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August 30, 1995

Blanca S. Bayo, Director
Division of Records and Reporting
Florida Public Service Commission
2540 Shumard Oak Blvd.
Tallahassee, FL 32399-0850

Re: Docket No. 950495-WS

Dear Ms. Bayo:

Enclosed for filing in the above-referenced docket are the original and 15 copies of Citizens' Motion to Dismiss SSU's Request for an Interim Increase in Rates and Citizens' Request for Oral Argument.

Please indicate the time and date of receipt on the enclosed duplicate of this letter and return it to our office.

Sincerely,

Charles J. Beck
Charles J. Beck
Deputy Public Counsel

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APP _____ CJB:bsr
CAF _____
CEN _____ Enclosures
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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application for a rate
increase for Orange-Osceola
Utilities, Inc. in Osceola County,
and in Bradford, Brevard, Charlotte,
Citrus, Clay, Collier, Duval,
Highlands, Lake, Lee, Marion,
Martin, Nassau, Orange, Osceola,
Pasco, Putnam, Seminole, St. Johns,
St. Lucie, Volusia, and Washington
Counties by Southern States
Utilities, Inc.

Docket No. 950495-WS

Filed: August 30, 1995

**CITIZENS' MOTION TO DISMISS SSU'S REQUEST
FOR AN INTERIM INCREASE IN RATES**

The Citizens of Florida ("Citizens"), by and through Jack Shreve, Public Counsel, move the Commission to dismiss the request of Southern States Utilities, Inc. ("SSU") for an interim increase in rates.

1. On August 29, 1995, the Citizens filed a motion to dismiss SSU's entire case, including its request for an interim increase in rates. This motion today sets forth independent additional grounds to dismiss SSU's request for an interim increase in rates.

2. SSU's amended application for an increase in rates filed August 2, 1995, bases its request for an interim increase in rates solely on a "budgeted" interim test year ending December 31, 1995. SSU relies on its budget of revenues, expenses and rate base for

1995 to justify its request for an interim increase in rates. The interim rate statute, however, does not allow the use of projected revenues and expenses as a basis for interim relief.

3. Section 367.082(5), Florida Statutes (1993) requires a rate of return deficiency to be determined by calculating the difference between achieved and required rate of return on an historical basis. That rate of return deficiency may be applied to an average, an end-of-period, or even a projected rate base to determine the amount of revenue to be produced by the interim rate increase. Nevertheless, the rate of return deficiency must be determined on an historical basis.¹

4. SSU, on the other hand, ignores the requirements of the statute and calculates a rate of return deficiency based upon their projected, budgeted amounts of revenue, expense, and rate base. Nothing in the statute authorizes the Commission to use budgeted revenues and expenses in the determination of an interim rate increase.

¹ The statute states that the commission shall determine the revenue deficiency by calculating the difference between the achieved rate of return and required rate of return. The terms "achieved" and "required" unequivocally refer to historical periods. See section 364.082(5)(b), Florida Statutes (1993). That difference is then applied to a rate base that may be historic or projected. The company appears to have confused (1) the ability to apply the difference of these historical returns to a projected rate base with (2) the use of a projected income statement to determine the initial difference between achieved and required rate of return. The interim statute allows the former but not the latter.

5. It is SSU's responsibility to seek relief that the Commission has authority to provide. Since the relief sought by SSU in its amended application filed August 2, 1995, cannot be granted by the Commission, the request should be dismissed.

Respectfully submitted,

JACK SHREVE
PUBLIC COUNSEL



Charles J. Beck
Deputy Public Counsel

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Attorneys for the Citizens
of the State of Florida

**CERTIFICATE OF SERVICE
DOCKET NO. 950495-WS**

I HEREBY CERTIFY that a correct copy of the foregoing has been furnished by U.S. Mail or hand-delivery* to the following parties on this 30th day of August, 1995.

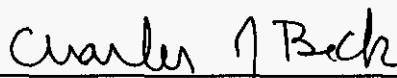
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