCTURE ON CUSTOMERS AND OFFICE OF PUBLIC COUNSEL'S PARTICIPATION IN RATE PROCEEDING

The Counties adopt COVA's position on this issue. (Cicchetti and Radacky)

H. THE RELATIONSHIP BETWEEN RATES AND ACQUISITIONS

The Counties adopt COVA's position on this issue. (Cicchetti and Radacky)

I. THE AFFECT OF UNIFORM RATE STRUCTURE ON CUSTOMERS AS COMPARED TO OTHER RATE STRUCTURES, INCLUDING BUT NOT LIMITED TO STAND-ALONE AND TIERED RATE STRUCTURES

The Counties adopt COVA's position on this issue. (Cicchetti and Radacky)

COVA:

A stand-alone rate structure is most appropriate, except where systems have been traditionally combined, without objection from the customers, for rate setting purposes, or where cost of service factors such as CIAC levels, treatment type, etc. create similarities that allow combination without creating subsidies that are inherently discriminatory. (Mann, Desjardin, Hansen)

A. RELATIVE COST OF PROVIDING SERVICE SUCH AS
TREATMENT TYPE

Cost of service is the primary consideration. Treatment type is an important factor in cost of service. It is important to consider the practice of purchasing water and sewage treatment in those systems where this is applicable.

B. CIAC CONTRIBUTION LEVEL

CIAC contribution levels are a critically important factor. CIAC represents the customers' investment in their local water and sewer system. CIAC must be considered in a manner that recognizes this investment. Anything less is inherently unfair and represents an unconstitutional taking of property under the Fourteenth Amendment of the United States Constitution and Article I, Section 9 and Article X, Section 6, of the Florida Constitution.

C. THE NEED FOR CONSERVATION RATES AND THE EXTENT TO
WHICH THOSE RATES WILL ENCOURAGE CONSERVATION

Setting rates at the true cost of service with rate structure policies consistent with the State water use plan are the best means of encouraging conservation. Uniform rates are not an effective means of encouraging conservation. In addition, the need for conservation rates would be greatly diminished if SSU would include in the customer billing current and comparative daily usage for the individual customer and comparative usage system-wide. This would provide a yardstick which would greatly encourage conservation.

D. GEOGRAPHIC CONSIDERATIONS SUCH AS LOCATION OF
FACILITIES PLANT AND CUSTOMERS

Florida law recognizes that the State's water resource problems vary from region to region, both in magnitude and complexity. Cost of service is frequently a geographical problem depending upon the quality of local water resources. Therefore, COVA feels that geographic considerations, as they impact cost of service, are an important factor.

E. LONG-TERM BENEFITS OF UNIFORM RATES AS COMPARED TO OTHER RATE STRUCTURES

COVA feels that rather than long-term benefits, there are many long-term detriments to uniform rates that have not been appropriately addressed. The alleged decrease in rate case expense has not been, and will not be proven. Uniform rates have not decreased administrative and general expense since there was no rate reduction whatsoever in SSU's movement to uniform rates. The change was "revenue neutral". The detrimental affects are much more dramatic. Under uniform rates, there is no dissinsentive to unwise acquisition or wasteful and uneconomic capital projects. Uniform rates effectively neutralize customer activism and participation in controlling costs within their local utilities. The service availability policies continue to be inequitable, and these inequities cannot be correct by an after-the-fact adjustment unless the Commission plans to back-charge the customers who have under-paid the appropriate CIAC level, issue refunds to those who have over-paid and collect equitable fees on a going forward basis. Uniform rates prevent proper monitoring of pass-through costs. The "ease of implementation" is also not a benefit for customers unless the PSC reduces the revenue assessment fee. Instead, the customers are getting less public service with no reduction in fee.

F. COSTS SAVINGS TO THE UTILITY IN BILLING, RATE CASE EXPENSE AND OTHER EXPENSES.

These "savings" have not been realized. The rates have not been reduced, and the fact that SSU anticipates increasing the rates if it brings non-jurisdictional systems into the uniform rates scheme demonstrates the lack of such savings.

G. THE AFFECT OF RATE STRUCTURE ON CUSTOMERS AND OFFICE OF PUBLIC COUNSEL'S PARTICIPATION IN RATE PROCEEDING

COVA has demonstrated and will demonstrate that uniform rate structure has an extreme adverse affect on customer participation. The PSC proceedings are already extremely inaccessible to customers. Only a group such as COVA, which has spent fifteen years actively participating, reading, learning, and gaining understanding of the

system can effectively advocate customer issues. Since there is no provision for payment of costs or attorney's fees for customer participation, uniform rates destroys the incentive to participate by diluting potential savings to the point that these customers would not experience rate savings sufficient to justify continued participation.

H. THE RELATIONSHIP BETWEEN RATES AND ACQUISITIONS

COVA feels that the relationship between uniform rates and SSU's acquisition policies are clear and dramatic. SSU already has enough incentives to pursue acquisition without adding uniform rates.

