

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

State of Florida



Blanca S. Bayó, Director  
Division of Records and Reporting  
(904) 413-6770

## Public Service Commission

DATE: January 4, 1996

TO: Parties of Record

FROM: Blanca S. Bayó, Director, Division of Records and Reporting *BSB/ky*

RE: DOCKET NO. 920199-WS - 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; Hernando County by Spring Hill Utilities; and Volusia County by Deltona Lakes Utilities.  
DOCKET NO. 930880-WS - Investigation into appropriate rate structure for Southern States for all regulated systems in Bradford, Brevard, Citrus, Clay, Collier, Duval, Hernando, Highlands, Lake, Lee/Charlotte, Marion, Martin, Nassau, Orange, Osceola, Pasco, Putnam, Seminole, St. Johns, St. Lucie, Volusia, and Washington Counties.  
DOCKET NO. 950495-WS - Application for rate increase and increase in service availability charges by Southern States 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.

This is to inform you that Chairman Clark has reported the following communications in the above referenced dockets.

- Letter from Lieutenant Governor Buddy MacKay dated December 21, 1995. Attached is a letter from Mr. Arend Sandbult, Chairman and CEO of Minnesota Power.
- Letter from Secretary of Commerce Charles Dusseau dated January 2, 1996.

These letters, copies of which are attached, are being made a part of the record in these proceedings. Pursuant to Section 350.042, F.S., any party who desires to respond to an ex parte communication may do so. The response must be received by the Commission within 10 days after receiving notice that the ex parte communication has been placed on the record.

BSB/cp  
Attachments  
cc: Rob Vandiver/w/letter

State of Florida



Public Service Commission

-M-E-M-O-R-A-N-D-U-M-

RECEIVED  
DEC 28 1995

DATE: December 28, 1995

TO: Blanca Bayó, Director of Records and Reporting

FROM: Susan F. Clark, Chairman *SFC*

FPSC-RECORDS/REPORTING

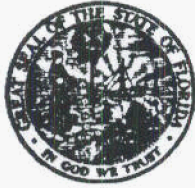
RE: Communication from Lieutenant Governor Buddy MacKay regarding Docket Nos. 920199-WS, 930880-WS and 950495-WS

Please find attached a copy of a letter of December 21, 1995, from Lieutenant Governor Buddy MacKay. Attached to the Lieutenant Governor's letter is a letter from Mr. Arend Sandbulte, Chairman and CEO of Minnesota Power. Because these letters address matters relevant to a pending proceeding, it is necessary to place this memorandum and attachment on the record of the above-referenced proceeding pursuant to section 350.042, Florida Statutes. Please give notice of this communication to all parties to the docket and inform them that they have 10 days from receipt of the notice to file a response.

Attachment

003203





# Public Service Commission

-M-E-M-O-R-A-N-D-U-M-

**RECEIVED**  
JAN - 3 1996

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**DATE:** January 3, 1996

**TO:** Blanca Bayó, Director of Records and Reporting

**FROM:** Susan F. Clark, Chairman

*WFS for SFC*

FPSC-RECORDS/REPORTING

**RE:** Communication from Secretary of Commerce Charles Dusseau regarding Docket Nos. 920199-WS, 930880-WS and 950495-WS

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Please find attached a copy of a letter of January 2, 1996, from Secretary of Commerce Charles Dusseau. Because this letter addresses matters relevant to pending proceedings, it is necessary to place this memorandum and attachment on the records of the above-referenced proceedings pursuant to section 350.042, Florida Statutes. Please give notice of this communication to all parties to the dockets and inform them that they have 10 days from receipt of the notice to file a response.

Attachment



OFFICE OF THE LIEUTENANT GOVERNOR

December 21, 1995

Ms. Susan F. Clark, Chair  
Public Service Commission  
Gunther Building  
2540 Shumard Oak Boulevard  
Tallahassee, FL 32399-0855

Dear Commissioner Clark:

I have had several discussions recently on the direction of the state's water with the president of Southern State Utilities. They are very interested in being part of the dialogue we are having to protect and preserve one of our most valuable resources.

Although they are not a large player in the overall water management policy discussions presently underway through various legislative and executive office forums, as the state's largest private water utility they play a valuable role in preserving the quality of Florida's water by purchasing and upgrading small, often rural, failed water and wastewater systems.

