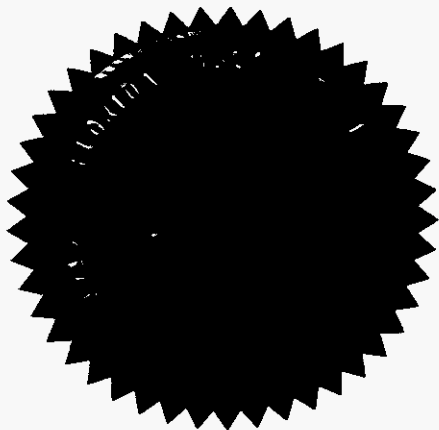


BEFORE THE  
FLORIDA PUBLIC SERVICE COMMISSION

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In the Matter of :  
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Application for rate increase :  
and increase in service :  
availability charges by :  
SOUTHERN STATES UTILITIES, INC. :  
for Orange-Osceola Utilities, :  
Inc., in Osceola County :  
and in Bradford, Brevard, :  
Charlottee, Citrus, Clay :  
Collier, Duval, Highlands, :  
Lake, Lee, Marion, Martin, :  
Nassau, Orange, Osceola, :  
Pasco, Putnam, Seminole, :  
St. Johns, St. Lucie, Volusia, :  
and Washington Counties. :  
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DOCKET NO. 950495-WS



PROCEEDINGS: SPECIAL AGENDA CONFERENCE

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

DATE: Thursday, January 4, 1996

TIME: Commenced at 9:30 a.m.  
Concluded at 10:58 a.m.

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

REPORTED BY: JOY KELLY, CSR, RPR  
Chief, Bureau of Reporting,  
Official Commission Reporter

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DOCUMENT NUMBER-DATE

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**PARTICIPATING:**

**MARY BANE**, Deputy Executive Director, Technical

**NOREEN DAVIS**, FPSC Director, Legal Services

**MARSHALL WILLIS, TRISH MERCHANT, TROY RENDELL, CHUCK  
HILL and BILL LOWE**, FPSC Division of Water and Wastewater.

**MAGGI O'SULLIVAN**, FPSC Division of Legal Services

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25**I N D E X****MISCELLANEOUS**

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## P R O C E E D I N G S

(Hearing convened at 9:35 a. m.)

CHAIRMAN CLARK: Call this special agenda to order.

MR. RENDELL: Commissioners, we're here to present Staff's recommendation on Southern States supplemental petition for interim revenue relief in Docket No 950490-WS filed on November 13, 1995, SSU's original request for interim, which allowed the Utility to file another petition concerning interim rates.

Staff is recommending that the Commission grant interim rate relief to SSU and is prepared to proceed issue-by-issue or answer any questions that you may have at this time.

MR. TWOMEY: Madam Chairman.

CHAIRMAN CLARK: Mr. Twomey.

MR. TWOMEY: I don't want to address the Commission on the Staff recommendation on interim at all. What I would like to ask you to do, just briefly, I'd like to make an oral motion that you transfer this case to the Division of Administrative Hearings.

As far as the procedure on this recommendation, your consideration of it, you have

1 received, in the last couple of days, what I term an  
2 ex parte communication from Mr. Hoffman. He copied --  
3 it was addressed to the Staff counsel and copied to  
4 the parties.

5 CHAIRMAN CLARK: Mr. Twomey, I have not  
6 received that.

7 MR. TWOMEY: I don't question that.

8 CHAIRMAN CLARK: Is it ex parte if we  
9 haven't received it?

10 MR. TWOMEY: He shows it as being hand  
11 delivered to your offices. That's why I'm concerned.

12 Secondly, I'm concerned that the Lieutenant  
13 Governor of the state of Florida has essentially  
14 entered into what amounts as an appearance in this  
15 case on behalf of the Utility, and represents the  
16 Office of the Governor. And I fear that since he has  
17 appointed all of you, that is the Governor has, and as  
18 the appointment authority of this state, that it casts  
19 a pall on the ability of the Commission to impartially  
20 hear this case.

21 And I would ask you -- the Lieutenant  
22 Governor has essentially written you saying you  
23 haven't raised the rates high enough, and as a result  
24 you're endangering Southern States Utilities and  
25 Minnesota Power, apparently. So I would ask you to

1 consider, and consider now, transferring this case to  
2 the Division of Administrative Hearings, which is an  
3 option you have under the law.

4 CHAIRMAN CLARK: Okay. Thank you,  
5 Mr. Twomey. Is there any motion to consider the oral  
6 motion at this time?

7 Mr. Twomey, if you wish to make it in the  
8 form of a written motion, we'll consider it but I  
9 don't think we'll consider that motion at this time.

10 MR. TWOMEY: Yes, ma'am. Thank you.

11 CHAIRMAN CLARK: Mr. Hoffman.

12 MR. HOFFMAN: I will not address Mr.  
13 Twomey's motion until such time it is filed in writing  
14 then the Company will file a response. I'm not going  
15 to take up your time this morning.

16 The only thing I wish to say is I strongly  
17 object to the statement of Mr. Twomey that I  
18 participated in ex parte communication. I will state  
19 on the record that I sent a letter to Ms. Jaber on  
20 January 2nd addressing an issue in the Staff  
21 recommendation on interim rates and the Company's  
22 position on that issue. That letter was copied to all  
23 Commissioners; it was copied to all the lawyers in the  
24 case. That's all I have to say.

25 CHAIRMAN CLARK: Thank you. Commissioners,

1 we're back on the recommendation.

2 COMMISSIONER DEASON: I'm like you -- Madam  
3 Chairman, I've not seen the letter.

4 What you're saying is that you copied  
5 everyone so it can't be ex parte because everybody  
6 that's a party to this proceeding was copied with it,  
7 so -- what I'm saying is I've not even seen your  
8 letter.

9 MR. HOFFMAN: That's fine, Commissioner.

10 COMMISSIONER JOHNSON: Do we all need to say  
11 that for the record?

12 CHAIRMAN CLARK: I haven't seen it but I  
13 think Commissioner Deason is right. That's how I  
14 interpret Mr. Hoffman's presentation.

15 COMMISSIONER JOHNSON: And on the oral  
16 motion, are we reserving ruling or not accepting an  
17 oral motion?

18 CHAIRMAN CLARK: We can decide or decline to  
19 rule on an oral motion. I think, if there's no desire  
20 on the part of the Commission to rule on that oral  
21 motion, I think Mr. Twomey still has the opportunity  
22 to file a written motion because there has been no  
23 opportunity to respond to the oral motion.

24 COMMISSIONER DEASON: Madam Chairman, we're  
25 about to make an important decision here. But it

1 is -- if interim rates are granted, they are subject  
2 to refund in any final decision, so I don't think what  
3 we do here today is so irrevocable that it's going to  
4 do any customers harm even if we were to grant --

5 CHAIRMAN CLARK: I think that's a good  
6 point.

7 COMMISSIONER DEASON: -- grant the motion.  
8 I want to entertain the motion, but I want to give --  
9 if Mr. Twomey is so inclined, if he wants to put it in  
10 writing I would encourage him to do that. But even if  
11 he declines to do that, the period of time is running  
12 now to give the other parties an opportunity to  
13 respond. And also I'd like our Staff to take a look  
14 at it and make a recommendation to us. I don't want  
15 to ignore the motion. I think it's an important  
16 motion that's been made but I don't think it needs to  
17 stop what we're doing here today because there are  
18 statutory protections if interim rates are granted.  
19 So it's not like we're going to be making a decision  
20 here today that's going to prejudice or harm customers  
21 if there's going to be a change of jurisdiction, if  
22 there's going to be an ultimate decision different --

23 CHAIRMAN CLARK: With that --

24 COMMISSIONER DEASON: That's the way I  
25 understand the law.



1           CHAIRMAN CLARK: Is there any -- you have  
2 offered to go issue-by-issue or answer questions.

3           Commissioners, is there any particular  
4 procedure you'd like to follow? Does anyone have any  
5 questions?

6           COMMISSIONER KIESLING: In general? Well, I  
7 guess I would just say I prefer we go issue-by-issue  
8 so that the questions are focused on the issue as  
9 opposed to -- I don't have any general questions but I  
10 have some specific ones on particular issues, perhaps.

