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 FILED: AUGUST 28, 1995

JOINT PETITION OF SUGARMILL WOODS CIVIC ASSOCIATION, INC. , CITRUS COUNTY BOARD OF COUNTY COMMISSIONERS AND SPRING HILL CIVIC ASSOCIATION, INC. FOR IMMEDIATE CONFORMANCE OF ORDER PSC-93-0423-FOF-WS WITH DECISION OF FIRST DISTRICT COURT OF APPEAL IN CITRUS COUNTY V. SOUTHERN STATES UTILITIES, INC., 20 FLA. L. WEEKLY D838 (FLA. 1ST DCA APRIL 6, 1995), AS AMENDED ON REHEARING, 20 FLA. L. WEEKLY D1518 (JUNE 27, 1995); FOR IMPLEMENTATION OF STAND-ALONE WATER AND WASTEWATER RATES FOR SOUTHERN STATES UTILITIES, INC.; AND FOR THE IMMEDIATE REPAYMENT OF ILLEGAL OVERCHARGES WITH INTEREST

The Sugarmill Woods Civic Association, Inc. ("Sugarmill Civic"), the Board of County Commissioners of Citrus County ("Citrus County"), and the Spring Hill Civic Association, Inc. ("Spring Hill Civic"), (collectively the "Joint Petitioners"),by and through their undersigned counsel, and pursuant to Rule 25-22.036(4)(b), Florida Administrative Code and Citrus County v. Southern States Utilities, Inc., 20 Fla. L. Weekly D838 (Fla. 1st DCA April 6, 1995), as amended on rehearing, 20 Fla. L. Weekly D1518 (June 27, 1995), petition the Florida Public Service Commission ("PSC") to immediately reduce the rates charged pursuant to Order PSC -93-043-FOF-WS from the currently charged excessive uniform rates to lawful stand-alone rates; to

immediately order SSU to make cash refunds to the customers for the difference between the stand-alone rates and the uniform rates for the period interim rates were charged, as well as for the period permanent rates were approved; and to require SSU to pay interest compounded monthly on all refunds from the date interim rates were first approved to the date the refunds are made. In support of their petition, Joint Petitioners state:

1. Over four and one-half months ago, on April 6, 1995, the First District Court of Appeals reversed Order PSC-93-0423-FOF-WS saying, in part:

> Here, we find no competent substantial evidence that the facilities and land comprising the 127 SSU systems are functionally related in a way permitting the PSC to require that the customers of all systems pay identical rates. Section 367.021(11) requires that the facilities and land used or useful in providing service to the customers of the systems be considered in setting rates. The only exception to this requirement occurs "upon a finding by the commission" that a "combination of functionally related facilities and land" constitute one system such that the rates may be uniformly set for all customers within that system. No such finding was made here, and could not properly be made given the apparent absence of evidence that the systems were operationally integrated, or functionally related, in any aspect of utility service delivery other than fiscal management. Commissioners Beard and Clark set identical rates for the 127 water and wastewater systems owned by SSU because they believed that the benefits of uniform statewide rates outweighed the benefits of the traditional approach of setting rates on a stand-alone basis. We find this belief insufficient to support the order.

Appendix A, Opinion at pages 5, 6. (Emphasis supplied.)

2. The Court went on to note that three of the four witnesses testifying on the issue of uniform rates had "unequivocally stated that SSU was not presently in a position to fairly implement such rates."[1] The Court took special notice of SSU witness Cresse's and staff witness

[1] Appendix A, Opinion at page 6, referring to the testimony of SSU witnesses Forrest L. Ludsen, Joseph P. Cresse, and PSC staff witness John D. Williams.

Williams' rejoinders that uniform rates not be considered until after the disparate CIAC amongst the many systems was restructured.

3. The Court noted the many greatly varying factors among the 127 systems arguing against uniformity of rates. It found the PSC had exceeded its statutory authority and reversed, saying:

> It is clear that this testimony does not constitute competent substantial evidence to support the PSC's decision to set uniform statewide rates for the systems involved. The systems are not functionally related as required by section 367.021(11), their relationship being apparently confined to fiscal functions resulting from common ownership. SSU's systems differ greatly in their levels of CIAC, their size, their age, the number of customers served, the status of the system when SSU acquired it, their consumption levels, and the type of treatment used. Counsel for SSU indicated at oral argument that, although the 127 systems involved in this case are fiscally related, they are not otherwise related in a utility operational sense.[2] Until the Commission finds that the facilities and land owned by SSU and used to provide its customers with water and wastewater services are functionally related as required by the statute, uniform rates may not lawfully be approved.
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> The Commission's order must be reversed based on our finding that chapter 367, Florida Statutes, did not give the Commission authority to approve uniform statewide rates for these utility systems which are operationally unrelated in their delivery of utility service. As an administrative agency created by the legislature, "the Commission's power, duties and authority are those and only those that are conferred expressly or impliedly by statute of the State." Rolling Oaks Utilities v. Florida PSC, 533 So. 2d 770, 773 (Fla. 1st DCA 1988). "Any reasonable doubt as to the lawful existence of a particular power that is being exercised by the Commission must be resolved against the exercise thereof, and the further exercise of the power should be arrested." City of Cape Coral v. GAC Utilities, Inc., 281 So. 2d 493, 496 (Fla. 1973) (citations omitted).

Appendix A, Opinion at pages 7, 8. (Emphasis supplied).[3]

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[2] Referring to SSU General Counsel Brian Armstrong.

[3] Nothing has changed. Notwithstanding the PSC's recent decision in Docket No. 930945-WS that all SSU's geographically distinct operating plants constitute a "single system", these many water and wastewater plants remain "systems [which] differ greatly in their levels of

4. On June 27, 1995, the First District Court of Appeals entered its opinion On Rehearing Denied correcting two inconsequential factual errors in the initial opinion and denying the PSC's Motion for Rehearing and SSU's Request for Further Oral Argument, Motion for Certification, and Motion for Rehearing.[4] The First District Court of Appeals issued its Mandate to the PSC on July 13, 1995 commanding the PSC that further proceedings be had in accordance with the earlier opinions.[5]

5. The uniform rates this agency inexplicably still allows SSU to collect were legally impermissible on the day they were first imposed and remain so today. Even if SSU is successful in its current effort to breathe new life into uniform rates on a prospective basis, the existing uniform rates are improper, cannot be retroactively justified or ratified, and must be changed immediately to stand-alone rates. Furthermore, SSU must be ordered to make whole its customers, who were forced to pay excessive rates for close to two years now, by refunding to them the difference between the excessive rates and proper rates, along with interest to compensate them for the lost time value of their money. The necessity for such an outcome was foreseen by the PSC and incorporated in its order when it refused the customers' pleas that uniform rates not be implemented pending the outcome of the appeal and, instead, required SSU to post an appeal bond for the "protection" of the customers.

CIAC, their size, their age, the number of customers served, the status of the system when SSU acquired it, their consumption levels, and the type of treatment used." These systems remain "operationally unrelated in their delivery of utility service" and, consequently, uniform rates, even on a prospective basis, remain illegal.

[4] Appendix B, On Rehearing Denied, 20 Fla. L. Weekly D1518 (June 27, 1995)

[5] Appendix C, Mandate from the District Court of Appeal of Florida, First District, dated July 13, 1995.

6. As a precursor to that action, on November 16, 1993, the PSC staff issued its recommendation urging the PSC to grant SSU's motion to vacate Citrus County's automatic stay of the uniform rates. In doing so, the staff specifically cited to SSU's assertion that its motion should be granted for the reason, among others, that "[t]he basis for the County's opposition to the Motion to Vacate is that the customers will be irreparably harmed." The staff specifically noted, and acceded to, SSU's willingness to run the risk of making refunds out of its own pocket by the implementation of the uniform rates. The staff stressed at page 6 of the recommendation:

> Staff is concerned that the utility will lose income and will not be afforded the opportunity to earn a fair rate of return whether it implements the final rates and loses the appeal or does not implement final rates and prevails on appeal.[6] Since the utility has asked to have the stay lifted, staff believes the utility has made the choice to bear the particular loss that may be associated with implementing the final rates pending the resolution of the appeal. In its motion the utility asserts that it does not believe that it will suffer any losses based on its position that it will prevail on appeal. Staff estimates that the amount to be refunded where the stay is vacated and then the final decision is reversed may be as much as $3,000,000 per year over the course of the appeal. Citrus County argues that it would be impossible to get a bond or corporate undertaking for this amount.
>
> The utility currently has a $5,800,000 bond which has been renewed through September 4, 1994. Staff believes the bond, which was originally the security for the interim rate increase, would be sufficient for the purposes of appeal if the bond issuer is willing to accept the change in the nature of the purpose of the bond. Staff would recommend that the bond remain in effect and be renewed in September of 1994 if the appeal is still pending at that time.

Appendix D, November 16, 1993 Staff Recommendation at page 6. (Emphasis supplied).

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[6] The staff concern, or at least half of it, is misplaced. Had the PSC left the stay in place so that SSU continued charging the traditional and legal stand-alone rates, the utility would have been entitled to precisely the same amount of revenues as it would under uniform rates. Not only were the traditional stand-alone rates clearly non-discriminatory and the status quo, they were clearly and unequivocally legal. In short, no customer potentially benefitting from the rate subsidies of the uniform rates would have had a leg to stand on in arguing for refunds had the uniform rate concept been upheld on appeal.

7. At Oral Argument on November 23, 1993, SSU attorney Ken Hoffman, supported the above-described staff recommendation and urged the lifting of the Citrus County stay and the continuation of uniform rates, stressing that SSU "presently has a bond on file effective through September 4th of 1994 which would cover any obligations of Southern States to make refunds to customers should the appellate court reverse the Commission." (Emphasis supplied). Arguing for a corporate undertaking in lieu of the requirement of an appeal bond, Hoffman continued, saying:

> And one final point, I had mentioned a corporate undertaking. Posting of a bond is an expensive proposition. Southern States paid close to $30,000 to renew the bond on file with the Commission, and does have an opportunity to obtain a partial refund on the premium paid if the Commission substitutes a corporate undertaking for the bond requirement while this cases [sic] on appeal. Southern States has over $70 million in equity, and is certainly capable of making good on any refunds without the necessity of a guarantee bond.

Appendix E, Excerpts of Transcript of November 23, 1993 Oral Argument, at page 10. (Emphasis supplied).

8. To its credit, PSC Staff, at the November 23, 1993 Oral Argument, did not retreat or equivocate on either its willingness to see SSU put its money at risk or the certainty that the PSC would have to return to stand-alone rates and order refunds with interest if uniform rates were reversed on appeal. The PSC staff position, which is consistent with that of the Joint Petitioners, is best expressed by Marshall Willis, a staff supervisor, as reinforced by Chuck Hill, Director of the PSC Division of Water and Wastewater:

> Mr. WILLIS: Well, Commissioner, I think if there is protection in place, whether it be a corporate undertaking or a bond, which we are recommending a bond, those customers will be held whole. I mean, if someone in the future dictates that those customers that those customers who are paying more now

under uniform rates than they would be under stand-alone are deserving of a refund, then those customers would receive a refund with interest.

COMMISSIONER CLARK: That's the part that's not clear, that we have never addressed before when it's an issue of money between customers and not the overall revenue what you do.

MR. WILLIS: (Indicating yes.)

MR. HILL: The customers are going to be protected. There is not a doubt in my mind about that. It's the Company that's going to be at risk, and I won't try to drag this out to explain it.

COMMISSIONER CLARK: But I think that Commissioner Johnson is correct, is that the customers as a whole are protected, but not individual customers that under statewide rates are paying more than they would under stand-alone.

MR. HILL: I believe that if the courts say --

COMMISSIONER CLARK: A bond doesn't address that at all.

MR. Hill: I understand. And if the courts say that you cannot do what you have done, then you have got to go back to a system-specific rate and revenue requirement. That's where you have to go, there is no other place to go. And we may end up arguing with the utility over refunds, but there isn't a doubt in my mind that if we are reversed on that and have to redo it, they have collected money they should not have collected and it will have to be refunded. And the Company will end up on the short end of it.

COMMISSIONER CLARK: Well, they have collected money they should have recovered from the wrong people.

MR. HILL: Absolutely, and they will have no way to go back to the right people and collect those funds.

COMMISSIONER CLARK: Unless you do an adjustment on a going-forward basis to remedy that, but I'm not sure you can.

CHAIRMAN DEASON: And what Mr. Hoffman is saying, it's his opinion that the Company is not putting itself at risk, it does not have the liability to make the customer-specific whole. Their only requirement is to make customers as a general body of ratepayers whole. That is, if they have collected more total

revenue than what they are authorized as a result of the final decision on appeal, they are liable for that, but they are not liable to make specific customers whole.

MR. HILL: And while that's an interesting argument, I think that if indeed we are overturned by the courts, then the revenue requirements fall out on a system-specific basis, and I think the Company will be on shaky ground with that argument and will lose money.

Appendix E, Excerpts of Transcript of November 23, 1993 Oral Argument, at pages 55-57. (Emphasis supplied).