In addition, I have received a copy of a letter sent to Governor Chiles by Mr. Arend Sandbulte, chairman and CEO of Minnesota Power, that details the current economic impact of recent Public Service Commission decisions on Southern States Utilities.

Mr. Sandbulte, who has joined the Florida Council of 100, because of his interest in supporting our efforts to generate a positive economic development and jobs climate in Florida for businesses and citizens, is very concerned about the regulatory environment at the PSC -- which over the last year have resulted in a year-to-date loss of \$453,749 and reduced the utilities rate of return on investment to -.43 percent.

I realize that your rate making decisions are very complicated and our office would not question those detailed, case specific decisions. However, I would be very concerned if we were to place in serious financial jeopardy a unique private water utility that is providing quality water and wastewater treatment facilities throughout the state.

I would appreciate any information you might be able to provide me on the overall economic and financial consequences facing SSU as outlined in the attached letter so I can respond to Mr. Sandbulte's concerns.

Sincerely,

A handwritten signature in cursive script that reads "Buddy MacKay".

Buddy MacKay

RECEIVED

DEC 21 1995

Florida Public Service Comm.  
Commissioner Clark

KHM/kcr

attachment

THE CAPITOL  
TALLAHASSEE, FLORIDA 32399-0001

A RECYCLED PAPER PRODUCT PRINTED WITH SOY INK

003205

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Lida Roberts



**minnesota power** / 30 west superior street / duluth, minnesota 55802-2093 / telephone 218-722-2641

*Arund J. Sandbulte - chairman and chief executive officer*

November 21, 1995

The Honorable Lawton Chiles  
Governor, State of Florida  
The Capitol  
Tallahassee, Florida 32399-0001

Dear Governor Chiles:

I appreciated the chance to see and hear you and Lt. Gov. McKay at the recent Florida Council of 100 meeting at The Breakers. Jim Apthorp originally sponsored my membership in this group so that my company could be represented and participate in activities to help Florida achieve its goals. As an out-of-state member of the Council, I appreciate your interest in public-private partnerships and creating win-win situations for the betterment of Florida and its stakeholders. The topic chosen for the Council of 100 meeting, water resources, was of particular interest to me.

Minnesota Power (MP) is a major stakeholder in Florida through ownership since 1984 of Southern States Utilities (SSU) of Apopka which, with about 150 plants stretching from The Panhandle to Collier County, is the largest investor-owned water and wastewater utility in Florida and follows only the municipal systems of Miami and Jacksonville in overall size. We also own 80 percent of Lehigh Acquisition Corporation, which is in the real estate sales business at Lehigh Acres (near Fort Myers) and Sugar Mill Woods, located north of Tampa. Our Florida utility and real estate assets total some \$408 million, not the largest corporate investor in the state, but by no means the smallest. About 21 percent of Minnesota Power's corporate assets are located in Florida, and we'd like to grow that percentage. Our investment strategy -- earning fair and reasonable profits in Florida -- is based on a vibrant marketplace, with respect to real estate, and based on fair regulatory treatment from the Florida Public Service Commission (FPSC). With respect to the latter, we have a serious problem. Please allow me to explain.

SSU is a vital partner with the State of Florida, the Department of Environmental Protection (DEP) in particular, in not only providing safe drinking water to the company's water customers, but in protecting the state's precious water resources and aquifer through proper wastewater treatment and re-use of reclaimed water. The latter has been and is being accomplished through special reclaimed water projects, aquifer storage and recovery wells, and award-winning conservation programs and, in some instances, by taking over failing systems at the request of Florida regulators and bringing them into compliance because there was no adjacent or willing municipality ready to perform that state purpose.

ALWAYS AT YOUR **SERVICE**

5054.



*minnesota power*

Governor Chiles  
November 21, 1995

Page 2

Recently the Florida Public Service Commission reversed a 1993 decision in which they had approved additional revenues for SSU of \$6.7 million to be collected under uniform water and wastewater rates for SSU's customers, a practice used by the majority of states which have considered the issue and by many Florida counties, and one which the Commission long has followed for electric and telephone company customers. The 1993 uniform rate decision was reaffirmed after a year's worth of statewide hearings considering conservation, aquifer protection, centralized SSU services and the affordability issues of "rate shock," which occurs when large capital expenditures are required for environmental reasons on plants with a small number of customers. That is why the Commission's recent order which would require Southern States to revert to so-called "stand-alone" rates is so disconcerting.