11          CHAIRMAN CLARK: We'll go issue-by-issue.  
12 Issue No. 1.

13          MS. MERCHANT: Issue 1 deals with "What is  
14 the appropriate test year to be used for interim  
15 purposes and what methodology should be used to  
16 determine test year revenues before any revenue  
17 increase?" And Staff's recommendation is that the  
18 Commission previously denied Southern States use of  
19 the projected year 1995, and in accordance with your  
20 vote yesterday on the Barefoot Bay recommendation for  
21 the use of the projected test year rate base language  
22 in the interim statute that we not implement that  
23 section of the statute at this time.

24          Further, Staff recommends that the test year  
25 revenues to be used to establish the base year which

1 are those approved for the systems included in 920199  
2 using the recently approved rates, modified  
3 stand-alone states instead of the Utility's rates that  
4 have actually been in effect.

5 COMMISSIONER KIESLING: My only question --  
6 and it may be just a semantical one -- but I had  
7 thought that we had acknowledged essentially that the  
8 revenue requirement that was established in the 199  
9 docket didn't change, only the rate design changed.  
10 Therefore, I don't understand in that issue that the  
11 test year revenues should be calculated using the  
12 modified stand-alone -- I mean --

13 MS. MERCHANT: That's correct. That was a  
14 separate docket, though, and a separate test year.  
15 And what we have here is 1994 historical, and the  
16 rates actually in effect during 1994 were the uniform  
17 rates that the Utility collected, and we are -- for  
18 interim rates the statute requires that you make  
19 adjustments consistent with those in the last rate  
20 case and you used the rates that were in effect during  
21 the test year. And if we make the assumption that the  
22 Commission's decision, most recent decision in 199,  
23 were the correct rates, then you should go in and  
24 annualize the revenues as if those revenues had been  
25 in effect during the whole test year. Those are the

1 rates that were approved in 920199 ultimately to this  
2 date.

3 COMMISSIONER KIESLING: Maybe I just don't  
4 understand something. But it seems like if we know --  
5 the amount of the revenue didn't change, only who paid  
6 it changed.

7 MR. WILLIS: That's correct, Commissioner,  
8 that's exactly correct.

9 COMMISSIONER KIESLING: So why are we  
10 talking about calculating test year revenues using a  
11 particular rate structure? The revenues to be the  
12 same no matter which rate structure.

13 MR. WILLIS: System-by-system to be able to  
14 follow through with the rate structure the Commission  
15 approved in 920199. To do that we went ahead and  
16 recalculated revenue as 920119 rates had been in  
17 effect.

18 COMMISSIONER KIESLING: Okay. I understand.  
19 Thank you. I was missing something there that I  
20 didn't understand how rate structure tied to the  
21 revenue requirement. Okay. Thank you.

22 I can move Staff on Issue 1.

23 COMMISSIONER DEASON: And that accounts for  
24 the differences in revenue requirement calculation  
25 that are found in Attachment A?

1 MS. MERCHANT: Attachment A shows the  
2 revenue requirement column on both Attachment A and  
3 Attachment B, the last column, is identical on both  
4 schedules, okay? So the revenue requirement does not  
5 change per system. It's the base test year revenues  
6 that changes; that's the differences between  
7 Attachment A and Attachment B.

8 COMMISSIONER DEASON: But the revenues are  
9 different; the increase is different to achieve the  
10 stated revenue requirement.

11 MS. MERCHANT: There's a dramatic difference  
12 between the uniform rates and modified stand-alone  
13 rates and that's why these two schedules are shown  
14 together is to show you the impact on the modified  
15 stand-alone and the impact under changing from uniform  
16 to the interim under modified stand-alone.

17 MR. RENDELL: Commissioners, I would like to  
18 point out the way the rates are calculated we used the  
19 last column which is the revenue requirement which  
20 doesn't change either way. These schedule providers  
21 show the impact per system.

22 COMMISSIONER DEASON: Do we have a motion on  
23 Issue 1?

24 COMMISSIONER KIESLING: I thought I made  
25 one.

1 CHAIRMAN CLARK: Let me see.

2 In your revenue requirement -- and this may  
3 relate to the question that was just asked you -- the  
4 last paragraph you say, "In order to determine if any  
5 revenue should be limited to those amounts requested  
6 by the Utility, Staff analyzed this by using the total  
7 interim request, not a per-plant basis.

8 MS. MERCHANT: You're dealing with Issue  
9 No. 2? I can certainly answer that question if you  
10 want me to.

11 CHAIRMAN CLARK: We'll get to it when we get  
12 there. I have no questions on Issue 1.

13 COMMISSIONER JOHNSON: I can second the  
14 motion.

15 CHAIRMAN CLARK: All those in favor say aye.

16 COMMISSIONER DEASON: Aye.

17 COMMISSIONER JOHNSON: Aye.

18 COMMISSIONER KIESLING: Aye.

19 COMMISSIONER GARCIA: Aye.

20 CHAIRMAN CLARK: Aye. Opposed nay.

21 Issue No. 2.

22 MS. MERCHANT: Issue No. 2 is the specific  
23 revenue requirement calculation using the 1994  
24 historical test year and the modified stand-alone test  
25 year revenues, and these are the adjustments we've

1 made that we believe are consistent with those made in  
2 the last rate cases for those systems that were  
3 included in Docket 920199, and for Marco Island, the  
4 last rate case, last Lehigh rate case and for those  
5 systems that have not had prior rate cases. If you  
6 have any specific questions on any of the adjustments  
7 that we have, I'll be glad to explain those.

8 COMMISSIONER DEASON: I have a question. On  
9 Attachment A, for those systems that show a negative  
10 increase, how are we treating it?

11 MS. MERCHANT: We are assuming that those  
12 systems are overearning and we have calculated the  
13 rate of return on equity at the maximum of the range  
14 of the last authorized rate of return for whatever  
15 docket they were in. So if it was in Docket 920199  
16 then we used the maximum of that rate of return.

17 COMMISSIONER DEASON: And if that rate of  
18 return is exceeded, you're recommending putting in  
19 money subject to refund. If that rate of return is  
20 not exceeded -- there's no money subject to refund but  
21 there's not an interim increase for those systems  
22 either, is that --

23 MS. MERCHANT: That's correct.

24 CHAIRMAN CLARK: Overearning would be  
25 factored into the total amount to be put under bond.

1 MS. MERCHANT: Yes, ma'am.

2 COMMISSIONER GARCIA: So those rates would  
3 not be lowered in the interim.

4 MS. MERCHANT: For interim purposes they are  
5 not lowered. They are held subject to refund.

6 CHAIRMAN CLARK: Let me ask you a question  
7 on the return on equity. Am I still on 2? The return  
8 on equity.

9 You make -- they evidentially asked for an  
10 11.19% on all of the systems.

11 MS. MERCHANT: That's correct.

12 CHAIRMAN CLARK: And you broke it down to  
13 individual systems.

14 MS. MERCHANT: That's correct.

15 CHAIRMAN CLARK: My question to you is --  
16 and as a result of that you suggested that at least  
17 for one system, or maybe it was three systems, that  
18 they had a lower return on equity, and that was what  
19 should be used.

20 MS. MERCHANT: That's correct.

21 CHAIRMAN CLARK: My question to you is,  
22 overall does that exceed the 11.19%? On an overall  
23 basis, are they exceeding that?

24 MS. MERCHANT: You know, honestly, I can't  
25 tell you that we've made that calculation on an

1 overall basis but I would assume they are under that.

2 CHAIRMAN CLARK: I understand the notion  
3 that the treatment has been consistently applied, that  
4 they only get what they ask for.

5 MS. MERCHANT: That's correct. It depends  
6 on what the situation is. 11.19 was from the Marco  
7 Island rate case.

8 CHAIRMAN CLARK: I know that. What I'm  
9 trying to get at is you're saying for each system we  
10 should go back to their last rate case and use that,  
11 and I understand that. But then you're saying for one  
12 system, Lehigh, the rate of return that was approved  
13 for them was higher than 11.19%, right?

14 MS. MERCHANT: That's correct. 11.44.

15 CHAIRMAN CLARK: And your position is since  
16 they asked for 11.19 that's what they will get.

17 MS. MERCHANT: That's based on the  
18 Commission's previous practice. That happens quite  
19 often with utilities. They don't ask for separate  
20 interim and final request. They'll come in and they  
21 will use the midpoint of the current leverage graph,  
22 and their last authorized rate of return, the base of  
23 the range, might be a little higher than that. The  
24 Commission's practice in interim has been to limit the  
25 rate of return on equity to that cost rate that they



1 asked for. And we're doing that consistently here  
2 with the Lehigh system.