9. Following the Oral Argument on the stay issue, the PSC on December 14, 1993 issued Order No. PSC-93-1788-FOF-WS, Order Vacating Automatic Stay. The PSC rejected Citrus County's assertion that customers forced to pay subsidies through the uniform rates would be irreparably harmed based on their age and the relative size of the increase, and found, instead, that requiring a bond pending appeal would provide adequate customer protection. The Order addressed the potential financial impact on SSU saying:

> We are concerned that the utility may not be afforded its statutory opportunity to earn a fair rate of return, whether it implements the final rates and loses the appeal or does not implement final rates and prevails on appeal. Since the utility has implemented the final rates and has asked to have the stay lifted, we find that the utility has made the choice to bear the risk of loss that may be associated with implementing the final rates pending the resolution of the appeal. In its motion, the utility asserts that it does not believe that it will suffer any losses, based on its position that it will prevail on appeal. We find that an appropriate estimate of the amount to be refunded where the stay is vacated and then the final decision is reversed may be as much a $3,000,000 per year over the course of the appeal. Citrus argues that it would be impossible to get a bond or corporate undertaking for this amount.
>
> The utility currently has a $5,800,000 bond which has been renewed through September 4, 1994. We find that this bond, which was originally the security for the interim rate increase, would be sufficient for the purposes of appeal if the bond issuer is willing to accept the change in the nature of the purpose of the bond. The bond shall remain in effect and must be renewed in September of 1994 if the appeal is still pending at that time.

> We previously determined that the uniform rate structure is appropriate and that the rates based on that rate structure are just, reasonable, compensatory, and not unfairly discriminatory. By providing security for those customers who may have overpaid in the event the Final Order is overturned, the customers of this utility will be protected in the event a refund may be required. The County argues that these particular customers will be irreparably harmed because of their age and income status. We find that by requiring security from the utility, the customers of SSU who may possibly be affected are adequately protected. In fact, once the security is in place, the unique circumstance of this case is reduced to the simple distinction that in the event the Final Order is not affirmed, the utility may lose revenues which this Commission determined the utility to be entitled to have the opportunity to earn.

Appendix F, Order at pages 4, 5. (Emphasis supplied).

10. Citrus County and Sugarmill Woods Civic Association, Inc. prevailed on the appeal. The First District held that uniform rates exceeded the PSC's statutory authority. Rehearing was sought and denied and the Court issued its Mandate to the PSC on July 13, 1995 stating: "YOU ARE HEREBY COMMANDED that further proceedings be had in accordance with said opinion, the rules of this Court and the laws of the State of Florida."[7] SSU has sought the exercise of discretionary jurisdiction from the Florida Supreme Court, but that action does not stay the First District Court of Appeals' Mandate to the PSC. The PSC should already have acted to conform its order to the dictates of the First District's reversal. That the PSC has not done so, necessitates the instant Petition and the even greater expenditure of time and money on the part of the Joint Petitioners. It is simply unfair that these customers must push this agency to conform with the First District's opinion. They must, however, because their victory is not simply academic. Not only are these customers entitled to the restitution of the money improperly taken

[7] Compliance with the Court's opinion by this agency is obviously not discretionary. The Mandate, which is ministerial, and which the PSC knew was coming, was issued July 13, 1995. The Order On Rehearing Denied was published on June 27, 1995 or fully 59 days ago. To date, the PSC has taken no apparent action to comply with the Court's Mandate.

from them pending the appeal, as well as interest on the same; they are, just as importantly, entitled to the cessation of the excessive rates they are still being charged and the return to proper rates. From the Joint Petitioners' perspective, good money is being thrown after bad in clear violation of the Court's opinion. Worse, these continued overcharges are going to a utility that has publicly repudiated any commitment or obligation to make the required refunds. The PSC must act, and act immediately, to bring SSU's rates to legal levels and to order the necessary refunds. "That's where you have to go, there is no other place to go", in the words of Chuck Hill.

11. The refund liability associated with just the permanent rates is substantial, but clearly within the means of SSU and its corporate parent, Minnesota Power and Light Company . When initially approved, the uniform rates were designed to collect water subsidies, over and above individual system-specific revenue requirements, of over $2,464,000 annually from the customers of 10 SSU water systems. Wastewater subsidies, over and above the individual system revenue requirements, were initially $1,544,000 annually from the customers of 11 SSU wastewater systems. Total initial subsidies were, thus, in excess of $4,000,000 annually, and these amounts have since increased due to: (1) customer growth; and (2) several PSC-approved automatic inflation or cost adjustments. However, assuming just the initial level of compelled subsidies, illegal overcharges have been taken from SSU customers at a rate of over $334,000 a month since SSU began collecting the illegal uniform rates on September 15, 1993, almost two full years ago. The refund amount due at these levels, which is substantially understated, exceeds $7,687,000, not counting an allowance for interest.

12. Since the First District Court of Appeals published its opinion denying rehearing on June 27, 1995, SSU customers have already been forced to pay an additional $670,000 of

illegal rates subsidies due solely to the PSC's inaction. Overcharges are continuing at a rate in excess of $11,000 for each day the PSC fails to act.

13. The Joint Petitioners, and all overcharged customers, are due interest on the amounts they have been overcharged. Joint Petitioners would request that the PSC require SSU to pay each customer interest, compounded monthly on the outstanding overcharge balance, at the applicable interest rate prescribed in Section 55.03, Florida Statutes, for interest payable on judgments and decrees.

14. Joint Petitioners request that the PSC act immediately to bring SSU's current rates to legal levels by imposing the system specific stand-alone rate alternative presented in the PSC-staff recommendation presented to the PSC in Docket No. 920199-WS in February of 1993.[8]

15. Joint Petitioners would request that refunds be calculated on an individual customer basis by calculating the difference between each customer's monthly consumption calculated at the stand-alone water or wastewater rate for that customer's service area and the uniform rates actually charged. Refunds should be paid in cash, as they were taken, and in a single payment.

16. Interim rates, which were imposed for approximately 12 months, were calculated by adding a common dollar amount to the then current rates of each service area location, irrespective of whether an adequate return was being obtained from that area or not. Thus, the interim rates were partly uniform, and were calculated by combining these utility systems for ratemaking purposes without the prerequisite finding of functional relatedness. Therefore, in

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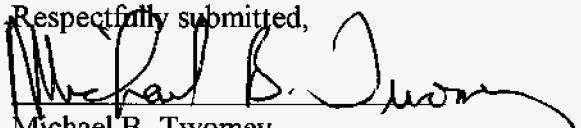
[8] Appendix G, Schedules 5 and 6 to February 3, 1993 staff recommendation in Docket No. 920199-WS.

applying the First District's ruling, excessive interim rates must also be refunded. To the extent that interim rates exceeded the final stand-alone rates, they were legally "excessive" and refunds are due.

17. Joint Petitioners would request that interim rate refunds be calculated on an individual customer basis by calculating the difference between each customer's monthly consumption calculated at the final stand-alone water or wastewater rate for that customer's service area and the interim rate levels actually charged at that location. Interim refunds should be paid in cash, as they were taken, with interest, and returned in a single payment with the permanent rate refunds.

WHEREFORE, The Sugarmill Woods Civic Association, Inc., the Board of County Commissioners of Citrus County, and the Spring Hill Civic Association, Inc. petition the Florida Public Service Commission to immediately reduce their rates, and those of all SSU customers, to legal stand-alone rates, as requested in the body of this Petition; to order SSU to calculate and make permanent and interim cash refunds to all its customers, entitled to the same, in the manner requested in the body of this Petition; and to order SSU to pay interest, compounded monthly, on the illegal overcharges at the statutory rate prescribed by Section 55.03, Florida Statutes, for the payment of interest on judgments and decrees.

Respectfully submitted,



Michael B. Twomey
Route 28, Box 1264
Tallahassee, Florida 32310
(904) 421-9530

and

Susan W. Fox, Esquire
Macfarlane, Ausley, Ferguson
& McMullen
P.O. Box 1531
Tampa, Florida 33601
(813) 273- 4200

and

Larry M. Haag
County Attorney
Citrus County
107 North Park Avenue, Suite 8
Inverness, Florida 34450
(904) 637-9970

Attorneys for Joint Petitioners

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and accurate copy of the foregoing has been furnished by U.S. Mail, postage prepaid, this 28th day of August 1995 to the following persons:

Brian Armstrong, Esquire
General Counsel
Southern States Utilities, Inc.
1000 Color Place
Apopka, Florida 32703

Kenneth A. Hoffman, Esquire
Rutledge, Ecenia, Underwood,
Purnell & Hoffman, P.A.
Post Office Box 551
Tallahassee, Florida 32302

Lila A. Jaber, Esquire
Division of Legal Services
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0862

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

Attorney

IN THE DISTRICT COURT OF APPEAL

FIRST DISTRICT, STATE OF FLORIDA

CITRUS COUNTY, FLORIDA and CYPRESS AND OAKS VILLAGES ASSOCIATION,

Appellants,

v.

SOUTHERN STATES UTILITIES, INC., and THE FLORIDA PUBLIC SERVICE COMMISSION,

Appellees.
_____/

NOT FINAL UNTIL TIME EXPIRES TO FILE MOTION FOR REHEARING AND DISPOSITION THEREOF IF FILED.

CASE NO. 93-3324 & 93-4089

Opinion filed April 6, 1995.

An appeal from a final order of the Public Service Commission.

Robert A. Butterworth & Michael A. Gross of Office of the Attorney General, Tallahassee and Michael B. Twomey, Tallahassee, for Appellant Citrus County; Susan W. Fox of Macfarlane, Ausley, Ferguson & McMullen, Tampa, for Appellant Villages Association; and Jack Shreve and Harold McLean of Office of Public Counsel, Tallahassee, for Appellant Citizens of Florida.

Kenneth A. Hoffman of Rutledge, Ecenia, Underwood, Purnell & Hoffman, P.A., Tallahassee and Brian P. Armstrong of Southern States Utilities, Inc., Apopka, for Appellee Southern States Utilities; Robert D. Vandiver & Christiana T. Moore, Tallahassee, for Appellee Florida Public Service Commission.

WENTWORTH, Senior Judge.

This is an appeal from a final order of the Public Service Commission (PSC) adopting uniform statewide rates for 127 water and wastewater utility systems owned by Southern States Utilities, Inc. (SSU). We reverse.

SSU has, over the last decade, bought small independent water and wastewater utilities throughout the states, and currently serves approximately 180,000 customers in Florida. On May 11, 1992, SSU filed an application with the PSC pursuant to chapter 367, Florida Statutes, for authority to increase the water and wastewater rates and charges for 127 of its systems. In its application, SSU proposed that the PSC calculate its new rates on a modified stand-alone basis that would involve a cap on the number of gallons each customer would pay for and would require that each customer also pay a flat percentage fee for administrative costs. The Citizens of Florida intervened through the Office of Public Counsel on May 21, 1992, and Citrus County and Cypress and Oaks Villages Association intervened at a later date.

Before a decision in this case, the PSC conducted ten service hearings throughout the state to permit customer participation in the ratemaking process, and held a technical hearing to receive evidence. On March 22, 1993, the PSC issued its Final Order, approving a 40.16% increase in SSU's annual revenue from its water systems, and a 49.53% increase in revenue from its wastewater systems. The order also approved a new rate structure for SSU in the form of statewide uniform rates for the 75,000 water customers and over 25,000 wastewater customers served by the 127 utility systems involved in this case. In making its decision on rate structure, the Commission cited a number of advantages that would result from the implementation of uniform statewide rates, and

found that "the wide disparity of rates calculated on a stand-alone basis, coupled with the above cited benefits of uniform, statewide rates, outweighs the benefits of the traditional approach of setting rates on a stand-alone basis." Numerous motions for reconsideration were filed following the issuance of this order, but each was denied after the Commission staff approved implementation of the increased rates granted in the Final Order by approving revised tariff sheets for the affected SSU systems.

Citrus County and Cypress and Oaks Villages Association appealed the PSC's decision to approve statewide uniform rates for the affected utility systems, arguing that (1) there was no evidence in the record to support such rates; (2) the rates violated section 367.081(2)(a), Florida Statutes; (3) they were denied due process because the statewide uniform rate issue was not properly noticed; (4) the new rate structure resulted in a taking of their contributions-in-aid-of-construction (CIAC); (5) the order violated the doctrine of administrative res judicata; and (6) the staff's implementation of the new rates before the final order became final violated their due process rights. We decline to address each issue separately because we reverse on the ground that the PSC exceeded its statutory authority when it approved uniform statewide rates for the 127 systems involved in this proceeding, based on the evidence produced.

