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November 3, 1995

ORIGINAL
FILE COPY

Ms. Blanca S. Bayo, Director
Division of Records and Reporting
Florida Public Service Commission
2540 Shumard Oak Boulevard
Betty Easley Conference Center
Room 110
Tallahassee, Florida 32399-0850

HAND DELIVERY

Re: Docket No. ~~950495~~ ⁹²⁰¹⁹⁹⁻ WS

Dear Ms. Bayo:

Enclosed herewith for filing in the above-referenced docket on behalf of Southern States Utilities, Inc. ("SSU") are the following documents:

- 10886-95 1. Original and fifteen copies of Southern States Utilities, Inc.'s Request for Oral Argument;
- 10887-95 2. Original and fifteen copies of Southern States Utilities, Inc.'s Motion for Reconsideration of Order No. PSC-95-1292-FOF-WS;
- 3. Original and fifteen copies of Notice of Appearance; and
- 10888-95 4. A disk in Word Perfect 6.0 containing a copy of the Motion entitled "Giga.Recon".

Please acknowledge receipt of these documents by stamping the extra copy of this letter "filed" and returning the same to me.

Thank you for your assistance with this filing.

Sincerely,

Kenneth A. Hoffman
Kenneth A. Hoffman

KAH/rl
cc: All Parties of Record
Trib.3

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S.S. (M. Recon)

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application of)
Southern States Utilities,)
Inc. and Deltona Utilities,)
Inc. for Increased Water and)
and Wastewater Rates in Citrus,)
Nassau, Seminole, Osceola, Duval,)
Putnam, Charlotte, Lee, Lake,)
Orange, Marion, Volusia, Martin,)
Clay, Brevard, Highlands,)
Collier, Pasco, Hernando, and)
Washington Counties.)
_____)
)

Docket No. 920199-WS

Filed: November 3, 1995

**SOUTHERN STATES UTILITIES, INC.'S
REQUEST FOR ORAL ARGUMENT**

Southern States Utilities, Inc. ("SSU"), pursuant to Rules 25-22.058(1) and 25-22.060(1)(f), Florida Administrative Code, respectfully requests the Florida Public Service Commission ("Commission") to grant oral argument on SSU's contemporaneously filed Motion for Reconsideration of Order No. PSC-95-1292-FOF-WS issued October 19, 1995 ("Refund Order"). In support of this Request, SSU states as follows:

1. The Commission has the discretion to grant oral argument on a Motion for Reconsideration where oral argument would aid the Commission in comprehending and evaluating the issues before it. Rules 25-22.058(1) and 25-22.060(1)(f), Florida Administrative Code. In view of the complexity of the legal issues concerning and affecting SSU's rate structure and refund requirements arising out of the Refund Order, the need for the Commission to consider the financial impacts of the Refund Order on SSU, and the apparent confusion on the part of Commissioners in considering the rate

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structure and refund issues at the recent Agenda Conferences leading to the Refund Order, SSU maintains that oral argument will assist the Commission in clarifying and understanding the factual and legal issues pertinent to a proper disposition of the rate structure and refund determinations set forth in the Refund Order.

2. SSU's Motion for Reconsideration challenges the factual and legal grounds purporting to support the rate structure and refund determinations in the Refund Order. The Motion for Reconsideration challenges the Refund Order by bringing the Commission's attention to a number of mistakes which SSU believes the Commission has made in reaching its determinations in the Order including misapprehensions of fact, failure to consider critical material facts concerning financial impacts, misapplication of law, and failure to properly and consistently apply decisional, statutory and constitutional principles of law.

3. Moreover, it is evident from the transcript of the September 12, 1995 Agenda Conference that Commissioners were confused concerning the factual history of this case and the proper legal precedent to be applied in rendering determinations on rate structure and refund issues. For example, as reflected in the attached excerpt from the September 12, 1995 Agenda Conference, Commissioner Johnson expressed extreme uncertainty concerning the basis for and the effect of the Order Vacating Automatic Stay issued in December, 1993, and how that Order affected the Commission's recent determination on the refund issue. See copy of pages 137-138 from transcript of September 12, 1995 Agenda

Conference attached hereto as Exhibit A.