One group of customers (whose water usage, by the way, is significantly higher than the state's average usage and whose rates were higher on a uniform versus stand-alone basis) appealed the 1993 decision. The recent FPSC reversal was in response to an order issued by the First District Court of Appeals on that appeal. The appellate court said that the FPSC needed to make a specific legal finding that SSU's operations were "functionally-related" before ordering a uniform rate structure. That finding was made by the FPSC in June 1995 following another year-long proceeding.

However, when the mandate came down from the courts, the FPSC decided not to reopen the original case and incorporate the "functionally-related" finding, stating they were declining to do so "as a matter of policy," without any further explanation. They then proceeded to order retroactive "stand-alone rates" (which could raise water and wastewater bills for many retirees to over \$100 a month), ordered SSU to make refunds of \$8 million to customers of a small number of plants, and said we could not collect any underpaid amounts from other customers resulting from a rate structure the Commission ordered us to institute in 1993.

The impact of this decision on SSU is staggering. If it stands, the financial result will be devastating on SSU's ability to attract financing and continue to make investments in Florida's future. The Commission awarded SSU \$6.7 million in additional revenue in 1993, and now they are asking that \$8 million be refunded. This will create mass confusion and severe financial ramifications with our customers. Monthly bills for homeowners in nearly 100 communities throughout the state will increase, some by as much as 300 percent. And the rates of the high-use water customers who appealed will drop even further, encouraging less conservation concern than ever among these high-use customers.

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*minnesota power*

Governor Chiles  
November 21, 1995  
Page 3

Governor, I don't believe we are whiners. If you believe we're at fault somehow, I hope you'll tell us what we've done wrong so that we have a chance to consider doing things differently. We want to do the right things and do those things right. If you have any questions about our corporate citizenship record, I invite you to talk to Arne Carlson, Governor of Minnesota. I'm sure he'll tell you Minnesota Power is one of the top corporate citizens in the State of Minnesota, from the multi-faceted standard of dedication to economic development, to outstanding service to utility customers and honesty and integrity in all our business activities.

The FPSC actions of late require us to pursue fair treatment through asking the Commission to reconsider its decisions which affect us so negatively or, if necessary, through the courts. Court action may engender negative publicity for MP; however, we have no choice but to seek fair treatment. We'll not be driven from Florida without a fight, a fight thrust on us by an inconsistent and problematical FPSC decision-making process and record.

We want to help solve Florida's water-related issues, but we can't do so when FPSC decisions create for us violations of loan covenants with our lenders. With the loss of income this FPSC order would produce, our coverage ratio would be well below the minimum required by the loan documents. We simply cannot continue putting \$20 million or more annually into water utility investments, most of it to meet environmental and customer-needs demands, unless we can make a reasonable profit. We certainly can't do so if we are in default with our lenders! This is not a rocket-science issue, but rather one of simple equity and fairness. The public-private partnership is just not working, and it needs to be fixed!

We will continue our efforts to get fair treatment from the FPSC directly or, if it's not forthcoming from them, through the courts. Any advice, guidance, counsel or constructive criticism you can offer to normalize the current unfortunate situation will be appreciated and seriously considered. We are willing to meet anytime, anyplace, with anyone for that purpose.

I hope to hear from you soon.

Sincerely,

*Arend Sandbulte*  
Arend Sandbulte

mjk

copy: Lt. Gov. Buddy McKay

bc: Ed Russell; Jim Roberts; John Cirello; Brian Armstrong; Ida Roberts



**FINANCIAL IMPACT OF FPSC ORDER**  
**Reversing Uniform Rates and Ordering Refund**

SSU faces potentially severe financial consequences as a result of the FPSC order (PSC-95-1292-FOF-WS, 10/19/95) which reverses its order on uniform rates for SSU (docket number 920199-WS).

