

FLORIDA PUBLIC SERVICE COMMISSION

2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0863

M E M O R A N D U M

July 20, 1995

TO : DIRECTOR OF RECORDS AND REPORTING

FROM : DIVISION OF LEGAL SERVICES (O'SULLIVAN) *Ms*
DIVISION OF WATER AND WASTEWATER (WILLIS) *HL* *new*

RE : DOCKET NO. 950495-WS -- APPLICATION BY SOUTHERN STATES UTILITIES, INC. FOR RATE INCREASE AND INCREASE IN SERVICE AVAILABILITY CHARGES FOR ORANGE-OSCEOLA UTILITIES, INC., IN ORANGE COUNTY, AND IN BRADFORD, BREVARD, CHARLOTTE, CITRUS, CLAY, COLLIER, DUVAL, HIGHLANDS, LAKE LEE, MARION, MARTIN, NASSAU, ORANGE, OSCEOLA, PASCO, PUTNAM, SEMINOLE, ST. JOHNS, ST. LUCIE, VOLUSIA, AND WASHINGTON COUNTIES

DATE : AUGUST 1, 1995 - DECISION PRIOR TO HEARING -- INTERESTED PERSONS MAY PARTICIPATE

CRITICAL DATES: AN OFFICIAL FILING DATE HAS NOT BEEN ESTABLISHED

LOCATION OF FILE: I:\PSC\WAW\WP\950495.RCM \

DOCUMENT NUMBER-DATE

06894 JUL 20 95

FPSC-RECORDS/REPORTING

Docket No. 950495-WS
July 20, 1995

CASE BACKGROUND

Southern States Utilities, Inc. (SSU or utility) is a Class A utility, which provides water and wastewater service to 139 service areas in 22 counties. SSU has also petitioned the Commission to approve a transfer of facilities currently owned by Orange-Osceola Utilities, Inc. in the Buenaventura Lakes service area in Osceola County. The transfer application will be processed in Docket No. 941151-WS.

The Commission recently reviewed the jurisdictional status of SSU's facilities throughout the state in Docket No. 930945-WS. On June 20, 1995, the Commission voted that SSU's facilities and land constituted a single system and that the Commission had jurisdiction over all of SSU's facilities and land throughout the state pursuant to Section 367.171, Florida Statutes. At the time of the filing in that docket, SSU provided service in the following "non-jurisdictional" counties: Hernando, Hillsborough, Polk, and Sarasota. SSU has since sold the facilities located in Sarasota County.

On June 28, 1995, SSU filed an application with the Commission requesting increased water and wastewater rates for 141 service areas, pursuant to Section 367.081, Florida Statutes. The utility has proposed a division of water service areas into two classifications for the purposes of rate structure: Conventional and Reverse Osmosis; and has proposed a uniform rate for its wastewater customers. The utility also requested that the Commission approve an allowance for funds used during construction (AFUDC) and an allowance for funds prudently invested. By Order No. PSC-95-0495-FOF-WS, issued April 19, 1995, the Commission ordered SSU to make a service availability filing. Consistent with that order, SSU has, in this docket, also filed its service availability case. SSU's has requested rate relief in 22 counties, but its application does not include SSU's facilities in Hernando, Hillsborough and Polk Counties.

Staff reviewed the company's application and accompanying documents to determine whether the minimum filing requirements (MFRs) pursuant to Rule 25-30.433, Rule 25-30.436, and Rule 25-30.437, Florida Administrative Code, had been met. In a July 10, 1995 letter, Staff advised the utility that after a review of the information, Staff found the filing to be incomplete and the minimum filing requirements to be deficient. Staff listed nine specific deficiencies concerning schedules and other filings made by the utility. Staff's letter also stated that because of the Commission's decision in Docket No. 930945-WS that the utility's facilities and land constitute a single system, and because the utility requested uniform rates, the application must be modified

Docket No. 950495-WS
July 20, 1995

to include Hernando, Hillsborough, and Polk Counties.

By letter dated July 12, 1995, SSU responded to Staff's deficiency letter. SSU requested that Staff reconsider its position that the three counties must be included in the application. SSU supplemented that letter with a letter dated July 13, 1995. Staff's deficiency letter and SSU's responses are attached to this recommendation as Attachment A. SSU does not dispute the nine listed deficiencies required by the rule, and on July 17, 1995, filed information related to the nine deficiencies. However, because SSU asserts that the official filing date is unrelated to the information on Hernando, Hillsborough and Polk Counties, Staff is bringing this recommendation to the Commission for a decision on the deficiency and the appropriate filing date.

According to Rule 25-30.025, Florida Administrative Code, the official date of filing is the date on which the Director of the Division of Water and Wastewater determines that the utility has filed completed sets of minimum filing requirements. Any dispute regarding the official date of filing is resolved by the Commission.

Docket No. 950495-WS
July 20, 1995

ISSUE 1: Does the exclusion of Hernando, Hillsborough, and Polk Counties from SSU's application constitute a deficiency?