The Water and Wastewater System Regulatory Law, codified at chapter 367, Florida Statutes, grants the PSC authority to set

rates for those utilities within its jurisdiction. We conclude that chapter 367 does not give the PSC authority to set uniform statewide rates that cover a number of utility systems related only in their fiscal functions by reason of common ownership. Florida law instead allows uniform rates only for a utility system that is composed of facilities and land functionally related in the providing of water and wastewater utility service to the public. Section 367.171(7), Florida Statutes (1991), grants the PSC exclusive jurisdiction, with some exceptions, over "all utility systems whose service transverses county boundaries." The term "system" is defined as "facilities and land used or useful in providing service and, upon a finding by the commission, may include a combination of functionally related facilities and land." § 367.021(11), Fla. Stat. (1991) (emphasis added).

This court analyzed the PSC's jurisdiction in Board of County Commissioners v. Beard, 601 So. 2d 590 (Fla. 1st DCA 1992), adjudicating a challenge to a PSC order which declared that the PSC, rather than St. Johns County, had jurisdiction over water and wastewater services provided by Jacksonville Suburban Utilities Corporation (JSUC) within St. Johns County. JSUC operated water and sewer facilities in Duval, Nassau and St. Johns counties that were managed from a central office and shared the same manager, officers, engineers, accountants, maintenance personnel, customer service representatives and testing laboratories. Id. at 592. JSUC also performed other functions on a system-wide basis,

including purchasing, budgeting, planning and staffing. Id. Based on these relationships the company argued that all of its facilities were part of a single utility system, which placed it within the ambit of the PSC's jurisdiction as enunciated in section 367.171(7). This court agreed, rejecting the county's argument that JSUC's facilities must be physically connected to constitute a functionally related system under section 367.021(11), and finding that the undisputed evidence established that JSUC's facilities were interrelated not only administratively but also operationally, such that the company should be regulated by the PSC.

Here, we find no competent substantial evidence that the facilities and land comprising the 127 SSU systems are functionally related in a way permitting the PSC to require that the customers of all systems pay identical rates. Section 367.021(11) requires that the facilities and land used or useful in providing service to the customers of the systems be considered in setting rates. The only exception to this requirement occurs "upon a finding by the commission" that a "combination of functionally related facilities and land" constitutes one system such that rates may be uniformly set for all customers within that system. No such finding was made here, and could not properly be made given the apparent absence of evidence that the systems were operationally integrated, or functionally related, in any aspect of utility service delivery other than fiscal management. Commissioners Beard and Clark set

identical rates for the 127 water and wastewater systems owned by SSU because they believed that the benefits of uniform statewide rates outweighed the benefits of the traditional approach of setting rates on a stand-alone basis. We find this belief insufficient to support the order.

In reviewing an order of the PSC, this court must determine from the record whether it is supported by competent, substantial evidence. Citizens v. Florida PSC, 425 So. 2d 534, 538 (Fla. 1982). Four witnesses testified on the issue of statewide uniform rates at the final hearing in this matter. Although three of them testified that statewide uniform rates provided the advantages cited by the PSC in a generic sense, each of them unequivocally stated that SSU was not presently in a position to fairly implement such rates. Forrest L. Ludsen, Vice President in charge of Customer Service for SSU, felt that in the future SSU may be ready for uniform rates set according to rate bands that would lump the customers of similarly situated systems together; Joseph P. Cresse, a non-lawyer special consultant and former member of the Florida PSC, recommended that rates be calculated by dividing the 127 systems into four to six categories or rate bands after the company's CIAC charges were restructured; and Mr. John D. Williams, a member of the PSC staff, testified that it would be too extreme to set uniform rates in this case, especially without restructuring the CIAC for each system..

It is clear that this testimony does not constitute competent substantial evidence to support the PSC's decision to set uniform statewide rates for the systems involved. The systems are not functionally related as required by section 367.021(11), their relationship being apparently confined to fiscal functions resulting from common ownership. SSU's systems differ greatly in their levels of CIAC, their size, their age, the number of customers served, the status of the system when SSU acquired it, their consumption levels, and the type of treatment used. Counsel for SSU indicated at oral argument that, although the 127 systems involved in this case are fiscally related, they are not otherwise related in a utility operational sense. Until the Commission finds that the facilities and land owned by SSU and used to provide its customers with water and wastewater services are functionally related as required by the statute, uniform rates may not lawfully be approved.

The Commission's order must be reversed based on our finding that chapter 367, Florida Statutes, did not give the Commission authority to approve uniform statewide rates for these utility systems which are operationally unrelated in their delivery of utility service. As an administrative agency created by the legislature, "the Commission's power, duties and authority are those and only those that are conferred expressly or impliedly by statute of the State." Rolling Oaks Utilities v. Florida PSC, 533

So. 2d 770, 773 (Fla. 1st DCA 1988). "Any reasonable doubt as to the lawful existence of a particular power that is being exercised by the Commission must be resolved against the exercise thereof, and the further exercise of the power should be arrested." City of Cape Coral v. GAC Utilities, Inc., 281 So. 2d 493, 496 (Fla. 1973) (citations omitted).

Lastly, we address the Office of Public Counsel's contention that the Commission erred by not recognizing SSU's gain on the sale of two of its systems because this allows SSU to earn a greater than reasonable rate of return on its investment, in violation of section 367.081(2)(a), Florida Statutes (1991). We are not persuaded by this argument.

Section 367.081(2)(a) requires that in setting rates, the Commission must allow the utility to collect a fair return on its investment in property used and useful in the public service. The rate of return "cannot be set so low as to confiscate the property of the utility, nor can it be made so high as to provide greater than a reasonable rate of return, thereby prejudicing the consumer." United Telephone Co. v. Mayo, 345 So. 2d 648, 651 (Fla. 1977). The Citizens have not carried their burden of showing that the Commission failed to comply with the essential requirements of law. Id. at 653. The Commission has the responsibility of determining a reasonable rate of return for the utility, and our review of that decision is limited. Id. at 654.

Here, there was a divergence of opinion as to the proper treatment of the sale proceeds and the Commission exercised its discretion in accepting the opinion of the utility's witness over the Citizens. We will not disrupt that choice. "It is the Commission's prerogative to evaluate the testimony of competing experts and accord whatever weight to the conflicting opinions it deems appropriate." United Telephone Co., 345 So. 2d at 654. The Commission did not deviate from the essential requirements of law when it declined to take the proceeds into account in determining SSU's rates and thus, this portion of the order should be affirmed.

Accordingly, the portion of the order setting uniform statewide rates is reversed, but the Commission's refusal to take into account the utility's gain on the sale of two of its systems is affirmed. The cause is remanded for disposition consistent herewith.

ZEHMER, C.J., and DAVIS, J., CONCUR.

IN THE DISTRICT COURT OF APPEAL

FIRST DISTRICT, STATE OF FLORIDA

CITRUS COUNTY, FLORIDA
and CYPRESS AND OAKS
VILLAGES ASSOCIATION,

Appellants,

v. CASE NO. 93-3324 & 93-4089

SOUTHERN STATES UTILITIES,
INC., and THE FLORIDA PUBLIC
SERVICE COMMISSION,

Appellees.
_____/

Opinion filed June 27, 1995.

An appeal from a final order of the Public Service Commission.

Robert A. Butterworth & Michael A. Gross of Office of the Attorney General, Tallahassee and Michael B. Twomey, Tallahassee, for Appellant Citrus County; Susan W. Fox of Macfarlane, Ausley, Ferguson & McMullen, Tampa, for Appellant Villages Association; and Jack Shreve and Harold McLean of Office of Public Counsel, Tallahassee, for Appellant Citizens of Florida.

Kenneth A. Hoffman of Rutledge, Ecenia, Underwood, Purnell & Hoffman, P.A., Tallahassee and Brian P. Armstrong of Southern States Utilities, Inc., Apopka, for Appellee Southern States Utilities; Robert D. Vandiver & Christiana T. Moore, Tallahassee, for Appellee Florida Public Service Commission.

ON REHEARING DENIED

WENTWORTH, Senior Judge.

On consideration of the Florida Public Service Commission's Motion for Rehearing and Southern States Utilities' Request for

...ion for Certification, and ...
DENY the motions but amend the op...
...stituting the following two corrected fact statements in
the lines specified in the opinion:

(1) On Page 2, lines 6-10:

In its application, SSU proposed that the PSC calculate its new rates on a modified stand-alone basis that would involve a cap on the charge per gallon each customer would pay.

(2) On page 2, lines 17-20:

On March 22, 1993, the PSC issued its Final Order, approving a 26.77% increase in SSU's annual revenue from its water systems, and a 48.61% increase in revenue from ...

ZEHMER, C.J. and DAVIS, J., CONCUR.

M A N D A T E

From

DISTRICT COURT OF APPEAL OF FLORIDA
FIRST DISTRICT

To the Honorable ~~the Judges of the~~ Steve Tribble, Director
Division of Records and Reporting

WHEREAS, in that certain cause filed in this Court styled:

IN RE: APPLICATION FOR RATE INCREASE IN BREVARD, CHARLOTTE/LEE, LAKE, MARION, MARTIN, NASSAU, ORANGE, OSCEOLA, PASCO, PUTNAM, SEMINOLE, VOLUSIA, and WASHINGTON COUNTIES by SOUTHERN STATES UTILITIES, INC.; IN COLLIER COUNTY by MARCO SHORES UTILITIES (DELTONA), ET AL.

Case No. 93-4089

Your Case No. 920199-WS

The attached opinion was rendered on June 27, 1995 / April 6, 1995

YOU ARE HEREBY COMMANDED that further proceedings be had in accordance with said opinion, the rules of this Court and the laws of the State of Florida.

WITNESS the Honorable E. Earle Zehmer

Chief Judge of the District Court of Appeal of Florida, First District and the Seal of said court at Tallahassee, the Capitol, on this

13th day of July, 1995

DISTRICT COURT OF APPEAL * STATE OF FLORIDA * SAT CITO SI RECTE FIRST DISTRICT

Karen Roberts

Clerk, District Court of Appeal of Florida, First District

Deputy

002272 • 2851

M A N D A T E

From

DISTRICT COURT OF APPEAL OF FLORIDA
FIRST DISTRICT

To the Honorable, ~~the Judges of the~~ Steve Tribble, Director
Division of Records and Reporting

WHEREAS, in that certain cause filed in this Court styled:

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.; IN COLLIER COUNTY by MARCO SHORES UTILITIES (DELTONA), ET AL.

Case No. 93-3324

Your Case No. 920199-WS

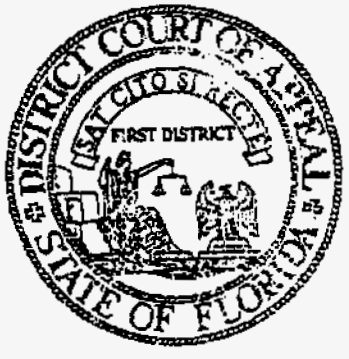
The attached opinion was rendered on June 27, 1995/April 6, 1995

YOU ARE HEREBY COMMANDED that further proceedings be had in accordance with said opinion, the rules of this Court and the laws of the State of Florida.

WITNESS the Honorable E. Earle Zehmer

Chief Judge of the District Court of Appeal of Florida, First District and the Seal of said court at Tallahassee, the Capitol, on this

13th day of July, 1995



Karen Roberts
Clerk, District Court of Appeal of Florida,
First District

Deputy

002273

FLORIDA PUBLIC SERVICE COMMISSION

Fletcher Building
101 East Gaines Street
Tallahassee, Florida 32399-0850

M E M O R A N D U M

November 16, 1993

TO: DIRECTOR, DIVISION OF RECORDS AND REPORTING

FROM: DIVISION OF LEGAL SERVICES (BEDELL)
DIVISION OF WATER AND WASTEWATER (WILLIS)
DIVISION OF AUDITING AND FINANCIAL ANALYSIS (NEIL)

RE: UTILITY: SOUTHERN STATES UTILITIES, INC.
DOCKET NO. 920199
COUNTY: BREVARD, CHARLOTTE/LEE, CITRUS, CLAY, DUVAL, HIGHLANDS, LAKE, MARION, MARTIN, NASSAU, ORANGE, OSCEOLA, PASCO, PUTNAM, SEMINOLE, VOLUSIA, WASHINGTON, COLLIER AND HERNANDO

CASE: 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 UTLITIES (DELTONA); AND VOLUSIA COUNTY BY DELTONA LAKES UTILITIES (DELTONA).

AGENDA: NOVEMBER 23, 1993 - REGULAR - POST HEARING DECISION- INTERESTED PARTIES MAY PARTICIPATE

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: I:\PSC\LEG\WP\920199C.RCM

CASE BACKGROUND

Southern States Utilities, Inc., and Deltona Utilities, Inc. (hereinafter referred to as the utility or SSU) are collectively a class A water and wastewater utility operating in various counties in the State of Florida. By Order No. PSC-93-0423-FOF-WS (also referred to as the Final Order), issued on March 22, 1993, the

Commission approved an increase in the utility's rates and charges which set rates based on a uniform statewide rate structure. Numerous motions for reconsideration were decided by the Commission. On November 2, 1993, the Order on Reconsideration was issued.