4. The Commission has consistently granted requests for oral argument in other SSU dockets¹ based on the complexity of the issues before the Commission. While that clearly is the case here, oral argument also is critical to assist the Commission in clarifying its seeming confusion concerning the range of its authority in responding to the First District Court of Appeal's decision in Citrus County v. Southern States Utilities, Inc., 656 So.2d 1307 (Fla. 1st DCA 1995). In view of the complexity of the facts and law surrounding this case, the back and forth discussion at the September 12, 1995 Agenda Conference confirming the apparent misunderstanding of Commissioners concerning the material facts and applicable law, and the potential devastating financial impacts of the Refund Order on SSU, SSU maintains that oral argument is necessary and appropriate on its Motion for Reconsideration of the Refund Order.


5. SSU requests that each side be granted no less than thirty minutes for oral argument.

6. Finally, if the Staff or any party to this proceeding disputes any of the material facts set forth in SSU's Motion for Reconsideration and the Affidavits attached thereto, SSU requests the Commission to conduct an expedited proceeding to address such material disputed facts prior to entering an order in response to SSU's Motion for Reconsideration of the Refund Order.

¹See Docket Nos. 920199-WS, 930880-WS and 930945-WS.

WHEREFORE, for the foregoing reasons, SSU respectfully requests that the Commission grant oral argument on SSU's Motion for Reconsideration of Order No. PSC-95-1292-FOF-WS consistent with its request herein and grant such other relief as the Commission deems appropriate.

Respectfully submitted,


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and

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing Southern States Utilities, Inc.'s Request for Oral Argument was furnished by U. S. Mail to the following this 3rd day of November, 1995:

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By: 
KENNETH A. HOFFMAN, ESQ.

Giga.113

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION
TALLAHASSEE, FLORIDA

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. 921099-WS

BEFORE: CHAIRMAN SUSAN F. CLARK
COMMISSIONER J. TERRY DEASON
COMMISSIONER JULIA L. JOHNSON
COMMISSIONER DIANE K. KIESLING
COMMISSIONER JOE GARCIA

PROCEEDING: AGENDA CONFERENCE

ITEM NUMBER: 26(**)

DATE: Tuesday, September 12, 1995

PLACE: The Betty Easley Conference
Center
Hearing Room 148
4075 Esplanade
Tallahassee, Florida

REPORTED BY: JANE FAUROT
Notary Public in and for the
State of Florida at Large

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

EXHIBIT A

1 and I don't recall the factual circumstances.

2 CHAIRMAN CLARK: All right. Maybe you can give it
3 to me later.

4 COMMISSIONER JOHNSON: Commissioners, I have a
5 problem on this one. Reading the Staff recommendation,
6 I know that they, at least the primary, summarized the
7 discussion that occurred between, then Chairman Deason
8 and now Chairman Clark and myself with respect to how
9 we would handle this issue. And my recollection is
10 similar to Mr. Twomey's recollection. And that
11 certainly I thought that we did discuss the refund
12 issue. And in my mind, I interpreted Staff to state
13 that we did have the ability to require these refunds.
14 And I read back over the transcript, and it was just
15 refreshing my recollection, and I distinctly recall
16 that the Company at that point in time, after Chairman
17 Deason stated, "Well, this risk is going to be on the
18 Company," the Company kind of emphatically said, "No,
19 no, no, we don't want to bear that risk." And we asked
20 Staff again, "Well, you know, can we require this type
21 of refund to occur?" And I thought that the answer was
22 yes, and that is where I found some comfort, so that if
23 we did get to this point, that we would, indeed, be in
24 a position and that we had the legal authority to then
25 go back and say, "Well, we were wrong, now let's go

EXHIBIT A

1 back and refund that money." And the problem that I
2 have now is that now I'm hearing that we don't have the
3 legal authority to do that. And I don't know what we
4 can do, because at this point in time when we made this
5 decision, I was under the impression that we had the
6 authority to go back and require these refunds. And,
7 in fact, when we stated -- I remember saying, "Oh, no.
8 I know what the Company thinks, but I've been assured
9 by Staff that we do have this authority." And perhaps
10 we should see that in the order. And by doing that, I
11 thought, well, if the Company disagrees, maybe they can
12 appeal that order or maybe they can bring that up, ask
13 for reconsideration or something, and that never
14 happened. So, I felt that there was some degree of
15 comfort. And now I feel very uncomfortable with where
16 we are going and the position that we are in. And I
17 simply -- I just don't have the answer. And I wanted
18 to see if perhaps -- that's why I went to the issue of
19 what can we legally do? And I know Mr. Pruitt is
20 saying that we can. Indeed, we have the authority to
21 require refunds on both sides, those that get refunds
22 and those that actually will have to be back billed.
23 And I wanted to pursue that, and for us to reach some
24 conclusion as to what our legal authority was.

25 MS. JABER: Let me try and -- I understand the