3 CHAIRMAN CLARK: Well, the indication I have  
4 here is not that it was based on the leverage graph  
5 but their request was based on the last authorized  
6 return on equity approved in Marco Island. You  
7 surmised that's why they used 11.9.

8 MS. MERCHANT: I assumed that the Company  
9 was using the last rate case of SSU.

10 CHAIRMAN CLARK: Right.

11 MS. MERCHANT: For the case that they  
12 believe adjustments could be made consistent with.

13 CHAIRMAN CLARK: For the 11.9%.

14 MS. MERCHANT: 11.19.

15 CHAIRMAN CLARK: And they asked for that  
16 overall.

17 MS. MERCHANT: That's correct.

18 CHAIRMAN CLARK: And your recommendation is  
19 that we need to go back to the rate cases for each  
20 system.

21 MS. MERCHANT: That's correct.

22 CHAIRMAN CLARK: And to the extent they  
23 haven't been in there, we'll use the leverage graph.

24 MS. MERCHANT: That's correct. The bottom  
25 of the range.

1 CHAIRMAN CLARK: Now, the Lehigh, the  
2 11.19%, is lower than what was approved in their last  
3 rate case.

4 MS. MERCHANT: That's correct.

5 CHAIRMAN CLARK: My question to you is if  
6 overall it is not -- we're not exceeding their  
7 request, why shouldn't we use the Lehigh rate for  
8 Lehigh?

9 MS. MERCHANT: Well --

10 CHAIRMAN CLARK: Because I see it as  
11 different from those other cases.

12 MS. MERCHANT: The point, I think, that we  
13 need to make here is that we're doing stand-alone  
14 revenue requirements, and we were applying the  
15 Commission's policy that they would do for other  
16 stand-alone companies and that's exactly what we've  
17 done here.

18 CHAIRMAN CLARK: Yeah. But your rationale  
19 for not allowing them is they didn't ask for it but  
20 overall they are within what they asked for.

21 MS. MERCHANT: I don't think we could make  
22 an overall. We haven't made that calculation because  
23 the Commission made stand-alone --

24 CHAIRMAN CLARK: I'm not asking you to do  
25 that. I'm just suggesting to you that for Lehigh you

1 ought to use Lehigh's rate of return on equity despite  
2 the fact that it is above 11.19%.

3 MS. MERCHANT: Commissioners, I think you  
4 could certainly do that. I just believe that that's  
5 not consistent with what you have done in other cases.  
6 And the interim statute just say the bottom --

7 CHAIRMAN CLARK: And I suggested to you that  
8 this case is not consistent with those other cases  
9 because your rationale in the other cases was based on  
10 the use of the leverage graph and it would be limited  
11 by what they requested.

12 MS. MERCHANT: Sometimes it's not based on  
13 the leverage graph. Sometimes they use their last  
14 authorized overall rate of return. It really has  
15 varied. We've seen so many differences instances.  
16 We've seen companies that will come in and use the  
17 midpoint of their last authorized rate of return on  
18 equity. We've seen companies that have used the  
19 midpoint of their overall rate of return. So I think  
20 the Commission has been pretty consistent to attack  
21 only the return on equity. It's been irrelevant  
22 whether the overall rate of return is up or down, but  
23 it's just that key on the equity point that the  
24 Commission has --

25 CHAIRMAN CLARK: What precisely is your

1 rationale for saying 11.19% is appropriate for Lehigh?

2 MS. MERCHANT: Because they filed interim  
3 revenue requirement using 11.19 on equity.

4 CHAIRMAN CLARK: Overall.

5 MS. MERCHANT: No, on equity; not overall.

6 CHAIRMAN CLARK: But for overall, equity  
7 overall for all of the systems.

8 MS. MERCHANT: But on a specific  
9 Lehigh-company basis they did the same thing; they  
10 showed the 11.19 for Lehigh.

11 CHAIRMAN CLARK: As they did for the other  
12 one. What I'm suggesting to you is you put it down  
13 where their previous one was down. But when it goes  
14 the other way, you're not doing it the other way.  
15 Notwithstanding the fact that overall it's still  
16 within their equity request. Marshall, do you --

17 MR. WILLIS: Commissioner, if I could add to  
18 this, we're calculating each system's revenue  
19 requirement by itself as if they are single systems.

20 CHAIRMAN CLARK: Right.

21 MR. WILLIS: The Lehigh case was not  
22 involved in any other case in the past. The company  
23 in this case requested that they use 11.19 for every  
24 system regardless. The statute tells us that we have  
25 to use the last allowed rate of return, whether that

1 be the low end or the high end, depending on the  
2 situation.

3 CHAIRMAN CLARK: So what you're saying is  
4 when they even filed their rates on the stand-alone  
5 basis they used 11.19% for Lehigh.

6 MR. WILLIS: They did, yes. And I think  
7 because the way the statute is worded it requires us  
8 to go down less than what they asked for if that's  
9 what the statute mandates.

10 Now, the Commission in the past, Staff has  
11 brought to the Commission the rate of return based on  
12 the required statutory language, and if that rate of  
13 return was higher than what they are requesting, we  
14 had that in there. And we have since, because of  
15 Commission decisions, reduced it down to what the  
16 Company requested. And that's why we're doing that  
17 for Lehigh. We're doing it because of Commission  
18 decisions in the past.

19 CHAIRMAN CLARK: Now you've confused me.

20 MR. WILLIS: Well, we have had several cases  
21 in the past where the statute would have required a  
22 higher rate of return because of the last allowed.  
23 But the Company in their petition said "we want  
24 something less to be used for interim purposes."

25 CHAIRMAN CLARK: And in this case when they

1 suggested the rates, even though it wasn't their first  
2 choice, for each of these companies they put down  
3 11.19%.

4 MR. WILLIS: That's correct. Why they did  
5 it we don't know but we have to calculate these on an  
6 individual basis.

7 CHAIRMAN CLARK: All right.

8 MS. MERCHANT: If they had been overearning  
9 we would have brought them up to the max of their last  
10 authorized rate of return on equity. That would have  
11 been the actual range approved in the last rate case.

12 CHAIRMAN CLARK: Let me ask you about the  
13 investment tax credits. I got lost, frankly, in what  
14 you were doing.

15 MS. MERCHANT: Okay. There are several  
16 different circumstances that occurred. In Docket  
17 920199 the Commission recognized that the Deltona  
18 systems that Southern States purchased came in with a  
19 zero cost of ITCs, and Southern States, the prior  
20 company before Deltona, was weighted cost of ITCs.

21 CHAIRMAN CLARK: Wait a minute. I guess I  
22 want you to explain this in terms of Option 1 and  
23 Option 2.

24 MS. MERCHANT: Option 1 is zero cost, and  
25 Option 2 is weighted cost.

1           Option 1 you have no amortization above the  
2 line to reduce income tax expense and you have a zero  
3 cost in the capital structure.

4           Option 2, you have -- you reduce income tax  
5 expense by the amortization of ITCs, and you put the  
6 ITCs in the capital structure at the weighted cost,  
7 okay?

8           What happened is when they purchased  
9 Deltona, all of the Deltona systems, the Deltona  
10 Corporation was an Option 1 zero cost. The  
11 predecessor of the original company, Southern States,  
12 was an Option 2. And what the Commission did in  
13 Docket 920199 was they blended these two rates and  
14 came -- because they didn't know specifically exactly  
15 what the -- exact numbers were.

16           CHAIRMAN CLARK: In 199 Deltona was in there  
17 so they blended it to come up with to the 2.2%. Okay  
18 I'm with you.

19           MS. MERCHANT: That's correct. And then  
20 they reduced -- for those Deltona systems they reduced  
21 the income tax expense individually for the  
22 amortization of ITCs in that docket. So for the ones  
23 that were Option 2, they did -- excuse me, for the  
24 ones they were Option 2 they treated them as Option 2,  
25 for the ones that were Option 1 they treated them as

1 Option 1 and they blended the cost rate in the capital  
2 structure. That's what they did.

3 CHAIRMAN CLARK: I'm confused again. That's  
4 what came up with the 2.2 --

5 MS. MERCHANT: That's how they came up with  
6 the 2.2. And then they went to the income tax expense  
7 and they looked individually at which one was the 1  
8 and which one was the 2 and the Commission did it that  
9 way.