On September 15, 1993, pursuant to the provisions of the Final Order, Commission staff approved the revised tariffs and the utility proceeded to implement the final rates. On October 8, 1993, Citrus County and Cypress and Oak Villages (COVA) filed a Notice of Appeal of the Final Order at the First District Court of Appeal. That Notice was amended to include the Commission as a party on October 12, 1993. On October 18, 1993, the utility filed a Motion to Vacate Automatic Stay which is the primary subject of this recommendation.

DISCUSSION OF ISSUES

ISSUE 1: Should Citrus County's Request for Oral Argument be granted?

RECOMMENDATION: Yes. (Bedell)

STAFF ANALYSIS: On October 26, 1993, Citrus County filed a Request for Oral Argument on the pending motions. On November 8, 1993, the utility filed its response to the request for oral argument asserting that the motion filed by the County was deficient. On November 10, 1993, the County filed an amended request for Oral Argument. On November 17th, the utility filed its response to the amended request.

Staff believes that notwithstanding any legal insufficiency in the request for oral argument, the parties should be allowed to make oral presentations in this matter because, unlike other requests related to a stay on appeal of a rate case decision, there are unique circumstances to be considered. Those circumstances are discussed in detail in Issue 2 below. Staff is unaware of any matters which are not addressed below and believes that the recommendation on the motion to vacate the stay is complete. However, with the myriad of policy decisions and departures from the "ordinary" rate case involved in this docket, staff recommends that the parties be given an opportunity to be heard. In addition,

staff believes that the utility should be given an opportunity to respond to staff's recommendation with regards to the potential loss of income and revenues.

ISSUE 2: Should the Motion to Vacate Automatic Stay be granted?

RECOMMENDATION: Yes. The stay should be vacated and the utility should post a bond in the amount of at least $3,000,000. (Bedell, Willis, Neil)

STAFF ANALYSIS: As discussed in the Case Background, the Commission issued Order No. PSC-93-0423-FOF-WS setting final rates for Southern States using a uniform, statewide rate structure. This rate structure was an issue on reconsideration and is now raised on appeal. On November 2, 1993, the Commission issued the Order on Reconsideration which rendered the Final Order final for purposes of appeal pursuant to Section 367.084, Florida Statutes, and Rule 25-22.060, Florida Administrative Code. However, before the Order on Reconsideration was issued, the utility implemented the final, uniform, statewide rates pursuant to Sections 367.081(6) and .084, Florida Statutes, the provisions of the Final Order, and the approved revised tariffs, effective September 15, 1993. Based on the utility's implementing the final rates, Citrus County filed an appeal in the First District Court of Appeal on October 8, 1993. Citrus County filed an amended notice of appeal to add the Commission as a named appellee on October 12, 1993. It is Citrus County's position that this filing of an appeal before the written Order on Reconsideration was issued operated as an automatic stay.

On October 19, 1993, the utility filed its Motion to Vacate Automatic Stay. As grounds for its motion, the utility avers the following: the likelihood of Citrus County's prevailing on appeal is remote; the uniform rates benefit a majority of customers located in Citrus County; the implementation of uniform rates is in the public interest; and, no refund liability would exist if the Final Order is affirmed on appeal. Based on the argument that no refund liability would exist if the Final Order is affirmed, the utility argues that no bond should be required.

On October 26, 1993, Citrus County filed its Response in opposition to the utility's Motion to Vacate. The County's

responsive pleading also contained a Motion For Reduced Interim Rates, Recalculated Bills, Refunds and Penalties. Citrus County's motion is discussed below in Issue 3. The basis for the County's opposition to the Motion to Vacate is that the customers will be irreparably harmed.

Rule 25-22.061 (3)(a), Florida Administrative Code, provides that when a public body, such as Citrus County, appeals an order of the Commission increasing a utility's rates which appeal operates as an automatic stay, "the Commission shall vacate the stay upon motion by the utility ...and the posting of good and sufficient bond or corporate undertaking." The language of the rule is straightforward and unambiguous. Citrus County has raised the argument that there are special circumstances to be considered in this case which mitigate against vacating the stay. Staff agrees that there are special circumstances. However, it appears to staff that the special circumstances are such that the utility will be taking a far greater risk than contemplated by the rule while the customers will be protected from any losses.

The change in the rate structure in this docket creates a unique situation, particularly in light of Citrus County's statement that the amount of the revenue requirement will not be at issue (although there is nothing prohibiting other issues from being raised by Citrus County or other parties which may not be revenue neutral). In a typical rate case appeal, any issue raised would have an effect on the final revenue requirement, and the security for the possible change in rates would be a straightforward calculation. The primary issue on appeal is revenue neutral. Therefore, the focus of this analysis must be whether lifting the stay will cause irreparable harm and whether some form of security will adequately protect customers adversely affected. Staff believes that the purpose of the security has always been to insure that if the utility has overcollected revenues by implementing final rates, the customers who have overpaid will have the overpayments refunded with interest. In this case, if the rate structure approved by the Commission is overturned on appeal, the utility will not have overcollected, but certain customers will have overpaid. It is also true that if the stay is not lifted and the existing interim rates are continued and the rate structure is affirmed on appeal, there will also be customers who will have overpaid and the utility would not have

overcollected. In neither of the two situations will the utility be able to backbill those customers from whom they undercollected.

Staff is concerned that the utility will lose income and will not be afforded the opportunity to earn a fair rate of return whether it implements the final rates and loses the appeal or does not implement final rates and prevails on appeal. Since the utility has asked to have the stay lifted, staff believes the utility has made the choice to bear the particular loss that may be associated with implementing the final rates pending the resolution of the appeal. In its motion the utility asserts that it does not believe that it will suffer any losses based on its position that it will prevail on appeal. Staff estimates that the amount to be refunded where the stay is vacated and then the final decision is reversed may be as much as $3,000,000 per year over the course of the appeal. Citrus County argues that it would be impossible to get a bond or corporate undertaking for this amount.

The utility currently has a $5,800,000 bond which has been renewed through September 4, 1994. Staff believes the bond, which was originally the security for the interim rate increase, would be sufficient for the purposes of appeal if the bond issuer is willing to accept the change in the nature of the purpose of the bond. Staff would recommend that the bond remain in effect and be renewed in September of 1994 if the appeal is still pending at that time.

Citrus County argues that the stay should not be lifted and that interim rates should remain in effect with the revenue requirement reduced to the level of the Final Order. Staff believes this argument should be rejected for several reasons. First, the Commission determined that the uniform rate structure is appropriate and that the rates based on that rate structure are fair, just and reasonable for this utility and its customers. If the utility provides security for those customers who may be found to have overpaid in the event the Final Order is overturned, the customers of this utility are not irreparably harmed. The County argues that these particular customers will be irreparably harmed because of their age and income status. Based on this argument, staff believes that few stays, if any, would be vacated. Staff recommends that by requiring security from the utility, the customers of SSU who may possibly be affected are adequately protected. In fact, once the security is in place, the unique circumstance of this case is reduced to the simple distinction that

in the event the Final Order is not affirmed, the utility will lose a significant amount of revenues that the Commission determined the utility to be entitled to have the opportunity to earn.

As further support for recommending that the automatic stay be vacated, staff notes that Rule 25-22.061(3), Florida Administrative Code, does not indicate that the decision to vacate an automatic stay is discretionary. It implies by its use of the mandatory word "shall," that an automatic stay will be lifted when a utility so requests and posts good and sufficient bond or corporate undertaking. This section of the rule does not refer to the things which the Commission is to take into consideration in determining whether to grant a stay. Nor does it anywhere suggest that evaluating the age of the customers or even the relative amount of the increase should be considered in reaching a decision to vacate an automatic stay.

Citrus County also suggests that the utility is not entitled to the relief sought because Rule 25-22.061(1), Florida Administrative Code, only refers to cases where there is a refund or a rate decrease. While Citrus County is correct in its interpretation of what Subsection 1 of the Rule states, the County has neglected to see that Subsection 3, which deals specifically with instances such as these in which the county, a governmental entity, has filed a notice of appeal of "an order involving an increase in a utility's ...rates"(emphasis added). These two subsections have completely different purposes which should not be muddled.

In summary, staff recommends that the stay be vacated and that the utility provide security in the form of a bond, either the bond which the utility has in effect until September, 1994, or a similar one for $3,000,000. In the event the appeal should take longer than two years, the Commission should evaluate the sufficiency of the bond at that time.

ISSUE 3: Should Citrus County's Motion For Reduced Interim Rates, Recalculated Bills, Refunds and Penalties be granted?

RECOMMENDATION: No. (Bedell)

STAFF ANALYSIS: On October 26, 1993, Citrus County filed its Motion For Reduced Interim Rates, Recalculated Bills, Refunds and Penalties. As grounds for this motion, the County alleges that by implementing the final rates, effective September 15, 1993, the utility violated the automatic stay resulting from the County's filing an appeal on October 8, 1993. The County further argues that by filing its Notice of Appeal prior to the issuance of a written order on reconsideration that for purposes of the issues between Citrus County, COVA and SSU, the Order was final and all issues raised for reconsideration by Citrus County and COVA were deemed abandoned pursuant to Rule 9.020 (g), Florida Rules of Appellate Procedure. The County argues that because the order was final as of October 8, 1993, the utility should have filed a motion to vacate the stay prior to implementing the rates. The County's motion reargues the fairness issue concerning the rate structure approved in the Final Order. Based on these arguments, the County asks the Commission to refund any monies overcollected due to the implementation of the uniform rates and to penalize the utility for the implementation while the automatic stay was in effect.

On November 8, 1993, the utility filed its response arguing that Citrus County lacks standing to argue its motion on behalf of customers of the Spring Hill system when that system serves residents outside of Citrus County. The utility also argues that the "status quo" on October 8, 1993, that Citrus County argues for was properly implemented uniform rates pursuant to the Final Order, not the interim rates. The utility states that even the interim rates were not strictly stand-alone rates and that to the extent the County argues the uniform rates are unfair because of subsidies, continuing interim rates at a reduced revenue level would have the same result as that which the County seeks to prohibit. In addition, the utility supports its position for having implemented the final rates by asserting that the County failed to ask for a stay pending reconsideration.

Staff recommends denying the county's motion for several reasons. First, staff believes the utility was entitled to

implement the uniform rates pursuant to the Final Order when the tariffs were approved. Rule 25-22.060(c), Florida Administrative Code, provides in pertinent part:

> A final order shall not be deemed rendered for the purpose of judicial review until the Commission disposes of any motion and cross motion for reconsideration of that order, but this provision does not serve to automatically stay the effectiveness of any such final order....

Also, Section 367.084, Florida Statutes, states that a rate adjustment order is considered rendered on the date of the official vote of the Commission for the purposes of Section 367.081 (6), Florida Statutes. Section 367.081 (6), F.S., establishes the time frames within which the Commission must make decisions on requests for rate relief. Based on these provisions of rule and statute, staff believes that the utility had the authority to charge the rates set forth in the Final Order, pursuant to the provisions of the Final Order and the tariffs which were approved on September 15, 1993.

The County has not specified the day on which the customers of the utility on whose behalf the County is arguing were: a) being charged the new rates; b) being charged other new or modified charges; c) billed on these new rates and/or charges; and d) payment was due on these. Nor for that matter has the County alleged or estimated for the Commission the extent of the irreparable harm that has been caused by the implementation of the uniform rates. Staff believes that at least for the period of time from October 8 to the date of this decision, at most two months, no customer is going to be irreparably harmed or come to financial disaster. The period of time involved and the amount of money involved, should one argue that there was any violation of an automatic stay, is de minimis.

Staff believes that it is the County which has placed the utility in an impossible and untenable position by waiting months to invoke the automatic stay through the filing of the appeal without seeking any kind of stay pending reconsideration. The County knew through discussions at Agenda that the utility would have the authority, pursuant to the Final Order and applicable rules and statutes, to implement the final rates prior to the

conclusion of reconsideration. The Commission's oral decision to deny the County's and COVA's motions for reconsideration was made on July 20, 1993. Yet, the County waited until October 8, 1993, to abandon its request for reconsideration and file its appeal which initiated the automatic stay. Of course, in the time between the Commission decision and the filing of the appeal the utility implemented final rates. The utility was thus in the position of having implemented rates with no avenue for seeking relief from an automatic stay prior to that implementation.

Staff is also troubled that the purpose of the automatic stay that the County seeks to have enforced is not the purpose of the County's appeal. The purpose of the rule is to accord deference to a governmental entity's decision which is deemed to have been made in the public interest. St. Lucie County v. North Palm Development Corporation, 444 So. 2d 1133 (Fla. 4th DCA 1984); City of Lauderdale Lakes v. Corn, 415 So. 2d 1270 (Fla. 1982). In this instance, the role of the County is as a customer of the utility appealing a decision of the Public Service Commission which the Commission has determined is in the public interest. The County has made no decisions herein, and has no governmental function in this proceeding. Staff believes that the protection the County seeks is not the protection the automatic stay was intended to provide.

Staff believes that the utility acted with reasonable speed in bringing this motion to the Commission. In addition, the County has not alleged any violation of any Commission rule, statute or order. Therefore, staff cannot recommend that any penalty would be appropriate.