I. THE AFFECT OF UNIFORM RATE STRUCTURE ON CUSTOMERS AS COMPARED TO OTHER RATE STRUCTURES, INCLUDING BUT NOT LIMITED TO STAND-ALONE AND TIERED RATE STRUCTURES

All of the prior comments should be incorporated here and summarized as follows. Stand-alone or modified stand-alone rate structures are the most beneficial to customers. The uniform rate structure has many deleterious consequences and little, if any benefit. (Mann, Desjardin, Hansen)

STAFF: At this time, it appears that a uniform rate structure best achieves the long term goal of continued provision of quality water and wastewater service in compliance with the ever-increasing environmental requirements. Any rate structure short of a customer specific rate will contain advantages for some customers and disadvantages for others. (Williams)

ISSUE 3: Should a separate bulk wastewater rate structure be approved for Hernando County and/or other bulk wastewater customers? If so, how should such a rate be calculated?

POSITIONS

UTILITY: Yes, a separate bulk wastewater rate structure should be approved for Hernando County and/or other bulk wastewater customers. A critical determinant of the rate is the level of costs allocated to the bulk wastewater customer. (Ludsen)

COUNTIES: Yes. Hernando County's usage characteristics, as well as its consumption, CIAC, plant and other cost characteristics place it in a customer class of its own. It does not utilize SSU collection lines, meter readers and other services necessitated by SSU's Spring Hill residential and commercial classes. From the outset of its relationship with the Hernando County Utilities Department, SSU has recognized the unique cost and usage characteristics of a bulk wastewater customer through the bulk rate negotiated with the County. Hernando County had a bulk rate prior to this case and SSU sought to have that rate lowered in its filing in Docket No. 920199-WS. In its response to Staff's interrogatories, SSU has calculated a bulk wastewater rate for Hernando County pursuant to a PSC staff memorandum describing how such a rate is to be calculated. This is the rate that should be ordered. Failure to order a bulk rate will result in unfairly and unlawfully discriminatory rates. (Cicchetti and Radacky)

COVA: COVA takes no position on this issue, except to point out that this issue would seem to exempt one customer from the extreme deleterious effects of uniform rates. COVA's members would like to be similarly exempted.

STAFF: Yes. A separate bulk wastewater rate is appropriate for Hernando County, based on the unique cost of service characteristics. (Chapdelaine)

ISSUE 4: What is the appropriate rate structure and how should it be implemented?

POSITIONS

UTILITY: The uniform rates ordered for the 127 systems at issue in Docket No. 920199-WS should be confirmed. In addition, the Commission should determine that as a matter of policy, other systems presently operated or acquired in the future by SSU should be incorporated into a uniform rate structure. In resolving the uniform rate structure issue, the Commission must also determine as a matter of public policy whether it is appropriate to authorize a second tier of uniform rates for facilities with advanced or tertiary treatment. (Ludsen)

COUNTIES: Stand-alone rates. (Cicchetti and Radacky)

COVA: Stand-alone rates. (Mann, Desjardin, Hansen)

STAFF: As reflected in the Staff's position on Issue 2, at this time a uniform rate structure appears to best achieve the long term goal of continued provision of quality water and wastewater service in compliance with the ever-increasing environmental regulations. Regardless of the rate structure the Commission finds most appropriate for SSU, the rate structure should be implemented in this case for the systems involved in Docket No. 920199-WS. For the other systems owned by SSU, the rate structure should be implemented in future rate case proceedings. (Williams)

VIII. EXHIBIT LIST

<u>Witness</u>	<u>Proffered By</u>	<u>I.D. No.</u>	<u>Description</u>
<u>Direct</u>			
Bert T. Phillips	Utility	BTP-1	Counties which charge uniform rates to non-interconnected water and wastewater facilities
"	"	BTP-2	Figures ES-1 and ES-2 from the water price elasticity study conducted for the Southwest Florida Water Management District
Victoria J. Tschinkel	"	VJT-1	Vitae of Victoria Jean Tschinkel

Direct cont.

Phillip L. Waller	Utility	PLW-1	Map showing location of Floridan Aquifer system
Mark T. Stewart	"	MTS-1	Curriculum vitae of Mark T. Stewart, P.G.
"	"	MTS-2	Videotape entitled Deep Probe "Florida-Window to a Hidden World"
Scott W. Vierima	"	SWV-1	Letter dated December 14, 1993 from CoBank
"	"	SWV-2	CoBank promotional brochure regarding the NAWC loan program
Mark A. Cicchetti	Counties	MAC-1	Staff Schedules 5 and 6 in Docket No. 920199-WS
Richard W. Radacky	"	RWR-1	Hernando County Water Treatment Plants

Direct cont.

