

945
2



JACK SHREVE
PUBLIC COUNSEL

STATE OF FLORIDA
OFFICE OF THE PUBLIC COUNSEL

c/o The Florida Legislature
111 West Madison Street
Room 812
Tallahassee, Florida 32399-1400
904-488-9330

September 22, 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' Fourth Motion to Dismiss SSU's Petition for Increased Interim and Final Rates.

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

- ACK CJB:bsr
- AFA 3
- APP _____
- CL _____
- CM _____
- CL _____
- EA _____
- LEA 1
- LEB 5
- OPC _____
- RON _____
- SEC 1
- WAS *Willis*
- OTH _____

RECORDED & FILED
was

DOCUMENT NUMBER-DATE
09437 SEP 22 1995
FPSC-RECORDS/REPORTING

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: September 22, 1995

CITIZENS' FOURTH MOTION TO DISMISS
SSU'S PETITION FOR INCREASED INTERIM AND FINAL RATES

The Citizen's of Florida ("Citizens"), by and through Jack Shreve, Public Counsel, move to dismiss the petition of Southern States Utilities, Inc. ("SSU") for increased interim and final rates because SSU's MFRs no longer support or correctly show any alleged revenue deficiency.

1. SSU filed this case in June, 1995, and then supplemented the filing in August, 1995 -- well after the First District Court of Appeal reversed this Commission's finding concerning uniform rates. Notwithstanding this decision by the First District Court of Appeal, SSU elected to file this case relying on a uniform rate structure.

2. At the Commission's agenda conference held on September 12, 1995, the Commission decided it would implement a modified

DOCUMENT NUMBER-DATE

09437 SEP 22 1995

FPSC-RECORDS/REPORTING

621

stand-alone, system specific rate structure on a going forward basis, relying solely on evidence admitted during the last rate. The last rate case relied on 1991 historic data. The Commission will use that data to implement system specific rates producing revenues in 1991 equal to the revenues that would have been produced by uniform rates during 1991.

3. These new rates, however, will not produce revenues in 1995 (SSU's requested interim test year) or 1996 (SSU's requested final test year) equal to the revenues produced by the uniform rates used in SSU's MFRs. Since the revenues produced by the new rates will be different from the revenues produced by the uniform rates, SSU's calculations of alleged revenue deficiencies are no longer correct. Moreover, the incorrect revenue deficiencies for 1995 and 1996 cannot be corrected with the information contained in SSU's MFRs. The case should therefore be dismissed.

4. Even though the evidence from the last rate case allows the Commission to produce 1991 revenues using modified stand alone rates equal to the 1991 revenues produced using uniform rates, these divergent rate designs produce different revenues in future years. To see this, suppose hypothetically there was a customer growth rate of 6% per year subsequent to 1991 for all systems where the new rates exceed stand alone rates. Assume further that there was no customer growth in the systems where the new rates are less than uniform rates. In this case, the modified stand alone rates produce revenues exceeding uniform rates in all years subsequent to

1991. If growth rates were the opposite (i.e. no customer growth for systems with rates higher than uniform rates, and 6% customer growth rates for systems with rates less than uniform rates), the modified stand alone rates would produce revenues less than revenues produced by uniform rates in subsequent years.

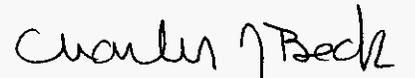
5. To correctly calculate the effect of modified stand-alone rates on the 1995 interim test year and the 1996 final test year, a detailed billing analysis would be required for each test year providing a breakdown of customers by meter size and usage for each system. The MFRs do not contain this data. Therefore, any allegation of a revenue deficiency or excess in 1995 or 1996 using modified stand alone rates would be sheer conjecture unsupported by the data contained in the MFRs.

6. No one required SSU to file this case relying on uniform rates. The company could have filed a case adequate to support rates using stand alone rates, modified stand alone rates, or uniform rates, but it chose not to make such a filing. Instead, the company elected to make a filing that supports only a uniform rate structure. Since the filing cannot support the modified stand alone rates that the Commission is implementing on remand from the First District Court of Appeal, SSU's petition for increased

interim and final rates should be dismissed.

Respectfully submitted,

Jack Shreve
Public Counsel


Charles J. Beck
Deputy Public Counsel

Office of Public Counsel
The Florida Legislature
111 West Madison Street,
Room 812
Tallahassee, FL 32399-1400

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 22nd day of September, 1995.

*Ken Hoffman, Esq.
William B. Willingham, Esq.
Rutledge, Ecenia, Underwood,
Purnell & Hoffman, P.A.
P.O. Box 551
Tallahassee, FL 32302-0551

Michael B. Twomey, Esq.
P.O. Box 5256
Tallahassee, Florida
32314-5256

Kjell W. Petersen
Director
Marco Island Civic Association
P.O. Box 712
Marco Island, FL 33969

*Lila Jaber
Division of Legal Services
Fla. Public Service Commission
2540 Shumard Oak Blvd.
Tallahassee, FL 32399

Brian Armstrong, Esq.
Matthew Feil, Esq.
Southern States Utilities
General Offices
1000 Color Place
Apopka, FL 32703

Charles J. Beck

Charles J. Beck
Deputy Public Counsel