10 In the Marco Island rate case, Marco Island  
11 is also a Deltona company, it was not included in  
12 920199.

13 CHAIRMAN CLARK: So it's also a zero cost.

14 MS. MERCHANT: It came through with that  
15 same Deltona purchase. The Commission did not make  
16 that adjustment consistent with Docket No. 920199.  
17 They reflected all ITCs as Option 2, which is what  
18 Southern States had filed. Okay?

19 CHAIRMAN CLARK: Okay.

20 MS. MERCHANT: Lehigh, at the time of the  
21 last rate case, was an Option 1 company and it was not  
22 part of Southern States. And if you recall, the rate  
23 case for Lehigh was just before 920199 and it had its  
24 own stand-alone rate case. They were treated as  
25 Option 1 because that's what Lehigh Corporation was at



1 that time. And then, of course, we have the new  
2 systems that have come along after all these rate  
3 cases that have not had prior rate cases.

4           Staff's interpretation of the interim  
5 statute is that you have to make adjustments  
6 consistent with those made in the last rate  
7 proceeding. And to do that you have to treat those  
8 systems in 920199 the same way we did in that docket.  
9 So we took the Deltona systems in this case and  
10 treated them as Option 1, and the remaining systems as  
11 Option 2, and since we didn't have the breakdown to  
12 calculate the blended ITC cost rate, we just used the  
13 2.22 blended cost rate from 920199.

14           For Marco we did exactly what the Commission  
15 did in the last Marco case, we used Option 2. For  
16 Lehigh, since Lehigh as Option 1 in the last case we  
17 treated the ITCs in capital structure as Option 1.

18           CHAIRMAN CLARK: Wait a minute. Marco  
19 Island you treated as Option 1 also.

20           MS. MERCHANT: No. They were as Option 2  
21 because even though that was inconsistent with the  
22 treatment in the 920199 docket, that's specifically  
23 what the Commission did in Marco's last rate case.

24           CHAIRMAN CLARK: Even though they were an  
25 Option 1 company?

1 MS. MERCHANT: That's correct.

2 CHAIRMAN CLARK: We made a mistake?

3 MS. MERCHANT: We were not consistent with  
4 the prior case. I don't think there was evidence in  
5 the record to do --

6 CHAIRMAN CLARK: We weren't consistent at  
7 all with what we usually do.

8 MS. MERCHANT: That's correct. I think  
9 there wasn't sufficient evidence in the record to do  
10 it. I'm not really sure exactly what the reason was  
11 but it was not -- it was treated as Option 2 and  
12 that's the way the Company filed it, as Option 2.

13 And then for these systems that have not had  
14 rate cases, we treated them as the Company filed them  
15 as Option 2 because we don't know at this point. And  
16 since they hadn't had a prior rate case then you can't  
17 make the adjustment to be consistent with.

18 CHAIRMAN CLARK: What it boils down to is  
19 with respect to ITCs, you treated them the same way as  
20 they got treated in the last case.

21 MS. MERCHANT: That's correct.

22 CHAIRMAN CLARK: All of this is a  
23 reiteration of what you did in the last case.

24 MS. MERCHANT: That's correct.

25 CHAIRMAN CLARK: All you're really doing in

1 addition is saying that for those ones that didn't  
2 have a rate case we'll treat them as Option 2.

3 MS. MERCHANT: Correct. As the Company  
4 filed.

5 CHAIRMAN CLARK: That wasn't clear to me.  
6 All right.

7 With respect to the revenue requirement --

8 MS. MERCHANT: The question on limiting the  
9 amount, basically on a stand-alone system what we  
10 would normally do, we would look at the amount of  
11 revenues that the Utility has requested, the total  
12 amount of revenues, not the increase, not the  
13 percentage increase or the dollar increase but the  
14 total revenues they have requested. If our revenue  
15 requirement was above that amount, then we would limit  
16 it to the total revenues that the utility requested.  
17 That is standard Commission practice.

18 This case is somewhat different because the  
19 Company's revenue requirement, the way that they did  
20 their interim filing, was they calculated a total  
21 company or total jurisdictional revenue requirement,  
22 and then they established rates and then they backed  
23 into those revenues on a per-system basis, and it  
24 generated whatever rate of return; some of it was  
25 high. We do it the opposite way, we come up with what

1 is a rate base, what are the operating expenses, and  
2 go to a revenue requirement. They just kind of backed  
3 into the revenue requirement. It was more of a  
4 fallout on the Company's position, but it gave them a  
5 total company rate of return, overall rate of return,  
6 using the minimum of the 11.19 last rate of return on  
7 equity for Marco.

8 If we were to limit revenues on the  
9 per-system basis, number one, you would be faced with  
10 which option to limit to. You know, there were the  
11 seven different --

12 CHAIRMAN CLARK: What do you mean if we were  
13 to limit? Limit to what?

14 MS. MERCHANT: Well, if you were to go  
15 through and look at the test year -- excuse me, the  
16 revenue request on a per-system basis, say for Amelia  
17 Island, and you looked at that final column that the  
18 Utility has shown for their revenue request for Amelia  
19 Island, if our number ended up being higher --

20 CHAIRMAN CLARK: You would reduce it down.

21 MS. MERCHANT: Normally we would do that.  
22 But since the Company asked for a total company  
23 revenue requirement, if we limited them to the systems  
24 that were severely underearning, they would not be  
25 anywhere near a fair rate of return.

1           CHAIRMAN CLARK: So what you did was limit  
2 it by the total revenue.

3           MS. MERCHANT: Yes, that's correct. We  
4 checked all of the revenues. That's one reason why  
5 Attachment A and Attachment B are pertinent is because  
6 we looked at the total revenues to see if on a  
7 total-company basis if our revenue requirements were  
8 higher than what they requested, and they were not.  
9 So we didn't have that problem.

10           We went ahead on a individual system basis  
11 and brought each system up to a fair rate of return,  
12 to the minimum of the range if it needed to be, and we  
13 brought the system's overearning to the maximum,  
14 brought them down to the maximum of the range to  
15 calculate revenue subject to refund.

16           CHAIRMAN CLARK: Calculate the revenue  
17 subject to refund.

18           MS. MERCHANT: That's correct.

19           CHAIRMAN CLARK: All right. Any other  
20 questions, Issue 2?

21           COMMISSIONER DEASON: Yes.

22           I'm having difficulty reconciling your  
23 position on return on equity and the limiting of the  
24 return on equity with your position on limiting  
25 revenue requirement.

1           What I hear you saying is that for  
2 calculation of revenue requirement the Company did not  
3 calculate a specific revenue requirement per system,  
4 but allocated a larger number down to each system.

5           But they did use specific return on equities  
6 depending on the history of a particular system. How  
7 do you reconcile those two? I'm having difficulty  
8 understanding.

9           MS. MERCHANT: Well, I don't know how to --  
10 I don't know, honestly, which one is the best way to  
11 do it because of the way that they calculated their  
12 revenue requirement. But to do the standard revenue  
13 requirement according to the interim statute, I  
14 believe it's appropriate to go in and look at those  
15 individual return on equities.

16           COMMISSIONER DEASON: Did the company use a  
17 specific return on equity to calculate the interim  
18 request?

19           MS. MERCHANT: They used the minimum from  
20 the return on equity established in the Marco Island  
21 rate case, and it varied, you know --

22           COMMISSIONER DEASON: So they used one  
23 consistent return on equity for their entire system.

24           MS. MERCHANT: That's correct. There was no  
25 statement as to why they did that.

1           COMMISSIONER DEASON: Once they calculated  
2 that number based upon that return on equity and their  
3 total interim request, how did they then relate that  
4 to specific systems?

5           MS. MERCHANT: I think what they did -- I  
6 can't tell you, honestly, exactly how they did it. I  
7 can only assume what they did because I don't have any  
8 work papers to show that. But I think what they did  
9 is they came up with a total water revenue requirement  
10 and a total wastewater revenue requirement and  
11 percentage increase, and then they took those  
12 percentage increases and applied it to each rate on a  
13 per-system basis and then that's how they came up with  
14 the revenue requirements; the test year revenues in  
15 their revenue requirement -- well, no, excuse me, not  
16 their test year revenues, but the revenue requirement,  
17 then they just backed down the difference between  
18 their test year and the revenue requirement to come up  
19 with a percentage increase.