Once again, as in all pleadings, the County raises the issue that the uniform rates are unfair. This issue has been ruled upon innumerable times in this docket and others and need not be addressed here. This Commission made a determination in the Final Order that the rates approved in the Order were fair, just and reasonable. It is the County's prerogative to raise the issue of fairness in the appellate court but its argument is inappropriate in this forum.

Staff believes that to the extent that the County is a customer of the utility, it has standing to file this motion. Therefore, lack of standing is not the basis of staff's recommendation.

In conclusion, staff recommends that the County's motion should be denied. If the Commission agrees with staff's recommendation that the stay should be vacated, there is no need to require a refund for any period of time that the rates may have been in effect during the time that an automatic stay was in effect. The refund, of any such monies if ultimately determined appropriate, will be secured by the bond recommended to be required herein. Even if the record established a violation of the stay, the County has shown no basis for any penalty to be assessed.

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION
TALLAHASSEE, FLORIDA

IN RE: Application for a rate increase by SOUTHERN STATES UTILITIES, INC.

DOCKET NO. 920199-WS

COPY

BEFORE:	CHAIRMAN J. TERRY DEASON COMMISSIONER SUSAN F. CLARK COMMISSIONER LUIS J. LAUREDO COMMISSIONER JULIA L. JOHNSON
PROCEEDING:	AGENDA CONFERENCE
ITEM NUMBER:	25A**
DATE:	November 23, 1993
PLACE:	106 Fletcher Building Tallahassee, Florida
REPORTED BY:	JANE FAUROT Notary Public in and for the State of Florida at Large

ACCURATE STENOTYPE REPORTERS, INC.
100 SALEM COURT
TALLAHASSEE, FLORIDA 32301
(904) 878-2221

PARTICIPATING:

Kenneth A. Hoffman, Esquire, representing Southern States Utilities, Inc.
Ms. Fox, representing COVA, Cypress and Oak Villages Association.
Michael Gross and Michael Twomey, representing Office of Attorney General and Citrus County.

* * * * * *

STAFF RECOMMENDATIONS

Issue 1: Recommendation that Citrus County's request for order argument be granted.
Issue 2: Recommendation that the utility's Motion to Vacate Stay be granted and the utility be required to post a bond in the amount of at least $3,000,000.
Issue 3: Recommendation that Citrus County's Motion For Reduced Interim Rates, Recalculated Bills, Refunds and Penalties be denied.

You must lift the automatic stay, since Southern States has filed a motion requesting you to lift the automatic stay, and presently has a bond on file effective through September 4th of 1994 which would cover any obligations of Southern States to make refunds to customers should the appellate court reverse the Commission.

We support and believe under your own rules you must approve the Staff recommendation to grant Southern States motion to vacate the automatic stay, and to deny Citrus County's motion for reduced interim rates pending judicial review and imposition of penalties against Southern States.

And one final point, I had mentioned a corporate undertaking. Posting of a bond is an expensive proposition. Southern States paid close to $30,000 to renew the bond on file with the Commission, and does have an opportunity to obtain a partial refund on the premium paid if the Commission substitutes a corporate undertaking for the bond requirement while this cases on appeal. Southern States has over $70 million in equity, and is certainly capable of making good on any refunds without the necessity of a guarantee bond. So we are also asking that you condition the lifting of the stay upon the posting of a corporate undertaking in

would be a refund for those people who overpaid based on -- who would pay more under statewide rates than stand-alone.

MR. WILLIS: That's correct.

COMMISSIONER CLARK: It's not at all clear that it just wouldn't be from a going-forward standpoint that you would address the rates, and the rates that were in effect is water under the bridge.

MR. WILLIS: I agree with you, Commissioner, it's not clear at all.

COMMISSIONER JOHNSON: So how do we make these people whole? Or we can't.

MR. WILLIS: Well, Commissioner, I think if there is protection in place, whether it be a corporate undertaking or a bond, which we are recommending a bond, those customers will be held whole. I mean, if someone in the future dictates that those customers who are paying more now under uniform rates than they would be under stand-alone are deserving of a refund, then those customers would receive a refund with interest.

COMMISSIONER CLARK: That's the part that's not clear, that we have never addressed before when it's an issue of money between customers and not the overall revenue what you do.

MR. WILLIS: (Indicating yes.)

MR. HILL: The customers are going to be protected. There is not a doubt in my mind about that. It's the Company that's going to be at risk, and I won't try to drag this out to explain it.

COMMISSIONER CLARK: But I think that Commissioner Johnson is correct, is that the customers as a whole are protected, but not individual customers that under statewide rates are paying more than they would under stand-alone.

MR. HILL: I believe that if the courts say --

COMMISSIONER CLARK: A bond doesn't address that at all.

MR. HILL: I understand. And if the courts say that you cannot do what you have done, then you have got to go back to a system-specific rate and revenue requirement. That's where you have to go, there is no other place to go. And we may end up arguing with the utility over refunds, but there isn't a doubt in my mind that if we are reversed on that and have to redo it, they have collected money they should not have collected and it will have to be refunded. And the Company will end up on the short end of it.

COMMISSIONER CLARK: Well, they have collected money they should have recovered from the wrong people.

MR. HILL: Absolutely, and they will have no way

to go back to the right people and collect those funds.

COMMISSIONER CLARK: Unless you do an adjustment on a going-forward basis to remedy that, but I'm not sure you can.

CHAIRMAN DEASON: And what Mr. Hoffman is saying, it's his opinion that the Company is not putting itself at risk, it does not have the liability to make the customer-specific whole. Their only requirement is to make customers as a general body of ratepayers whole. That is, if they have collected more total revenue than what they are authorized as a result of the final decision on appeal, they are liable for that, but they are not liable to make specific customers whole.

MR. HILL: And while that's an interesting argument, I think that if indeed we are overturned by the courts, then the revenue requirements fall out on a system-specific basis, and I think the Company will be on shaky ground with that argument and will lose money.

MS. BEDELL: May I make a suggestion? In terms of trying to make a determination of what the Company may have to do in terms of a refund, under both the appellate rule on stays -- it provides that you can set conditions for the stay, or for vacating the stay it would seem to me. If you set a condition related to how, you know, the end result when the appellate court

makes a final decision.

CHAIRMAN DEASON: I understand what you're saying, but wouldn't it be unfair to Southern States to say that we are going to vacate the stay and put you at risk for making those customers who pay more, but we are not going to give you the opportunity to recoup from those customers who should have paid more but who did not pay more? Isn't that a very difficult position to put the Company in?

MS. BEDELL: Yes, I think so. The whole situation is difficult.

CHAIRMAN DEASON: Oh, I agree with that. I think you can get a unanimous decision on that right now. I think even the parties would stipulate to that.

COMMISSIONER JOHNSON: Mr. Hoffman, how would you respond to the argument posed by opposing counsel that Rule 25-22.061(3) does not include a mandatory nature behind it, and that that would be a constitutional violation?

MR. HOFFMAN: The first time I've heard it is today. If they are saying that the word shall does not include a mandatory nature, I can only tell you that my common meaning of that word in the research I've done on statutory interpretation tells me they are wrong. I think Commissioner Clark summed it up, she said to Mr.

Gross you are saying that we have an illegal rule, or an invalid rule. I disagree with that. I think the Commission has a valid rule, and that that rule is within its discretion.

COMMISSIONER CLARK: And, Commissioner Johnson, if memory serves me correct, we were encouraged by the court, and I'm not sure if it was the Supreme Court, it may have been. They got tired of dealing with motions to vacate stays, and they told us -- how did they tell us? In oral argument I can recall some pointed questions being why don't you have any rules that state the circumstances under which a stay will be granted so that they don't have to deal with it again. That doesn't dispose of the question as to whether we did it right, but it was certainly my recollection that the court was tired of dealing with the stays and wanted us to deal with them.

CHAIRMAN DEASON: Do we have the option of letting them deal with it?

COMMISSIONER CLARK: I think they would admonish us for not doing what the rule said we should do.

CHAIRMAN DEASON: Commissioners, I think we need to move along. If we are ready for a motion now, fine, if we're not, I suggest we just take a ten-minute recess and come back and then dispose of this as

quickly as possible. What's your pleasure? In other words, let's move along one way or the other.

COMMISSIONER CLARK: Mr. Chairman, I don't see that we have any discretion, and I agree with Commission Staff on this point. I think we set out the rules that indicate that a posting of a bond will allow us a vacation of the stay, and as Mr. Hoffman pointed out, the Commission order, which did concern me, only provided for a stay of refund of the interim rates, it wasn't with respect to the implementation of the rates. And for that reason I would move Staff on all three issues.

COMMISSIONER JOHNSON: Second.

CHAIRMAN DEASON: It has been moved and seconded. Let me state right now that I'm going to vote against the motion. I am persuaded by the argument that we are moving into a new area here where there are differences between rates for different customers in different areas, and that in my opinion we should keep the status quo, which are interim rates, and let the court give the guidance to the Commission that it sees fit. I don't see where -- even though there is going to be a bond posted, it's not going to be for the purposes of making individual specific customers whole, it's going to be for the purpose of making customers as a total

rate paying body whole. And that's really not the main crux of this appeal, so I would oppose that. But, anyway, we have a motion and a second --

COMMISSIONER CLARK: Mr. Chairman, can I just ask a question? The concern I have is the interim rates don't generate the rates that we concluded they were entitled to. I mean --

CHAIRMAN DEASON: The interim rates, what are the differences between the interim rates and the final rates that have a statewide rate structure? Very minimal, is it not?

MR. TWOMEY: They generate more, Mr. Chairman.

CHAIRMAN DEASON: That's what I thought. I thought it was either minimal or it either generated more. What's the case, Mr. Hoffman?

MR. HOFFMAN: My understanding is that as revised, the interim rates as revised after Commissioner Clark's motion for reconsideration is a total revenue requirement increase of 6.4 million as opposed to 6.7 million final rates.

COMMISSIONER CLARK: Which is the final rates?

MR. HOFFMAN: Yes.

CHAIRMAN DEASON: I consider that difference to be pretty inconsequential given the magnitude of the real issue, which is the rate structure involved. I would

just keep interim rates.

Moved and seconded, all in favor say aye.

COMMISSIONER CLARK: Aye.

COMMISSIONER JOHNSON: Aye.

CHAIRMAN DEASON: All opposed nay. Nay.

MR. TWOMEY: Mr. Chairman, pardon me. Can we ask that either you make it clear in your vote that you are ordering the Company to establish a bond that would hold -- the customers would have to pay the subsidies whole if there is a reversal on appeal, or conversely that you make it clear that you accept that there is no way to make these customers whole, assuming a reversal on appeal, and that you're not going to do anything about it. I mean, it's not clear to me which way you come down on that. That you're going to accept the Company's argument that they will make all the customers whole on a revenue basis, but that the people that pay too much, if there is a reversal, it's too bad except on a going-forward basis. I'm asking you to make it clear that you're telling them they have to get that kind of bond, or make it clear that you're not.

MR. HOFFMAN: Mr. Chairman, let me object. I don't think Mr. Twomey is being very clear. I think that the Staff's recommendation is clear. And I think that we can have that -- we already have a bond on

file. We can get the nature of the bond changed to fit what is required in the Staff recommendation, and I think that that dollar amount will be sufficient to meet either consequence. We are sitting here speculating about what may happen on appeal. We simply don't know. I mean, I know the staff has estimated $3 million, but that is based on the rate design issue alone. I don't know what else Public Counsel may raise that may have a revenue requirement impact. And I think this is unnecessary, and I object to it, and I think it makes the issue more cloudy.

CHAIRMAN DEASON: Well, Mr. Hoffman, I think not only is it relevant, it is critical to know what the nature of the motion is and what is being done. Now, I'm not on the winning side of the motion, so I don't know how to clarify it, because I'm not even supporting it. If the Commissioners wish to clarify it, they will have the opportunity now.

COMMISSIONER CLARK: I have moved Staff recommendation. Now, the issue of whether or not a refund will be due to the customers I don't think is before us right now.

MS. BEDELL: What is before you is a decision about whether there is good and sufficient security for anything that may be coming down the pipeline.

COMMISSIONER CLARK: Now, will the bond cover that? Let me just ask the question. Without deciding the issue as to whether or not there will be a refund to only those customers who are overcharged, and not a making up of that revenue from the other customers. Let's assume that our order is that you will only refund to those who are overcharged. Will the bond cover that?

MS. BEDELL: Yes.

MR. WILLIS: Commissioners, we believe the bond will cover it. It's just like any rate case, it will have to be reviewed at the end of one year to see if -- you know, we don't know how long the appeal is going to be, but it will have been reviewed after one year, and if the appeal is not done, it will have to be up for whatever amount we believe it will have to be protected.

CHAIRMAN DEASON: Let me make sure that we are clear. What you're saying is that if that is the final decision, the bond is adequate?

MR. WILLIS: Yes.

CHAIRMAN DEASON: But that is not the position the company is arguing, they're saying it is not their belief they are putting themselves subject to that liability.