Richard W. Radacky	Counties	RWR-2	Wastewater Treatment Plants of the Hernando County Water and Sewer District
"	"	RWR-3	Copy of Staff's Interrogatory Number 10
"	"	RWR-4	SSU's Response to Interrogatory Number 10
"	"	RWR-5	July 10, 1985, Bulk Rate Memorandum
James Desjardin	COVA	JD-1	June 1, 1993, Citrus County Article
"	"	JD-2	SSU Uniform Rate Data Prepared by James Desjardin
Buddy L. Hansen	"	BLH-A	Plot Plan
"	"	BLH-B	SSU System on a Per Customer Basis
"	"	BLH-C	CIAC Level vs. Pay/Receive
"	"	BLH-D	Receive/Pay Subsidy Distribution
"	"	BLH-E	High Used & Useful & Receive Subsidy

Direct cont.

Buddy L. Hansen	COVA	BLH-F	Annual Subsidy Exceeds Net CIAC
"	"	BLH-G	Utility Services Below Cost
"	COVA	BLH-H	Rate of Return on Systems Paying a Subsidy; Payer Utilities Rate of Return
Troy Rendell	Staff	WTR-1	Questionnaire Sent to Fifty Regulatory Agencies
"	"	WTR-2	Survey Results Matrix
"	"	WTR-3	Connecticut Department of Public Utility Control Decision in Docket No. 90-06-07
"	"	WTR-4	Copy of Findings and Recommendations of the Hearing Examiner of the Delaware Public Service Commission
"	"	WTR-5	Copy of Three Orders by the Illinois Commerce Commission

Direct cont.

Troy Rendell	Staff	WTR-6	Excerpt from Cause No. 39595 by the Indiana Utility Regulatory Commission
"	"	WTR-7	Documents Submitted by the Massachusetts Department of Public Utilities
"	"	WTR-8	Order Entered on May 26, 1982 by the West Virginia Public Service Commission in Docket No. 81-126-W-42A
"	"	WTR-9	Copies of Orders by the Public Service Commission of Wyoming in Docket No. 80018-WR-92-1
"	"	WTR-10	Schedule Indicating Current Practice of the Florida Public Service Commission
Jerrold E. Chapdelaine	Staff	JEC-1	Memorandum on Calculation of Bulk Rates

Rebuttal

Forrest L. Ludsen	Utility	FLL-1	Ratio of net CIAC to net plant - to monthly CIAC revenue requirements per ERC
"	"	FLL-2	Summary of Revenues and Billing Data for Systems paying and receiving subsidy
"	"	FLL-3	Revenue subsidy to CIAC revenue requirement (monthly, per ERC)
"	"	FLL-4	System revenue requirements to CIAC revenue requirements (monthly, per ERC)
Richard W. Radacky	Counties	RWR-6	Excerpts from <u>Analysis of Water Conservation Measures for Public Supply</u>
"	"	RWR-7	Excerpts from <u>Definition of Water Conservation Promoting Rates</u>

Parties and Staff reserve the right to identify additional exhibits for the purpose of cross-examination.

IX. PROPOSED STIPULATIONS

There are no proposed stipulations at this time.

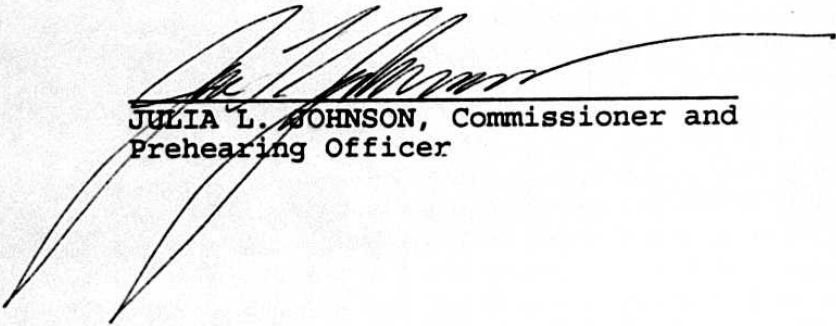
X. PENDING MOTIONS

1. SSU's Motion to Strike Portions of Prefiled Direct Testimony of Robert T. Mann, Esq., filed March 7, 1994.

Based on the foregoing, it is therefore,

ORDERED by Commissioner Julia L. Johnson, as Prehearing Officer, that this Prehearing Order shall govern the conduct of these proceedings as set forth above unless modified by the Commission.

By ORDER of Commissioner Julia L. Johnson, as Prehearing Officer, this 28th day of March, 1994.



JULIA L. JOHNSON, Commissioner and
Prehearing Officer

(S E A L)

LAJ

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 this order, which is preliminary, procedural or intermediate in nature, may request: 1) reconsideration within 10 days pursuant to Rule 25-22.038(2), Florida Administrative Code, if issued by a Prehearing Officer; 2) reconsideration within 15 days pursuant to Rule 25-22.060, Florida Administrative Code, if issued by the Commission; or 3) 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 wastewater utility. A motion for reconsideration shall be filed with the Director, Division of Records and Reporting, in the form prescribed by Rule 25-22.060, Florida Administrative Code. Judicial review of a preliminary, procedural or intermediate ruling or order is available if review of the final action will not provide an adequate remedy. Such review may be requested from the appropriate court, as described above, pursuant to Rule 9.100, Florida Rules of Appellate Procedure.