20           COMMISSIONER DEASON: To determine specific  
21 rates?

22           MS. MERCHANT: That's correct. That was the  
23 uniform 1995 methodology, and it was also the uniform  
24 1994 methodology.

25           But for the modified stand-alone revenue

1 requirements, you know, we got separate data for each  
2 of the options for each company, using the modified  
3 stand-alone with the individual percentage increase.  
4 I can't tell you how they actually came up with the  
5 dollar amount of revenues for that. I can assume that  
6 they did the same thing, they came up with a rate that  
7 they liked and they converted that into revenues based  
8 on the number of customers and the number of bills.

9           We tried to look at that to see if they were  
10 bringing each company up to the minimum of the 11.19  
11 or if they were trying to bring the ones that were  
12 overearning to the maximum and it just didn't work out  
13 that way. The numbers -- you know, they fluctuated.  
14 Some they were a little higher. It looked like they  
15 appeared to do that to some extent, but it was not  
16 anything exact and I couldn't come real close to any  
17 of the numbers.

18           COMMISSIONER DEASON: Well, see, it's not  
19 our job to assume what they did. They either tell us  
20 and it's clear on its face and we approve it or  
21 disapprove it. I don't think it's our job to go in  
22 and try to assume what they file. We had difficulty  
23 with their first filing.

24           And I'm having difficulty reconciling your  
25 position, the return on equity, is that we look at



1 each system but we limit it to what they request.  
2 When it gets to the revenue requirements, you're  
3 saying well, we calculate it on an individual-system  
4 basis; so did the Company. We don't know how they  
5 calculated it but they did, but we're not going to  
6 limit it to the each individual system even though we  
7 proposing stand-alone rates per system we going to  
8 look on it as a total company request basis. So we  
9 compare our total number for all of our systems that  
10 we calculated individually with their total number,  
11 and since we're less, there's no reason to cap it.  
12 And I'm having difficulty reconciling those two  
13 positions. I think you're being inconsistent with  
14 your position on return on equity and your position on  
15 revenue requirement. And maybe I'm misinterpreting,  
16 but that's the problem. If you can explain it I'd  
17 appreciate it.

18 MR. WILLIS: Commissioners, maybe I can add  
19 some light here.

20 The revenue requirements in this case are  
21 intricately tied for the 199 docket to the rate  
22 structure. And the rate structure, the way the rate  
23 structure was designed in 199 was that any utility  
24 that was overearning, all of the revenue requirements  
25 were calculated system by system. For all of those

1 systems where they have an overearning system, those  
2 rates were not lowered. The excess amount was used to  
3 reduce the subsidy that was needed from all of the  
4 other systems below the cap, or below the benchmark,  
5 to take care of the subsidy itself. It just reduced  
6 the amount of subsidy that would come from the other  
7 systems and there was no reduction.

8           The statute requires that you have to  
9 continue with that rate structure. That's what we  
10 believe anyway. And we've consistently done that in  
11 every case before the Commission. We have not changed  
12 rate structure. If that was the basis of how the rate  
13 structure was calculated in 199, then I don't believe  
14 you can go in in this case and reduce any of those  
15 systems which were overearning under our calculations  
16 and bring those rates down. You have to use those in  
17 the same way they were used in 199 to reduce the  
18 subsidy under this cap method or benchmark method.

19           COMMISSIONER DEASON: The problem I'm having  
20 is that if a company filed a request on a stand-alone  
21 basis and they have a specific revenue increase they  
22 are requesting per system, and then we calculate it  
23 the way we think it should be consistent with what was  
24 done in the previous cases, why don't we compare each  
25 individual system? And if our number is higher we use

1 their number and if our number is lower we use our  
2 number. Why do we not do that in this case?

3 MR. WILLIS: Because I don't believe you  
4 would be consistent with the statute.

5 The Company in their request -- every  
6 alternative the Company has requested in this case has  
7 been based on a total company revenue requirement.  
8 They are consistently looking at their company as a  
9 single system. They have calculated a revenue  
10 requirement based on the single system and that's the  
11 total company.

12 We would have looked at it in this case just  
13 like that if we were still under the uniform rate  
14 docket or the uniform rate structure. We would have  
15 looked at it the same way. In this case, though, we  
16 had to go back and recalculate everything on an  
17 individual-system basis because of the 199 docket.  
18 Now, the remaining systems that are out there had  
19 individual rate cases in the past.

20 Even -- I have a problem going in and  
21 limiting the Utility by system because I think you're  
22 avoiding the statutory requirement. In most cases we  
23 don't go out there and look at how they actually  
24 calculated their rates because we believe the statute  
25 ties the Commission and how we have to do it.

1           In many cases a utility will come in and  
2 they request -- they are basically asking us to  
3 restructure their rates. They want a lower base  
4 facility charge or higher base facility charge for  
5 interim. We totally ignore that because we can't do  
6 it. Their rates are different. But we go with what  
7 the statute requires and that is don't change the rate  
8 structure even if it does produce --

9           COMMISSIONER DEASON: You're looking at a  
10 revenue requirement on a per-system basis. Not  
11 changing the rates but you look at the dollars  
12 requested versus -- don't we normally?

13           MR. WILLIS: We do normally. But in this  
14 case they haven't per se requested a dollar amount per  
15 system. I would sit here and tell you they've  
16 requested a total company revenue requirement, and  
17 they have backed that down through several scenarios  
18 in alternative saying you can do this in many ways.  
19 You can go in and you can do a uniform percentage  
20 increase over test year revenues per system. They've  
21 given us several alternatives that the Commission  
22 could use in this case. We don't believe you can use  
23 any of those alternatives except the one that was  
24 produced in 920199 docket and the other individual  
25 system rate structures. We don't believe there are

1 any other alternatives out there which you can use.

2 COMMISSIONER DEASON: I feel like it's a  
3 deficiency in their filing then.

4 CHAIRMAN CLARK: If I understand you  
5 correctly, what you're saying is you cannot determine  
6 specifically what they have asked for individual  
7 revenues from each company. We know what their  
8 overall is and how they have allocated it.

9 MR. WILLIS: I don't know that we could  
10 actually go back, from what Ms. Merchant is telling  
11 me, and go back and calculate exactly how they are  
12 doing it by system. I believe they are applying the  
13 increase on a percentage basis. They are backing it  
14 down through the different alternative rate structures  
15 they propose. It goes back. The Company has  
16 requested a total company revenue requirement and that  
17 increase is being backed down to the systems based on  
18 the alternative that they are proposing. In this  
19 case, as you see in the case background, they have  
20 proposed many alternatives that the Commission could  
21 do.

22 CHAIRMAN CLARK: Is it correct to summarize  
23 what the distinction would be between return on equity  
24 and the revenues, is that with respect to the return  
25 on equity they did propose a return on equity for

1 individual systems and it was all 11.19%, each one?

2 MS. MERCHANT: That's correct.

3 CHAIRMAN CLARK: But they didn't propose  
4 individual revenue requirements for each company?

5 MR. WILLIS: No. They proposed the total  
6 company. That's why you have the 11.19%. They wanted  
7 to use one percentage for return on equity so they  
8 could calculate a total company revenue requirement,  
9 so they used the last rate case, which was Marco  
10 Island, and that was the 11.19%. And they used that  
11 to calculate an overall revenue requirement.

12 MS. MERCHANT: But they actually do show a  
13 schedule that shows their calculation of the interim  
14 cost of capital using the 11.19 for each individual  
15 system.

16 CHAIRMAN CLARK: Any other questions? Is  
17 there a motion?

18 COMMISSIONER KIESLING: I'm still somewhat  
19 uncomfortable with that dichotomy. I'm at this point  
20 willing to make a motion on Issue 2 to move Staff.

21 CHAIRMAN CLARK: Is there a second?

22 COMMISSIONER JOHNSON: I'm going to second  
23 the motion. And I'm not sure if I clearly understood  
24 Commissioner Deason's concern. I understood how Trish  
25 explained what Staff had done and I don't think I have

1 a reason to feel uncomfortable with their rationale  
2 and understanding that the Company did file the  
3 request on a total company revenue requirement basis  
4 as Marshall just explained. I feel comfortable with  
5 what was done.