STAFF RECOMMENDATION: Yes. Although the information is not specifically required by Rule 25-30.433, Rule 25-30.436, and Rule 25-30.437, Florida Administrative Code, the utility's request for uniform rates can not be processed without the information for and the inclusion of Hillsborough, Polk, and Hernando Counties. Accordingly, SSU should be required to modify its filing to include those counties in its request for uniform rates. (O'SULLIVAN, WILLIS)

STAFF ANALYSIS: SSU indicates in its July 12, 1995 letter that while it agrees with the Commission's decision in Docket No. 930945-WS, the apparent certainty of reconsideration and appeal of that decision indicates that filing for Hernando, Hillsborough and Polk Counties would be premature. SSU also points out that the Commission's rules do not include the deficiency cited by Staff. SSU further notes that the preparation of the information for the three counties would be a "labor intensive and time consuming process" which may be futile if an appeal is taken and a stay imposed.

SSU has agreed to provide information regarding the three counties to the extent that that information may be necessary to conduct the proceeding regarding the other 22 counties. However, SSU does not intend to include Hernando, Hillsborough, or Polk County in its filings for the purpose of recovering its revenue requirement. SSU proposes that this docket should go forward without the three counties, and that their rates and charges should instead be determined in a subsequent ratemaking proceeding after a final determination is rendered in the jurisdiction docket.

In its July 13, 1995 letter, SSU reiterates its position that the Commission should not include the three counties in this docket. SSU states that Staff's deficiency letter is unclear as to whether the exclusion of Hernando, Hillsborough and Polk Counties constitutes a deficiency. SSU proposes to extend the eight month statutory period by thirty days to permit sufficient time to schedule a hearing. SSU also proposes that if Staff clarifies that the information concerning the three counties is not a deficiency, it will provide the information as quickly as possible, and in no more than 30 days. The utility also proposes that if the official date of filing is established as the date the nine listed deficiencies are satisfied, SSU would agree to extend the suspension period to equal the number of additional days it takes for SSU to provide the information about the three counties.

Docket No. 950495-WS
July 20, 1995

Timing is at issue here. SSU has requested interim rates. Pursuant to Section 367.082(2), Florida Statutes, the Commission must authorize the collection of interim rates within 60 days of the filing of the application. The application is not considered filed and complete until all deficiencies have been met.

SSU correctly points out that the deficiency at issue is not a part of the MFRs enumerated in Chapter 25-30 of the Florida Administrative Code. Nowhere in the Commission rules is a utility required to include all of its lands and facilities in a request for rate relief, even when the utility has requested uniform rates. Nevertheless, Staff believes that the fact that the Commission has just found that SSU's facilities and land constitute a single system, requires that the utility bring all of its facilities before the Commission when seeking uniform rates.

Staff agrees with SSU that we should be concerned with the possible confusion that may arise, given the timing of the decision in the jurisdiction docket and SSU's decision to file for a rate proceeding. At this point we cannot determine whether a motion for reconsideration or an appeal of the order in Docket No. 930945-WS, will be taken, and if so, whether a stay of the decision will be imposed or lifted. Any of these variables could complicate the process of this rate proceeding. However, Staff cannot ignore the fact that the Commission has voted in Docket No. 930945-WS, and at the time that the utility filed its application, the Commission's decision is still in force.

Staff believes that any calculation of a uniform rate which did not include all facilities and land of a system would be inaccurate. As stated before, the Commission ruled that the land and facilities of Southern States are, for regulatory purposes, one system. When the Commission sets rates for any company with one system, the entire system has always been included in the calculation of rates. To do otherwise would result in rates that were inaccurate and possibly discriminatory. The company in this filing has requested two uniform rate classifications for its water system and one uniform rate for its wastewater system. The exclusion of the facilities in the three remaining counties could easily cause the requested uniform rates to be too high or low. Any uniform rate that results from using only that portion of the facilities and land filed with this application would not be accurate. A true uniform rate for the company's water system and wastewater system can only be calculated with the inclusion of all facilities in the calculation.

SSU has suggested that this docket should go forward without Hernando, Hillsborough and Polk Counties, and that those counties' rates and charges should be determined in a separate proceeding

Docket No. 950495-WS
July 20, 1995

after the appeals have been exhausted. If the Commission were to implement a separate "uniform" rate for those three counties based only upon the financial information for those counties, it would be establishing separate, and therefore, inequitable rates, for those counties. If the Commission were to approve implementing the same uniform rate as had been established for the other 22 counties, then that rate would not be reflective of the revenue requirement for Hernando, Hillsborough and Polk Counties. Therefore, Staff believes that this suggestion is unacceptable. Accordingly, Staff recommends that the Commission find that the exclusion of Hernando Hills and Polk Counties from SSU's application constitutes a deficiency.

If the Commission determines that the failure to include Hernando, Hillsborough, and Polk Counties is a deficiency in SSU's filing, SSU should be required to amend its filing to include those counties in its request for uniform rates.

If the Commission determines that this is not a deficiency, SSU should provide the Commission with the information regarding those counties which may be necessary to the rate proceeding.