- In its final 1993 uniform rate order (docket number 920199-WS) the FPSC authorized additional revenues for SSU of \$6,670,033. On October 19, 1995, the Commission reversed itself on uniform rates and ordered SSU to refund \$8,677,803 to certain customers without providing any provision for recovery of these monies.
- The FPSC authorized return on equity in the 1993 rate order was 12.14 percent. Due to required investments in new plant, rising expenses, and reduced revenues, SSU projects a 1995 return of -0.43 percent. *SSU is losing money at current authorized rates even before considering the impact of an \$8.68 million refund.*
- Through October 1995, SSU has incurred a year-to-date loss of \$453,749. If the FPSC does not reconsider its 10/19/95 order, including the refund, SSU will book an aggregated after-tax loss in excess of \$5 million in 1995. *The company's retained earnings will be wiped out.*
- The following financial and operational consequences have occurred as a result of recent Commission decisions:
  - ◊ SSU has been placed on a credit watch by its principal lenders SunBank, N.A. and CoBank.
  - ◊ SSU's pretax interest coverage is below 1, a level classified as non-investment grade by rating agencies.
  - ◊ The company's primary bonding company, SafeCo Surety, has advised that SSU will be unable to obtain performance bonding for the ordered refund, without parent company indemnification.
  - ◊ The company's liquidity uncertainties are significant and there are serious doubts as to whether SSU can continue to meet operating, construction, and debt service requirements from current revenue.
  - ◊ A proposal for a back-up credit line was withdrawn by a prospective lender.
- SSU is being forced to *relinquish* its role as receiver of Enterprise Utilities Corporation because of the approximately \$1 million needed to provide a new adequate means for effluent disposal and the impact such an investment would have on customers.
- SSU is having to decline a request from the Florida Department of Environmental Protection that SSU take over troubled water and wastewater plants in Tampa.





FLORIDA DEPARTMENT OF COMMERCE  
Secretary Charles Dusseau

GOVERNOR  
Lawton Chiles

Office of the  
Secretary  
(904) 488-3104  
Fax: (904) 922-9150

Economic  
Development  
(904) 488-6300  
Fax: (904) 922-9596

International Trade  
and Development  
(904) 488-6124  
Fax: (904) 487-1407

Tourism  
(904) 922-8887  
Fax: (904) 922-9329

Administrative  
Services  
(904) 488-9377  
Fax: (904) 921-2174

January 2, 1996

Susan F. Clark, Chairperson  
Florida Public Service Commission  
Gunther Building  
2540 Shumard Oak Boulevard  
Tallahassee, Florida 32399-0855

Dear Commissioner Clark:

I recently received a copy of a letter sent to Governor Chiles by Mr. Arend Sandbulte, Chairman and CEO of Minnesota Power in Duluth, Minnesota. As you are aware, Minnesota Power owns Southern States Utilities, a water and wastewater utility company based in Apopka. This letter outlined his corporation's concerns regarding the PSC's recent uniform rate ruling pertaining to Southern States Utilities (PSC-95-1292-FOF-WS).

Businesses frequently contact this Department with concerns about regulatory decisions, and the PSC under your leadership has been very supportive of our efforts to ensure a fair and favorable setting for economic development in Florida. Your recent cooperation on the economic development expenditures issue and the telephone area code issue are good examples. However, as you can imagine, one of the basic elements for business survival in any marketplace is a predictable and stable business climate. Without it, business managers are unable to make informed decisions which can often make the difference between business survival and failure. An unpredictable environment, even in a regulated setting, can put tremendous financial pressure on firms such as SSU, which may lead them to rethink their investment in Florida and could cause businesses considering Florida as a site for expansion to go elsewhere.

In this case, I have asked a member of our staff, Nick Leslie, to consult with your staff and with the Water Policy Office in the Department of Environmental Protections. Nick will advise me on the reasoning behind the Commission's order and on what, if any, recourse might be available to Southern States Utilities. Nick can be reached at 487-2568.

FLORIDA

Collins Building  
107 West Gaines Street  
Tallahassee, Florida 32399-2000

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Susan F. Clark, Chairperson  
January 2, 1996  
Page Two

As always, I appreciate the cooperation of the Commission and thank you for your attention to this issue.

Sincerely,

A handwritten signature in cursive script that reads "Charles Dusseau".

Charles Dusseau  
Secretary of Commerce

CD:ss

cc: Governor Lawton Chiles  
Jeff Sharkey

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