COMMISSIONER JOHNSON: I thought that point was made painfully clear what the Company thought, but Staff sufficiently satisfied me that it was something that we could make those customers whole, and perhaps that is something that we should definitely have written in the order.

MS. BEDELL: That is what we had in mind in terms of coming up with a dollar number. That is the direction we headed in to come up with some recommendation on a dollar amount. Mr. Chairman, we need to know if you are dissenting on Issue 2 only, or on Issue 2 and 3.

CHAIRMAN DEASON: Well, let's take a look at that.

MS. BEDELL: Issue 3 is Citrus County's motion for the penalties and the reduction in rates, refund of bills.

CHAIRMAN DEASON: Okay. We already disposed of Issue 1.

MS. BEDELL: Yes, sir.

CHAIRMAN DEASON: I'm dissenting on Issue 2, but I'm agreeing with Staff on Issue 3.

MS. BEDELL: Thank you.

MR. GROSS: This is an appealable order to the First District Court of Appeal, so we need an order so that we can avoid some of the problems we have had in

the past, and also the provisions in the bond are to be of interest to the First District Court of Ap as to whether there was an adequate bond in compliai with the Commission's rule. Even if it is determine to be mandatory, there is still that --

COMMISSIONER CLARK: Doesn't the bond have to cover the whole amount of the rate increase, so therefore it covers anything --

MR. HOFFMAN: Commissioner Clark, I think that every issue in the rate case is put at issue in the appeal, I think it would.

COMMISSIONER CLARK: All we need to do at this point is make sure that the total amount of the bond is sufficient to cover the total amount of the rate increase, because it's still at issue, and covered in that is the amount of any refund that would be due, if it is decided that a refund is due to those people who paid more under statewide rates than they would have paid under stand-alone rates. And it's my understanding from the Staff that it does, and that is what we need to decide today.

CHAIRMAN DEASON: And an order will be forthcoming, and it will describe what the Commission did.

MR. HOFFMAN: Thank you, Mr. Chairman.

MR. GROSS: Thank you.

CHAIRMAN DEASON: That disposes of Item 25A.

* * * * * * * * * * *

CERTIFICATE OF REPORTER

STATE OF FLORIDA)
COUNTY OF LEON)

I, JANE FAUROT, Court Reporter, do hereby certify that the foregoing proceedings was taken before me at the time and place therein designated; that my shorthand notes were thereafter translated under my supervision; and the foregoing pages are a true and correct record of the proceedings.

I FURTHER CERTIFY that I am not a relative, employee, attorney or counsel of any of the parties, nor relative or employee of such attorney or counsel, or financially interested in the foregoing action.

DATED THIS 30th day of November, 1993.

Jane Faurot

JANE FAUROT
100 Salem Court
Tallahassee, Florida 32301
(904) 878-2221

SWORN TO AND SUBSCRIBED TO BEFORE ME THIS 30th day of November, 1993, IN THE CITY OF TALLAHASSEE, COUNTY OF LEON,

STATE OF FLORIDA, BY THE ABOVE PERSON WHO IS PERSONALLY KNOWN BY ME.

Melanie Y. Strubble
NOTARY PUBLIC
STATE OF FLORIDA

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-93-1788-FOF-WS ISSUED: December 14, 1993

The following Commissioners participated in the disposition of this matter:

J. TERRY DEASON, Chairman
SUSAN F. CLARK
JULIA L. JOHNSON

ORDER VACATING AUTOMATIC STAY

BY THE COMMISSION:

BACKGROUND

Southern States Utilities, Inc., and Deltona Utilities, Inc. (hereinafter referred to as the utility or SSU) are collectively a class A water and wastewater utility operating in various counties in the State of Florida. By Order No. PSC-93-0443-FOF-WS (also referred to as the Final Order), issued on March 22, 1993, the Commission approved an increase in the utility's rates and charges which set rates based on a uniform statewide rate structure. Numerous motions for reconsideration were decided by this Commission. Upon the filing of petitions for reconsideration, Southern States Utilities, Inc. filed a motion for Stay of the Provisions of the Final Order requiring refunds of interim revenues within 90 days. This motion was approved by Order Number PSC-93-0861-FOF-WS, issued June 8, 1993.

All of the motions for reconsideration, except for SSU's motion, were decided at the July 20, 1993 Agenda Conference. However, the Commission panel's vote was split on one of the

motions. The Chairman cast a deciding vote on the remaining issue at the August 3, 1993 Agenda Conference. On August 17, 1993, Commissioner Clark moved for reconsideration of the calculation of the interim refund in the Final Order. Commissioner Clark's motion was decided at the September 28, 1993 Agenda Conference.

On September 15, 1993, pursuant to the provisions of the Final Order, Commission staff approved the revised tariff sheets and the utility proceeded to implement the final rates. On October 8, 1993, Citrus County and Cypress and Oak Villages (COVA) filed a Notice of Appeal of the Final Order at the First District Court of Appeal. That Notice was amended to include the Commission as a party on October 12, 1993. On October 18, 1993, the utility filed a Motion to Vacate Automatic Stay which is discussed below. The Order on Reconsideration, Order No. PSC-93-1598-FOF-WS was issued on November 2, 1993.

REQUEST FOR ORAL ARGUMENT

On October 26, 1993, Citrus County filed a Request for Oral Argument with its Motion for Reduced Interim Rates, Recalculated Bills, Refunds and Penalty. On November 8, 1993, the utility filed its response to the request for oral argument asserting that the motion filed by the County was deficient. On November 10, 1993, the County filed an amended request for Oral Argument. On November 17, 1993, the utility filed its response to the amended request.

Notwithstanding any legal inefficiency in the request for oral argument, we find it appropriate to grant oral argument in this matter because, unlike other requests related to a stay on appeal of a rate case decision, there are unique circumstances to be considered. Argument on the motions was heard at the November 23rd Agenda Conference.

Motion to Vacate Automatic Stay

As stated above, on November 2, 1993, the Commission issued the Order on Reconsideration which rendered the Final Order final for purposes of appeal pursuant to the pertinent portion of Section 367.084, Florida Statutes, and Rule 25-22.060, Florida Administrative Code. However, before the Order on Reconsideration was issued, the utility implemented the final, uniform, statewide rates effective September 15, 1993, pursuant to Sections 367.081(6) and .084, Florida Statutes, the provisions of the Final Order, and

the approved tariffs. The applicable portions of Section 367.084, Florida Statutes, provide as follows:

> Any order issued by the commission adjusting general increases or reductions of the rates and charges of any utility or regulated company must be reduced to writing.... Such an order is not considered rendered for purposes of appeal, rehearing, or judicial review until the date the copies are mailed as required by this section. This provision does not delay the effective date of the order. Such an order is considered rendered on the date of the official vote for the purposes of s.367.081(6).

On October 8, 1993, Citrus County filed an appeal in the First District Court of Appeal. On October 12, 1993 Citrus County filed an amended notice of appeal to add the Commission as a named appellee. It is Citrus County's position that this filing of an appeal before the written Order on Reconsideration was issued operated as an automatic stay.

On October 19, 1993, the utility filed its Motion to Vacate Automatic Stay. As grounds for its motion, the utility averred that: the likelihood of Citrus County's prevailing on appeal is remote; the uniform rates benefit a majority of customers located in Citrus County; the implementation of uniform rates is in the public interest; and, no refund liability would exist if the Final Order is affirmed on appeal. Based on the argument that no refund liability would exist if the Final Order is affirmed, the utility argued that no bond should be required.

On October 26, 1993, Citrus County filed its Response in opposition to the utility's Motion to Vacate. The County's responsive pleading also contained a Motion For Reduced Interim Rates, Recalculated Bills, Refunds and Penalties. Citrus County's motion is discussed below. The basis for the County's opposition to the Motion to Vacate is that the customers will be irreparably harmed based on their age and the relative size of the increase.

Rule 25-22.061 (3)(a), Florida Administrative Code, provides that when a public body, such as Citrus County, appeals an order of the Commission increasing a utility's rates which appeal operates as an automatic stay, "the Commission shall vacate the stay upon motion by the utility ...and the posting of good and sufficient bond or corporate undertaking." The language of the rule is

straightforward and unambiguous. Citrus County has raised the argument that there are special circumstances to be considered in this case which mitigate against vacating the stay.

We find that Rule 25-22.061(3), Florida Administrative Code, is not a discretionary provision and that it mandates that an automatic stay will be lifted when a utility so requests and posts good and sufficient bond or corporate undertaking. This section of the rule does not direct consideration of any specific factors in determining whether to grant a stay. On this basis, we find it appropriate to vacate the automatic stay.

The change in the rate structure in this docket creates a unique situation, particularly in light of Citrus County's statement that the amount of the revenue requirement will not be at issue. In a typical rate case appeal, any issue raised would have an effect on the final revenue requirement, and the security for the possible change in rates would be a straight forward calculation. Therefore, the focus of our determination is whether lifting the stay will cause irreparable harm and whether some form of security will adequately protect customers adversely affected. The purpose of security on appeal has always been to insure that if the utility has overcollected revenues by implementing final rates, the customers who have overpaid will have the overpayments refunded with interest. However, in this case, although the appeal may be revenue neutral, SSU's customers will still be protected.

We are concerned that the utility may not be afforded its statutory opportunity to earn a fair rate of return, whether it implements the final rates and loses the appeal or does not implement final rates and prevails on appeal. Since the utility has implemented the final rates and has asked to have the stay lifted, we find that the utility has made the choice to bear the risk of loss that may be associated with implementing the final rates pending the resolution of the appeal. In its motion, the utility asserts that it does not believe that it will suffer any losses, based on its position that it will prevail on appeal. We find that an appropriate estimate of the amount to be refunded where the stay is vacated and then the final decision is reversed may be as much as $3,000,000 per year over the course of the appeal. Citrus County argues that it would be impossible to get a bond or corporate undertaking for this amount.

The utility currently has a $5,000,000 bond which has been renewed through September 4, 1994. We find that this bond, which

was originally the security for the interim rate increase, would be sufficient for the purposes of appeal if the bond issuer is willing to accept the change in the nature of the purpose of the bond. The bond shall remain in effect and must be renewed in September of 1994 if the appeal is still pending at that time.

We previously determined that the uniform rate structure is appropriate and that the rates based on that rate structure are just, reasonable, compensatory, and not unfairly discriminatory. By providing security for those customers who may have overpaid in the event the Final Order is overturned, the customers of this utility will be protected in the event a refund may be required. The County argues that these particular customers will be irreparably harmed because of their age and income status. We find that by requiring security from the utility, the customers of SSU who may possibly be affected are adequately protected. In fact, once the security is in place, the unique circumstance of this case is reduced to the simple distinction that in the event the Final Order is not affirmed, the utility may lose revenues which this Commission determined the utility to be entitled to have the opportunity to earn.

The County argued at the Agenda Conference that by interpreting Rule 25-22.061(3)(a), Florida Administrative Code, as being mandatory in nature, we have unconstitutionally encroached on the rulemaking authority of the Florida Supreme Court and abdicated our responsibility to exercise discretion required under Rule 9.310 (b)(2), Florida Rules of Appellate Procedure. We disagree. Our adoption of Rule 25-22.061(3)(a), Florida Administrative Code, is a valid exercise of our authority. The Appellate Rules do not prohibit this Commission's setting policy for granting stays on appeal of Commission orders. This exercise of discretion, adopted by rule, sets forth the specific conditions under which a stay may be granted. We have in no way abdicated any responsibilities required by the Appellate Rules.

Citrus County also suggests that the utility is not entitled to the relief sought because Rule 25-22.061(1), Florida Administrative Code, only refers to cases where there is a refund or a rate decrease. While Citrus County is correct in its interpretation of Subsection 1 of the Rule, the County has neglected to see that Subsection 3, which deals specifically with instances such as these in which the County, a governmental entity, has filed a notice of appeal of "an order involving an <u>increase</u> in

a utility's ...rates"(emphasis added). These two subsections have completely different purposes which should not be confused.

In summary, we find it appropriate to grant SSU's Motion to Vacate Automatic Stay and to require the utility to provide security in the form of a bond; either the bond which the utility has in effect until September, 1994, or a similar one for $3,000,000. In the event the appeal should take longer than two years, the Commission will evaluate the sufficiency of the bond at that time.

<u>Citrus County's Motion</u>

On October 26, 1993, Citrus County filed its Motion For Reduced Interim Rates, Recalculated Bills, Refunds and Penalties. As grounds for its motion, the County alleged that by implementing the final rates on September 15, 1993, the utility violated the automatic stay resulting from the County's filing an appeal on October 8, 1993. The County further argued that by filing its Notice of Appeal prior to the issuance of a written order on reconsideration that for purposes of the issues between Citrus County, COVA and SSU, the Order was final and all issues raised for reconsideration by Citrus County and COVA were deemed abandoned pursuant to Rule 9.020 (g), Florida Rules of Appellate Procedure. The County argued that because the order was final as of October 8, 1993, the utility should have filed a motion to vacate the stay prior to implementing the rates.