6 COMMISSIONER DEASON: So the record is  
7 clear, I'm going to vote against the motion and I am  
8 uncomfortable with it.

9 I think that this Company again has put our  
10 Staff in a position of trying to assume what they did.  
11 And I'm uncomfortable with there being an amount,  
12 whether it's total company and allocated down or  
13 whatever, there's an amount for each individual system  
14 that's within their request, however they calculated  
15 it, and there's -- under our recommendation we're  
16 going to be granting increases for some systems above  
17 what they requested, even though it doesn't exceed it  
18 on a total-company basis, that's inconsistent with the  
19 way we calculated interim increases in the past. For  
20 that reason I'll be voting against the motion.

21 COMMISSIONER JOHNSON: Marshall, maybe I  
22 didn't understand that. Do you see this as  
23 inconsistent with what we have done in the past?

24 MR. WILLIS: Personally I do not. I don't  
25 because there are many cases -- for instance, the one

1 we just had yesterday, Barefoot Bay. The company  
2 requested an interim revenue requirement based on  
3 their projected test year. They didn't request an  
4 interim revenue requirement based on the 1990 -- or a  
5 1995 historic test year or a 1994 historic test year.  
6 Staff came to the Commission said we don't believe  
7 it's correct to use a projected test year. Therefore,  
8 there is -- we believe it's more appropriate to use  
9 historic, and here's the rates and the revenue that  
10 are produced by that. You won't find a revenue  
11 requirement request in Barefoot Bay for that  
12 particular test year. But we did it.

13 CHAIRMAN CLARK: In this Southern States  
14 case, the first one, the one that started, I think, in  
15 '92 or whatever, when we had an interim increase,  
16 wasn't it a request for an overall revenue  
17 requirements, and then it was uniformly allocated?

18 MR. WILLIS: Yes, it was. In 920199 there  
19 was a request for an overall -- well, let's put it  
20 this way: The interim request was based on the total  
21 systems involved in the docket. They came up with a  
22 total revenue requirement and they asked for a  
23 percentage increase. In that case the Commission went  
24 back and said, "No, we're going to give you a dollar  
25 increase that was the same or equal for every system."



1 So every system got an equal dollar increase. Because  
2 percentages would be very, very high for some systems  
3 that already had high rates. Their rates would go up  
4 dramatically.

5 CHAIRMAN CLARK: I see. So the percentage  
6 increase was not the same.

7 MR. WILLIS: The percentage increase was not  
8 the same per system. We -- in that case, in the 199,  
9 we went with the dollar increase.

10 CHAIRMAN CLARK: Let me ask you this: When  
11 they asked for the interim increase, was it on a total  
12 revenue basis?

13 MR. WILLIS: My recollection it was a total  
14 revenue basis.

15 MS. MERCHANT: I don't believe we limited  
16 them in that interim application either on a  
17 per-system basis.

18 MR. WILLIS: We did not.

19 MS. MERCHANT: That we went in and did the  
20 same thing. We calculated those systems overearning  
21 at the maximum and those systems underearning at the  
22 minimum.

23 COMMISSIONER DEASON: And that was before we  
24 had a Court decision that told us to calculate these  
25 things on an individual-system basis, at least the

1 rate structure.

2 CHAIRMAN CLARK: There's been a motion and a  
3 second.

4 COMMISSIONER GARCIA: I'm sorry, I wanted to  
5 hear that last point that you were trying to make,  
6 Commissioner Deason.

7 COMMISSIONER DEASON: Well, Staff was  
8 describing how we made this calculation in the last  
9 rate case for Southern States. They indicated that  
10 request was done on a total-company basis. They  
11 didn't even bother to allocate it down on a  
12 specific-system basis. We took that information and  
13 we made a decision, at the Commission, to allocate  
14 that increase on a specific dollar amount for each  
15 system; a specific dollar increase for each system.

16 Subsequent to that time, we had a decision  
17 made by the Commission that was appealed to the Court  
18 and the Court told us that we could not calculate  
19 rates based upon a uniform basis. I think that  
20 interim decision at that time was based upon a uniform  
21 allocation methodology. It don't think the Court  
22 decision got that specific. I don't think the Court  
23 decision looked at the interim that specifically, but  
24 it did make a decision that we could not set uniform  
25 rates.

1 I think that what we're doing here -- I  
2 think the Company had an obligation, recognizing the  
3 Court's decision, to calculate each individual system,  
4 request a dollar amount for that, and it was not the  
5 obligation of our Staff to go in and assume how they  
6 made that allocation. They should have requested it  
7 that way. We would have made our calculations, our  
8 adjustments consistent with the adjustments that were  
9 made in the previous case, and we would have  
10 calculated what we thought was appropriate using what  
11 we considered to be appropriate return on equity for  
12 each individual system. We would have compared those  
13 two; if our number was lower we'd use our number and  
14 if our number as higher we'd use what they requested.  
15 That's the way I think it should have been done.

16 And I want to make the record abundantly  
17 clear, I'm not faulting our Staff one iota. This is  
18 another situation where our Staff has tried to do what  
19 they think is right -- and I don't fault them for  
20 that -- based upon the limited information that they  
21 have. And I think it's unfair to put our Staff in  
22 that position once again.

23 CHAIRMAN CLARK: Just so I'm clear, Staff  
24 has not recommended uniform increases.

25 MR. WILLIS: No, we're not. We're

1 recommending that you follow the exact treatment that  
2 was provided in the last docket for each individual  
3 system, whether it be the 199 or the Marco Island or  
4 the Lehigh decision.

5 COMMISSIONER JOHNSON: Does our legal Staff  
6 believe that the Company had an obligation to provide  
7 this filing or to provide the calculation on a  
8 system-by-system basis given the Court decision?

9 MS. O'SULLIVAN: Commissioner, I don't have  
10 the decision in front of me right now.

11 I believe the Court decision spoke -- I wish  
12 I had it in front of me right now. It spoke about the  
13 concerns about the jurisdictional finding being absent  
14 in the 199 docket to establish uniform rates. I'm not  
15 sure how specific the Court was concerning these  
16 stand-alone versus uniform calculations. I really  
17 can't answer that question.

18 MR. WILLIS: From my recommendation the  
19 Court decision said that they remanded the case back  
20 to the Commission because there was no jurisdictional  
21 finding in the case. They went strictly to the  
22 jurisdictional statute; said there was no  
23 jurisdictional finding, and because the Commission did  
24 not make that finding, they did not believe we could  
25 make the finding that we could apply a uniform rate

1 increase -- a statewide uniform rate increase.

2           There was also in the body of the opinion  
3 that they didn't believe there was enough evidence,  
4 even if they did make that finding or even if we did  
5 make a jurisdictional finding, they weren't sure there  
6 was enough evidence in the record to support uniform  
7 rates at that point. But they didn't come out and  
8 actually make that finding. The only finding they  
9 made was there was no actual jurisdictional finding in  
10 the record.

11           COMMISSIONER JOHNSON: The filing -- my  
12 opinion, and I guess I need to hear more from our  
13 legal Staff, is that the way that this case was filed  
14 by the Company with respect to looking at it as a  
15 total company revenue requirement, was consistent with  
16 our rules and consistent with the law.

17           Certainly there has been a lot of  
18 permutations and combinations of things that are going  
19 on throughout this case. And to the extent that Staff  
20 was able to react and able to come up with revenue  
21 requirements and return on equity that still seems to  
22 be consistent with the law, I find some comfort in  
23 this. It didn't seem as if you all were struggling  
24 and maybe you were. That I need to better understand.  
25 I don't want you to make something fit if it doesn't.

1 But this seems to be pretty logical, and I want to be  
2 fair, you know, to the citizens, and I want to be fair  
3 to the company, too, as we try to find some balance of  
4 public interest here. And I don't know how fair it  
5 would be to say -- or I don't know if I see this as a  
6 deficient filing. And that's what -- to the extent  
7 that Staff believes there's some deficiency in the  
8 filing, that issue hasn't been raised here. And I was  
9 relying upon that and I was relying upon just the way  
10 that it appears as if this filing, that was consistent  
11 with everything else we have done. So if there is a  
12 problem, I want to hear about it.

13 MR. WILLIS: Staff doesn't believe there is  
14 any deficiencies in the filing. We do not believe  
15 that. I don't believe the Company was held by any  
16 requirement we have to file individual system revenue  
17 requirements. I think they are free to ask for  
18 anything they desire to ask for. I think Staff and  
19 the Commission are bound by what the law requires.  
20 And I believe our recommendation follows the interim  
21 statute.

22 COMMISSIONER GARCIA: Hadn't we made a  
23 request, at least when we turned down interim the  
24 first time, that they file it system by system?

25 MS. MERCHANT: That's correct. On the first

1 go around, for the systems included in Docket 920199  
2 they filed one lump sum revenue calculation. The way  
3 it was done in that docket, the way the revenue  
4 requirements were calculated in for the final  
5 recommendation, were on an individual basis, exactly  
6 the way that we did it here. For those systems  
7 overearning we took them to the maximum of the range;  
8 those who were underearning, we took them to the  
9 minimum of range -- I beg your pardon. I believe we  
10 took them all to the midpoint of the range for the  
11 final -- for each individual. If they were  
12 overearning they still went to the midpoint. But when  
13 they calculated the rates, that's when they -- for the  
14 original recommendation, or the original vote, it was  
15 the uniform rates. Then when they went back to the  
16 modified stand-alone, they didn't do anything to the  
17 revenue requirements at all. It was just the way they  
18 calculated the rates. So the methodology for  
19 calculating the revenue requirements remains the same  
20 as it was in 920199, and that is consistent with what  
21 it was in this case. We did not limit them in that  
22 case and we didn't limit them in this case.

23 MR. WILLIS: Commissioner Garcia, in further  
24 answer to your question about what they were required  
25 to file, I believe what the Commission told them in

1 the order was no specific requirement. They basically  
2 said, "Here are our concerns over what you filed."  
3 And one of those concerns, I believe, was that we were  
4 unable to calculate all of the information by system  
5 for the 199 dockets. And there were other concerns  
6 that were placed in the order but the Utility was not  
7 told to file anything specifically back. Basically  
8 the Commission said, "We're giving you the opportunity  
9 to make a second filing, and you know our concerns.  
10 They are laid out here."

11 COMMISSIONER GARCIA: You felt that those  
12 concerns were met.

13 MR. WILLIS: Yes. The concerns were met and  
14 we were able to calculate what we needed to calculate  
15 to come here with the revenue requirement.

16 COMMISSIONER JOHNSON: Marshall, you had  
17 mentioned something earlier, and I wrote down some  
18 notes here, with respect to the revenue requirement in  
19 199 being kind of tied to the rate structure issue.

20 MR. WILLIS: Yes.

21 COMMISSIONER JOHNSON: And in that case how  
22 do we -- any overearnings were calculated -- it was  
23 calculated on a system-by-system basis, and any  
24 overearnings kind of just went to reduce the subsidy  
25 that we knew was there.



1 MR. WILLIS: That's correct. No rates were  
2 reduced under that rate structure scenario.

3 COMMISSIONER JOHNSON: We followed that same  
4 199 structure. In my mind how could we not follow  
5 that -- if they had filed something differently, could  
6 we have deviated from 199?

7 MR. WILLIS: I don't believe so.

8 COMMISSIONER JOHNSON: That was one of my  
9 problems. I was wondering how we would get out of --

10 MR. WILLIS: I believe the statute requires  
11 you to use the exact same rate structure and the  
12 method that went into that calculation so you could  
13 not reduce those rates for interim purposes. You have  
14 to use that to reduce the subsidy that all of the  
15 systems are going to pick up that are underneath the  
16 cap, or the benchmark.

17 COMMISSIONER JOHNSON: Okay.

18 CHAIRMAN DEASON: But it is true that based  
19 upon whatever methodology they used, they have  
20 identified a specific dollar amount per system under  
21 the modified stand-alone rate structure.

22 MR. WILLIS: Yes, they have.

23 COMMISSIONER DEASON: We've calculated the  
24 way that we think it should be done based upon the  
25 adjustments that you think are appropriate with the

1 last case, and you've calculated a revenue requirement  
2 per system on a stand-alone basis. And you've not  
3 compared those two on a system-by-system basis, you've  
4 compared it on a total-company basis --

5 MR. WILLIS: That's correct.

6 COMMISSIONER DEASON: -- to determine if  
7 there should be any limitations.

8 MR. WILLIS: To determine if there actually  
9 should be any decrease, yes, we looked at on a total  
10 company, because their request is on a total-company  
11 basis.

12 CHAIRMAN CLARK: There's been a motion and a  
13 second.

14 COMMISSIONER GARCIA: Commissioner Deason --  
15 just one second.

16 I understand that you and I may not agree on  
17 the uniform, and I've read your dissents on these  
18 cases because you have had a few in the past, but I  
19 fail to see how the Company can distinguish one system  
20 from another -- I may not use the word "system" --

21 COMMISSIONER KIESLING: Plant facilities.

22 COMMISSIONER GARCIA: There we go -- one  
23 plant facility from another when it is coming in for a  
24 rate increase for the whole. And whatever requirement  
25 that Staff has put out there should obviously apply

1 across the board as being adjusted to each one.

2 I understand you not wanting to go all the  
3 way to decide this is all one system. But in essence  
4 it is all one company, and there, that's why -- at  
5 least I see the logic that Staff tried to take and to  
6 fluctuate between one and another -- in other words,  
7 take our high in one -- excuse me, the lowest of the  
8 two in each would be inconsistent, I think, in any  
9 planning of an overall rate structure increase.  
10 Clearly you would go for what you need overall, and  
11 Staff, obviously, tried to stay within that. Clearly  
12 I understand the complexity of trying to do that. I  
13 can understand that. I don't know if I -- and I don't  
14 understand how we would make the distinction that you  
15 want us to make, unless what we were trying to prove  
16 is go beyond the concept of whether they are a system  
17 or not. You're almost treating them as individual  
18 plants and not related to the whole.

19 COMMISSIONER DEASON: Let me -- regardless  
20 of my opinion of what is the appropriate rate  
21 structure, that's already -- as you said that's been  
22 decided and I wrote the dissent. The fact remains  
23 that subsequent to that the Court has told us we need  
24 to do it on an individual-system basis. Okay. That's  
25 what I'm basing my concern about this interim on.

1           Granted, we did the interim all different  
2 the last time this company was in for a revenue  
3 requirement case. But that was before the Court told  
4 us that we did not have the authority, absent certain  
5 findings, to impose a uniform rate structure.

6           I feel like the Company had an obligation,  
7 given the Court's decision and our refusal to grant  
8 them interim under the original request, to come in  
9 and to calculate an individual system revenue  
10 requirement based upon the application of the interim  
11 statute, present that to our Staff, and let our Staff  
12 review it; either agree with it or find fault with it.  
13 If there's fault, show what adjustments need to be  
14 made, then calculate their number for each individual  
15 system and we would compare the two. And based upon  
16 the Commission's policy that we don't grant an interim  
17 increase greater than that requested, we'd have the  
18 obligation to look at it on an individual-system  
19 basis.

20           I'm not basing my decision on my particular  
21 position on uniform versus stand-alone. The Court has  
22 spoken on that. And I think we have an obligation  
23 when we apply this interim to be consistent with that.  
24 That's the way I'm interpreting that Court decision.  
25 Now, I understand Court decisions can be interpreted

1 in many different ways. And perhaps our Staff is  
2 interpreting that consistent with that Court decision  
3 that we can calculate a revenue increase on a  
4 total-company basis when we're trying to determine  
5 whether what we're granting them exceeds what they are  
6 requesting. And perhaps that is consistent. I'm  
7 uncomfortable making that decision at this point. I'm  
8 taking the more conservative approach. And that's  
9 what I would do. That's the reason I cannot support  
10 the motion.

11 COMMISSIONER GARCIA: Maggi, do you feel  
12 comfortable with the way Legal is interpreting that in  
13 this case?

14 MS. O'SULLIVAN: Yes. Staff has not found  
15 any deficiencies in the filing based upon their new  
16 filing. I'm not sure if you had any more specific  
17 questions about the actual case itself or --

18 CHAIRMAN CLARK: I think what the the debate  
19 boils down to is that Commissioner Deason sees that  
20 opinion as saying not only should the rates not be  
21 uniform but the revenue requirement should not be  
22 looked at overall as a result of that decision. And  
23 he's uncomfortable making that decision here and I  
24 understand that.