On November 8, 1993, the utility filed its response arguing that Citrus County lacks standing to argue its motion on behalf of customers of the Spring Hill system when that system serves residents outside of Citrus County. The utility also argued that the "status quo" on October 8, 1993, urged by Citrus County would be uniform rates pursuant to the Final Order, not the interim rates. The utility states that even the interim rates were not strictly stand-alone rates and that to the extent the County argued the uniform rates are unfair because of subsidies, continuing interim rates at a reduced revenue level would have the same result as that which the County seeks to prohibit. In addition, the utility asserted that the County failed to ask for a stay pending reconsideration.

We find that, pursuant to Rule 25-22.060 (c), Florida Administrative Code, Sections 367.081 and .084, Florida Statutes, and the Final Order, the utility was entitled to implement the

was originally the security for the interim rate increase, would be sufficient for the purposes of appeal if the bond issuer is willing to accept the change in the nature of the purpose of the bond. The bond shall remain in effect and must be renewed in September of 1994 if the appeal is still pending at that time.

We previously determined that the uniform rate structure is appropriate and that the rates based on that rate structure are just, reasonable, compensatory, and not unfairly discriminatory. By providing security for those customers who may have overpaid in the event the Final Order is overturned, the customers of this utility will be protected in the event a refund may be required. The County argues that these particular customers will be irreparably harmed because of their age and income status. We find that by requiring security from the utility, the customers of SSU who may possibly be affected are adequately protected. In fact, once the security is in place, the unique circumstance of this case is reduced to the simple distinction that in the event the Final Order is not affirmed, the utility may lose revenues which this Commission determined the utility to be entitled to have the opportunity to earn.

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We find that, pursuant to Rule 25-22.060 (c), Florida Administrative Code, Sections 367.081 and .084, Florida Statutes, and the Final Order, the utility was entitled to implement the

ORDERED that Southern States Utilities, Inc. shall maintain security pursuant to the provisions set forth in the body of this Order during the pendency of the Appeal of Order No. PSC-93-0423-FOF-WS.

By ORDER of the Florida Public Service Commission, this14th day of December, 1993.

STEVE TRIBBLE, Director
Division of Records and Reporting

(S E A L)

CB

Chairman Deason dissented on the issue of granting the motion to Vacate the Automatic Stay.

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 the Commission's final action in this matter may request: 1) reconsideration of the decision by filing a motion for reconsideration with the Director, Division of Records and Reporting within fifteen (15) days of the issuance of this order in the form prescribed by Rule 25-22.060, Florida Administrative Code; or 2) 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 sewer utility by filing a notice of appeal with the Director, Division of Records and Reporting and filing a copy of the notice of appeal and

the filing fee with the appropriate court. This filing must be completed within thirty (30) days after the issuance of this order, pursuant to Rule 9.110, Florida Rules of Civil Procedure. The notice of appeal must be in the form specified in Rule 9.900 (a), Florida Rules of Appellate Procedure.

TED BY % OF SUBSIDIZATION

Southern States ... ilities, Inc

WATER

Water System	Avg Number Customers	County	Revenue Requirement: System Revenue Requirement	Statewide Rates (Over) Under	System Revenue Requirement Statewide	% OF Contribution to Subsidy	Present Rates: Base Facility Charge	Present Rates: Gallonage Charge	Alternate One Statewide Rates: Base Facility Charge	Alternate One Statewide Rates: Gallonage Charge	Stand-Alone Rates: Base Facility Charge	Stand-Alone Rates: Gallonage Charge
ing Hill Utilities	22087	Hernando	$3,749,228	($1,164,814)	$4,914,042	47.26%	$2.75	$0.74	$5.00	$1.19	$3.88	$0.89
tona Utilities	21416	Volusia	$4,203,631	($488,555)	$4,692,186	19.82%	$3.18	$0.95	$5.00	$1.19	$4.03	$1.11
jar Mill Woods	1769	Citrus	$416,542	($243,967)	$660,509	9.90%	$2.00	$0.58	$5.00	$1.19	$2.57	$0.84
ver Lake Est./Western Shores	935/278	Lake	$203,782	($201,768)	$405,550	8.19%	$3.22	$0.57	$5.00	$1.19	$3.51	$0.52
icon Hills	2529	Duval	$519,413	($155,170)	$674,591	6.30%	$5.03	$0.65	$5.00	$1.19	$5.04	$0.82
versity Shores	2752	Orange	$543,984	($65,532)	$609,517	2.66%	$5.62	$1.30	$5.00	$1.19	$4.44	$1.06
a Island	1006	Nassau	$395,627	($56,940)	$452,567	2.31%	$9.26	$0.97	$5.00	$1.19	$4.72	$1.00
ple Valley	894	Seminole	$163,064	($44,935)	$207,999	1.82%	$5.39	$1.00	$5.00	$1.19	$4.34	$0.88
odmere	1043	Duval	$265,498	($41,179)	$306,677	1.67%	$5.03	$0.65	$5.00	$1.19	$4.75	$0.99
tant Heights	391	Martin	$81,784	($1,618)	$83,402	0.07%	$4.77	$0.76	$5.00	$1.19	$5.30	$1.13
n Terrace	123	Lake	$21,523	$75	$21,449	-0.00%	$5.88	$1.48	$5.00	$1.19	$4.45	$1.27
e Harriet Estates	285	Seminole	$54,033	$507	$53,526	-0.02%	$5.39	$1.00	$5.00	$1.19	$4.91	$1.22
clola Island	131	Lake	$25,660	$2,963	$22,697	-0.12%	$5.88	$1.48	$5.00	$1.19	$5.01	$1.44
herman's Haven	135	Martin	$23,278	$3,471	$19,807	-0.14%	$4.12	$0.76	$5.00	$1.19	$4.43	$1.66
lton Village	103	Lake	$21,185	$3,648	$17,537	-0.15%	$5.88	$1.48	$5.00	$1.19	$5.18	$1.59
ndly Center	20	Lake	$6,631	$3,709	$2,922	-0.15%	$5.88	$1.48	$5.00	$1.19	$9.48	$2.90
mira Villas		Marion	$5,868	$3,718	$2,150	-0.15%	$4.64	$1.03	$5.00	$1.19	$12.04	$3.47
one Mountain	6	Lake	$6,379	$4,469	$1,910	-0.18%	$5.88	$1.48	$5.00	$1.19	$14.97	$4.13
ms Mobile Home Park	61	Lake	$11,048	$4,766	$6,282	-0.19%	$5.88	$1.48	$5.00	$1.19	$9.48	$1.90
rodith Manor	662	Seminole	$141,281	$4,927	$136,354	-0.20%	$5.39	$1.00	$5.00	$1.19	$4.73	$1.29
otens	17	Putnam	$6,937	$5,361	$1,576	-0.22%	$5.59	$2.53	$5.00	$1.19	$17.51	$7.93
ke Brantley	66	Seminole	$19,128	$6,181	$12,947	-0.25%	$5.39	$1.00	$5.00	$1.19	$7.46	$1.79
rest	115	Lake	$20,479	$6,666	$13,813	-0.27%	$5.88	$1.48	$5.00	$1.19	$7.33	$1.84
ngview	34	Lake	$13,773	$6,729	$7,044	-0.27%	$5.88	$1.48	$5.00	$1.19	$7.93	$2.64
all Ridge	21	Lake	$9,368	$6,841	$2,527	-0.28%	$5.88	$1.48	$5.00	$1.19	$13.11	$5.57
trus Park	337	Marion	$61,566	$7,102	$54,464	-0.29%	$6.65	$0.96	$5.00	$1.19	$4.35	$1.59
netian Village	131	Lake	$25,481	$7,355	$18,126	-0.30%	$5.88	$1.48	$5.00	$1.19	$6.77	$1.74
keview Villas	13	Clay	$8,662	$7,374	$1,288	-0.30%	$2.93	$0.83	$5.00	$1.19	$35.00	$8.54
rmony Homes	64	Seminole	$21,916	$7,389	$14,527	-0.30%	$5.39	$1.00	$5.00	$1.19	$8.71	$1.75
estmont	122	Orange	$29,262	$7,481	$21,781	-0.30%	$9.15	$1.82	$5.00	$1.19	$6.19	$1.69
oliday Heights	53	Orange	$18,287	$7,667	$10,620	-0.31%	$7.89	$1.29	$5.00	$1.19	$9.12	$2.03
aetwylor Shores	129	Orange	$33,498	$7,873	$25,625	-0.32%	$4.09	$1.04	$5.00	$1.19	$6.42	$1.58
ingswood	63	Brevard	$16,693	$8,102	$8,591	-0.33%	$5.47	$2.55	$5.00	$1.19	$8.77	$2.73
ol Ray Manor	59	Seminole	$24,792	$8,102	$16,690	-0.33%	$5.39	$1.00	$5.00	$1.19	$11.26	$1.53
tim Pond	91	Putnam	$19,386	$8,517	$10,869	-0.35%	$5.59	$2.53	$5.00	$1.19	$17.97	$2.48

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Present Rates Include Minimum Gallonage

...ORTED BY % OF SUBSIDIZATION

Southern States Utilities, Inc

WATER

Water System	Avg Number Customers	County	Revenue Requirement: System Revenue Requirement	Statewide Rates (Over) Under	System Revenue Requirement Statewide	% OF Contribution to Subsidy	Present Rates: Base Facility Charge	Present Rates: Gallonage Charge	Alternate One Statewide Rates: Base Facility Charge	Alternate One Statewide Rates: Gallonage Charge	Stand-Alone Rates: Base Facility Charge	Stand-Alone Rates: Gallonage Charge
...ern Park	184	Seminole	$36,760	$8,547	$30,213	-0.35%	$5.39	$1.00	$5.00	$1.19	$5.31	$1.71
...lobby Hills	102	Lake	$22,672	$8,851	$13,821	-0.36%	$5.88	$1.48	$5.00	$1.19	$5.62	$2.66
...iney Woods	168	Lake	$39,577	$8,867	$30,710	-0.36%	$5.88	$1.48	$5.00	$1.19	$6.16	$1.58
...mperial Mobile Terrace	245	Lake	$42,705	$8,974	$33,731	-0.36%	$2.98	$0.55	$5.00	$1.19	$5.67	$1.63
...ake Conway Park	85	Orange	$24,369	$9,054	$15,315	-0.37%	$4.09	$1.04	$5.00	$1.19	$7.56	$1.96
...ornel Island Estates	8	Citrus	$10,417	$9,215	$1,202	-0.37%	$5.00	$1.00	$5.00	$1.19	$38.98	$11.46
... orest	138	Citrus	$33,547	$9,530	$24,017	-0.39%	$4.78	$0.85	$5.00	$1.19	$6.23	$1.77
...t. John's Highlands	79	Putnam	$18,608	$9,832	$8,776	-0.40%	$5.59	$1.41	$5.00	$1.19	$8.76	$3.17
...ast Lake Harris Estates	170	Lake	$27,001	$10,255	$16,746	-0.42%	$5.88	$1.48	$5.00	$1.19	$7.49	$2.18
...omona Park	160	Putnam	$30,996	$11,070	$19,926	-0.45%	$5.59	$2.53	$5.00	$1.19	$8.00	$1.85
...ruid Hills	252	Seminole	$80,212	$11,510	$68,702	-0.47%	$5.39	$1.00	$5.00	$1.19	$6.29	$1.35
...rand Terrace	66	Lake	$22,063	$11,949	$10,114	-0.48%	$8.62	$1.18	$5.00	$1.19	$8.42	$3.22
...ay Lake Estates	65	Osceola	$24,179	$12,240	$11,939	-0.50%	* $9.62	$0.51	$5.00	$1.19	$9.97	$2.43
...olden Terrace	105	Citrus	$24,822	$12,277	$12,545	-0.50%	* $8.97	$2.63	$5.00	$1.19	$8.49	$2.88
...ilver Lake Oaks	26	Putnam	$15,855	$12,353	$3,502	-0.50%	$5.18	$2.35	$5.00	$1.19	$15.70	$8.90
...eecher's Point	36	Putnam	$23,033	$13,136	$9,897	-0.53%	$6.65	$1.49	$5.00	$1.19	$7.79	$3.64
...rystal River Highlands	67	Citrus	$23,269	$13,707	$9,562	-0.56%	$3.05	$0.64	$5.00	$1.19	$9.25	$3.48
...ungle Den	115	Volusia	$26,575	$15,766	$10,809	-0.64%	* $10.88	$3.16	$5.00	$1.19	$11.50	$3.50
...olliday Haven	110	Lake	$28,615	$16,228	$12,387	-0.66%	* $11.14	$3.20	$5.00	$1.19	$9.69	$3.55
...ine Ridge Estates	172	Osceola	$43,599	$16,615	$26,984	-0.67%	$5.67	$2.33	$5.00	$1.19	$6.45	$2.22
...unshine Parkway		Lake	$35,177	$17,194	$17,983	-0.70%	* $4.59	$0.91	$5.00	$1.19	$8.37	$2.39
...ilver Grove	107	Putnam	$31,065	$17,357	$13,708	-0.70%	$5.59	$2.53	$5.00	$1.19	$9.50	$3.27
...des Country Club	26	Lake	$26,925	$17,497	$9,428	-0.71%	$5.88	$1.48	$5.00	$1.19	$11.93	$3.52
... ong	109	Osceola	$35,778	$19,308	$16,470	-0.78%	$5.67	$2.33	$5.00	$1.19	$8.42	$3.14
...pache Shores	160	Citrus	$33,235	$19,494	$13,741	-0.79%	$5.62	$4.71	$5.00	$1.19	$11.36	$3.50
...akwood	195	Brevard	$44,456	$19,928	$24,528	-0.81%	$5.47	$2.55	$5.00	$1.19	$8.68	$2.40
...ountains	15	Osceola	$23,120	$20,281	$2,839	-0.82%	$5.67	$2.33	$5.00	$1.19	$40.70	$10.81
...aratoga Harbour/Welaka	40/92	Putnam	$36,757	$22,727	$14,030	-0.92%	$5.59	$2.53	$5.00	$1.19	$12.00	$3.68
...terlachen Lake Est./Park Manor	216/51	Putnam	$51,970	$23,021	$28,949	-0.93%	$5.59	$1.41	$5.00	$1.19	$8.74	$2.26
...ostmaster Village	152	Clay	$51,325	$24,426	$26,899	-0.99%	* $5.00	$0.64	$5.00	$1.19	$8.96	$2.37
...eisure Lakes	242	Highlands	$49,382	$24,551	$24,831	-1.00%	$7.16	$0.97	$5.00	$1.19	$8.61	$2.83
...oint O' Woods	299	Citrus	$66,516	$25,155	$41,361	-1.02%	$3.43	$0.95	$5.00	$1.19	$5.26	$2.60
...ake ...ay Estates	35	Osceola	$33,362	$25,658	$7,704	-1.04%	$5.37	$2.20	$5.00	$1.19	$21.51	$5.40
...oph... Shores	507	Pasco	$86,179	$25,751	$60,428	-1.04%	* $5.90	$0.67	$5.00	$1.19	$9.02	$2.23
...ormits Cove	178	Putnam	$44,699	$26,110	$18,589	-1.06%	$5.59	$2.53	$5.00	$1.19	$9.59	$3.87

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Present Rates Include Minimum Gallonage

Southern States Utilities, Inc

ORTED BY % OF SUBSIDIZATION

WATER

Water System	Avg Number Customers	County	Revenue Requirement: System Revenue Requirement	Statewide Rates (Over) Under	System Revenue Requirement Statewide	% OF Contribution to Subsidy	Present Rates: Base Facility Charge	Present Rates: Gallonage Charge	Alternate One Statewide Rates: Base Facility Charge	Alternate One Statewide Rates: Gallonage Charge	Stand-Alone Rates: Base Facility Charge	Stand-Alone Rates: Gallonage Charge
iver Park	345	Putnam	$62,427	$28,912	$33,515	-1.17%	$5.59	$2.53	$5.00	$1.19	$8.49	$2.68
ine Ridge Utilities	391	Citrus	$168,998	$34,604	$134,394	-1.40%	* $20.61	$1.27	$5.00	$1.19	$4.69	$1.79
lolling Green/Rosemont	76/31	Citrus	$63,232	$37,109	$26,123	-1.51%	$5.38	$1.08	$5.00	$1.19	$9.54	$3.18
ropical Park	551	Osceola	$114,964	$39,185	$75,779	-1.59%	$5.12	$2.09	$5.00	$1.19	$5.16	$2.41
eystone Heights	981	Clay	$250,462	$55,041	$195,421	-2.23%	$5.50	$1.26	$5.00	$1.19	$5.41	$1.68
[illegible]ccession City	256	Osceola	$89,972	$55,815	$34,157	-2.26%	$5.67	$2.33	$5.00	$1.19	$11.28	$3.93
un	92	Martin	$74,030	$56,090	$17,940	-2.28%	$4.45	$1.11	$5.00	$1.19	$21.16	$5.12
ugar Mill	584	Volusia	$143,190	$73,847	$69,343	-3.00%	$6.89	$4.10	$5.00	$1.19	$8.76	$2.99
unny Hills Utilities	393	Washington	$155,743	$82,844	$72,899	-3.36%	* $5.88	$1.37	$5.00	$1.19	$8.49	$3.10
alt Springs	99	Marion	$101,464	$85,047	$16,417	-3.45%	$6.65	$0.96	$5.00	$1.19	$27.49	$8.84
huluota	634	Seminole	$207,017	$103,265	$103,752	-4.19%	$5.39	$1.00	$5.00	$1.19	$8.09	$2.78
larco Shores Utilities		Collier	$179,186	$108,643	$70,543	-4.41%	$9.15	$1.66	$5.00	$1.19	$11.36	$3.28
urnt Store	110	Char/Lee	$258,180	$170,280	$87,900	-6.91%	$7.51	$2.81	$5.00	$1.19	$12.03	$3.96
itrus Springs Utilities	1605	Citrus	$437,127	$176,770	$260,357	-7.17%	$6.32	$1.03	$5.00	$1.19	$6.33	$2.39
alm Terrace	1179	Pasco	$358,559	$200,768	$157,791	-8.15%	$3.25	$3.07	$5.00	$1.19	$8.48	$3.37
larion Oaks Utilities	2132	Marion	$724,667	$417,325	$307,342	-16.93%	$5.10	$1.63	$5.00	$1.19	$9.52	$3.39
ark Manor - Combined with	26	Putnam	Interlachen Est	$0	$0		$5.59	$2.53	$5.00	$1.19	$8.74	$2.26
osemont - Combined with	31	Citrus	-	$0	$0		$5.31	$1.06	$5.00	$1.19	$9.54	$3.18
elaka - Combined with	92	Putnam	Saratoga Harbo	$0	$0		$5.59	$2.53	$5.00	$1.19	$12.00	$3.68
estern Shores - Combined with	278	Lake	Silver Lake Est	$0	$0		$5.88	$1.48	$5.00	$1.19	$3.51	$0.52
OTALS			$15,828,705	($39,512)	$15,868,217	1.60%						

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Present Rates Include Minimum Gallonage

SOUTHERN STATES UTILITIES, INC.

SEWER

Wastewater System	Average Number Customers	County	Revenue Requirement: System Revenue Requirement	Statewide Rates (Over) Under	System Revenue Produced By Statewide	% OF Contribution to Subsidy	Present Rates: Base Facility Charge	Gallonage Charge	Gallonage Cap	Alternate One Statewide Rates: Base Facility Charge	Gallonage Charge	Stand-Alone Rates: Base Facility Charge	Gallonag Charge
)ring Hill Utilities	4608	Hernando	$1,351,857	($700,505)	$2,052,362	45.36%	$6.74	$2.75	10M	$12.01	$3.41	$9.35	$2.00
)gar Mill Woods	1717	Citrus	$366,275	($284,904)	$651,179	18.45%	$8.06	$2.21	6M	$12.01	$3.41	$6.90	$1.89
)acon Hills	2420	Duval	$727,476	($199,364)	$926,840	12.81%	$7.48	$1.65	8M	$12.01	$3.41	$11.98	$2.22
)nella Island	914	Nassau	$679,126	($139,982)	$819,108	9.06%	$18.59	$1.55	10M	$12.01	$3.41	$12.00	$2.62
)iversity Shores	2524	Orange	$1,113,147	($111,786)	$1,224,933	7.63%	$7.26	$2.36	10M	$12.01	$3.41	$12.00	$2.96
)nhyr Shores	495	Pasco	$93,645	($38,469)	$132,114	2.49%	$5.69	-	Flat Rate	$12.01	$3.41	$9.02	$2.23
s Springs Utilities	669	Citrus	$161,166	($29,686)	$190,852	1.92%	$12.00	$1.77	10M	$12.01	$3.41	$12.00	$2.32
)isure Lakes	228	Highlands	$31,710	($24,748)	$56,458	1.60%	$7.85	$1.22	10M	$12.01	$3.41	$8.00	$1.41
)pie Valley	145	Seminole	$52,533	($6,938)	$59,471	0.45%	$8.64	$3.58	10M	$12.01	$3.41	$12.00	$2.74
unshine Parkway		Lake	$39,361	($4,260)	$43,621	0.28%	$6.43	$1.59	All G/S	$12.01	$3.41	$12.00	$3.01
)gar Mill	575	Volusia	$160,815	($3,848)	$164,663	0.25%	$11.51	$3.04	10M	$12.01	$3.41	$12.00	$3.24
)eredith Manor	27	Seminole	$11,963	$2,036	$9,927	-0.13%	$8.64	$3.58	10M	$12.01	$3.41	$12.00	$4.57
)isherman's Haven	143	Martin	$46,032	$2,857	$43,175	-0.18%	$5.57	$1.47	7M	$12.01	$3.41	$12.00	$3.85
)alm Port	90	Putnam	$30,911	$5,515	$25,396	-0.36%	$6.95	$3.94	8M	$12.01	$3.41	$12.00	$4.92
)alm Terrace	1016	Pasco	$298,626	$8,134	$290,492	-0.53%	$5.40	$0.77	6M	$12.01	$3.41	$12.00	$3.61
)ark Manor	25	Putnam	$17,908	$8,878	$9,030	-0.57%	$6.95	$3.94	8M	$12.01	$3.41	$18.50	$8.21
)pache Shores	112	Citrus	$30,729	$8,893	$21,836	-0.58%	$7.35	$4.73	10M	$12.01	$3.41	$15.00	$6.31
)ver Lake Oaks	25	Putnam	$16,294	$9,435	$6,859	-0.61%	$6.65	$3.77	8M	$12.01	$3.41	$25.00	$9.18
)enetian Village	82	Lake	$38,684	$12,015	$26,669	-0.78%	$13.10	$3.88	10M	$12.01	$3.41	$12.00	$6.18
)eecher's Point	15	Putnam	$20,339	$12,211	$8,128	-0.79%	$6.55	$2.22	10M	$12.01	$3.41	$30.01	$8.56
)alt Springs	97	Marion	$70,059	$12,593	$57,466	-0.82%	$12.25	$2.26	8M	$12.01	$3.41	$12.00	$4.72
)oliday Haven	93	Lake	$38,167	$12,713	$25,454	-0.82%	$12.14	-	Flat Rate	$12.01	$3.41	$12.00	$7.48
)allanl Heights	386	Martin	$158,343	$15,046	$143,297	-0.97%	$13.25	$3.92	10M	$12.01	$3.41	$12.00	$4.01
·· Run	90	Martin	$47,327	$15,623	$31,704	-1.01%	$9.99	-	Flat Rate	$12.01	$3.41	$12.00	$6.25
lngview	35	Lake	$28,394	$16,257	$12,137	-1.05%	$13.10	$3.88	10M	$12.01	$3.41	$27.50	$8.10
)oint O' Woods	99	Citrus	$56,851	$25,668	$31,183	-1.66%	$15.26	-	Flat Rate	$12.01	$3.41	$18.00	$7.44
)urnt Store	103	Char/Lee	$177,789	$33,590	$144,199	-2.17%	$5.96	$1.79	10M	$12.01	$3.41	$11.98	$4.66
lorida Cental Commerce Park		Seminole	$109,105	$43,402	$65,703	-2.81%	$8.64	$4.25	All G/S	$12.01	$3.41	$12.00	$6.65
)arco Shores Utilities		Collier	$130,467	$45,580	$84,887	-2.95%	$24.26	-	Flat Rate	$12.01	$3.41	$12.00	$7.02
Voodmere	1010	Duval	$704,262	$48,922	$655,340	-3.17%	$7.48	$1.65	8M	$12.01	$3.41	$12.00	$3.78
)unny Hills Utilities	171	Washingto	$105,216	$54,783	$50,433	-3.55%	$22.98	-	Flat Rate	$12.01	$3.41	$20.00	$8.55
)ungle Den	115	Volusia	$96,297	$70,315	$25,982	-4.55%	$11.38	-	Flat Rate	$12.01	$3.41	$44.99	$12.40
)outh Forty		Marion	$116,449	$85,614	$30,835	-5.54%	$12.23	$2.71	All G/S	$12.01	$3.41	$35.00	$13.75
)itrus Park	259	Marion	$182,172	$103,540	$78,632	-6.70%	$12.25	$2.26	8M	$12.01	$3.41	$25.99	$8.37
)huluota	132	Seminole	$240,511	$199,831	$40,680	-12.94%	$8.64	$3.58	10M	$12.01	$3.41	$76.02	$18.92
Marion Oaks Utilities	1261	Marion	$592,821	$231,285	$361,536	-14.97%	$9.11	$3.60	10M	$12.01	$3.41	$12.00	$7.92
)eltona Utilities	4273	Volusia	$2,036,642	$451,050	$1,585,592	-29.20%	$13.30	-	Flat Rate	$12.01	$3.41	$12.00	$5.35
TOTALS			$10,179,469	($8,703)	$10,188,172	0.56%							