25 In this case, and in -- I don't remember the

1 docket number but the one the Court decided on, it was  
2 an overall revenue requirement, and the Court did not  
3 disturb that. But I don't dispute there can be a  
4 reading of that case, that not only do you have to do  
5 the rate design, you have to do the revenue  
6 requirement. I personally don't think that's what the  
7 cases said.

8 COMMISSIONER GARCIA: I'm glad you pointed  
9 that out at the end there.

10 CHAIRMAN CLARK: That's what the debate  
11 boils down to.

12 MR. WILLIS: Chairman Clark, I think you  
13 brought up a very good point there.

14 In that case the Commission calculated a  
15 total company requirement in 920199. That revenue  
16 requirement was not challenged or changed by the  
17 Court.

18 CHAIRMAN CLARK: I think it was challenged.  
19 Didn't Public Counsel challenge the revenue  
20 requirement?

21 MR. WILLIS: They challenged it and they  
22 lost.

23 CHAIRMAN CLARK: That's what I mean, it was  
24 challenged.

25 MR. WILLIS: It was challenged.

1 MS. O'SULLIVAN: The Court declined to  
2 address the issue. The case lists --

3 CHAIRMAN CLARK: I think we could all look  
4 at that case and desire more specifics in terms of  
5 what we could do.

6 MS. MERCHANT: It was based on the  
7 individual systems added up together to equal one  
8 total. It wasn't just everything -- let's get one  
9 revenue requirement calculation. There were 137  
10 different revenue requirements added together, all at  
11 the midpoint of the return on equity, regardless of  
12 whether they were overearning or underearning.

13 COMMISSIONER GARCIA: I'm prepared to vote.

14 MR. WILLIS: What you have here before you  
15 for interim is exactly the same thing. You have all  
16 of the systems that were in 920199 individually  
17 calculated and added together. Now, the Company in  
18 this case came forward and said, "We're requesting a  
19 total company revenue requirement." The only thing  
20 that Staff has done to go back and look at the total  
21 company revenue requirement is to see whether or not  
22 we have given them more revenues in the total company  
23 than they asked for, and we did not.

24 COMMISSIONER GARCIA: Maybe I'm not going to  
25 express it in the right way, but I think to go -- it

1 worries me when the Chairman says that it could be  
2 read that way.

3 CHAIRMAN CLARK: I can tell you this: I'm  
4 willing to argue the other side of that case that  
5 that's not what it stands for. But let's face it, I'm  
6 the one who was proven wrong in that case. So I'm  
7 very comfortable with it.

8 COMMISSIONER GARCIA: I am too. I just  
9 don't see it that far. I think we may -- I  
10 understand -- no, I can't say I do. I don't  
11 understand Commissioner Deason's point -- I mean I do  
12 understand Commissioner Deason's point but I don't  
13 think it could work. And I think that, in fact, it  
14 would make it almost impossible to figure this out.  
15 We would, in essence, be taking this company and  
16 saying, "You're not a whole company." Now beyond the  
17 concept of one company or one system we would be  
18 saying to the company, "You are to act as if you were  
19 many different systems. You are not to have an  
20 overall goal as a company." And that I don't think is  
21 our job. In other words, a company has a strategy.  
22 They may have different markets and different branches  
23 and different sections, but --

24 CHAIRMAN CLARK: Are you ready to vote?

25 COMMISSIONER GARCIA: Yes, I'm ready.



1 CHAIRMAN CLARK: Commissioner Deason, do  
2 you want to continue the debate?

3 COMMISSIONER DEASON: Oh, no. (Laughter)

4 CHAIRMAN CLARK: You know this is the only  
5 place you can do it.

6 All right. There's been a motion on Issue  
7 2. All those in favor say aye.

8 COMMISSIONER JOHNSON: Aye.

9 COMMISSIONER KIESLING: Aye.

10 COMMISSIONER GARCIA: Aye.

11 CHAIRMAN CLARK: Aye. Opposed nay.

12 COMMISSIONER DEASON: Nay.

13 CHAIRMAN CLARK: Issue 3.

14 MR. RENDELL: Commissioners, Issue 3 is the  
15 appropriate rates and rate structure for Southern  
16 States for interim. Staff is offering a primary and  
17 alternative with one small difference. For the plants  
18 that were included in Docket 920199, we're following  
19 the exact same methodology that was approved in Order  
20 No. PSC-95-1292-FOF-WS, which was, I guess, clarifying  
21 the mandate from the Court. For the other plants that  
22 weren't included in that docket, Staff applied a  
23 stand-alone percentage increase to existing rates.

24 The difference between the primary and  
25 alternative. The only difference is there's a

1 difference in caps. The reason why we're bringing it  
2 to the Commission is Staff had no direction in the  
3 record of how to deal with pass-through and indexes.  
4 When we came with the rates previously in the mandate  
5 recommendation, what we did was apply the individual  
6 pass-through and indexes to the rates after we  
7 calculated using the \$62. -- I'm sorry, 52 and 65.

8 We're offering the primary, that we just  
9 follow the exact same methodology using the \$52 and  
10 65. The alternate is using the new caps, which is  
11 based on the highest bill that would be calculated at  
12 10,000 gallons after applying the specific  
13 pass-through and indexes.

14 CHAIRMAN CLARK: You increase the caps by  
15 previously allowed price increases and indexes.

16 MR. RENDELL: That's correct. The  
17 pass-through and indexes happened after the 920199  
18 decision and happened between the period from the  
19 final order on uniform rates and the Court mandate.  
20 Staff had no direction of how to apply these, so --

21 CHAIRMAN CLARK: You mean no direction from  
22 the Commission?

23 MR. RENDELL: No direction in the record.  
24 This was not addressed in 920199. We reviewed the  
25 record and there was little or no direction of how to

1 apply subsequent pass-through indexes, and since that  
2 wasn't voted on, it's never been addressed.

3           So, in the primary -- the way that the rates  
4 were calculated, you put individual revenue  
5 requirements in and let the rates calculate using the  
6 52 and the 65. And that, therefore, you would have  
7 the subsidies that was going to the other plants that  
8 would be increased.

9           For the alternative we looked at what the  
10 highest bill would be after applying the specific  
11 pass-through indexes, which would be, I believe, \$84  
12 and \$80 for water and wastewater respectively, and we  
13 used those as new caps. So we're just offering it as  
14 an alternative recommendation.

15           MR. WILLIS: Another way to look at it is  
16 the primary recommendation basically says that the  
17 Commission set a benchmark of \$52 and \$65 respectively  
18 for water and wastewater, and those benchmarks were  
19 not to be changed until the Commission decided in a  
20 further proceeding what they were. That's basically  
21 what the primary says.

22           CHAIRMAN CLARK: I wish you had said that  
23 just like that in the two recommendations.

24           COMMISSIONER DEASON: This is a difficult  
25 question because I can see it from both sides. We

1 made a policy decision as a result of the remand from  
2 the Court, and we set maximum rates at 52 and 65 and  
3 we thought that was consistent with the record. I  
4 think we were all extremely cautious to try to make a  
5 decision that was consistent with the record so we  
6 could -- and comply with the Court's remand. And in  
7 coming up with the 52 and 65 based upon the existing  
8 record there was consideration as to what would be an  
9 affordable rate and things of that nature. And there  
10 was some judgment involved in that. But that was the  
11 decision and I thought we all supported that and we  
12 could live with that. But what you have is you have a  
13 situation where subsequent to that decision being made  
14 you have these pass-through indexes which affect the  
15 rates.

16           Now, I'm not so sure we want to be putting  
17 our Staff in the situation of having anytime there's a  
18 particular pass-through or index requested for a  
19 particular system to calculate whether it's going to  
20 cause them to exceed this subsidy cap and then go back  
21 and recalculate other people's rates. It don't want  
22 to be in that position. But at the same time, here  
23 for purposes of interim, to be consistent with the  
24 policies in the last case, I'm uncomfortable  
25 increasing these maximums because it was based upon

1 evidence in the last record and some utilization of  
2 some judgment. And I think we'll need testimony in  
3 the existing case to determine what those caps should  
4 be. I'm uncomfortable tinkering with them absent that  
5 testimony in this case. That's the dilemma that we're  
6 in. I don't know what the easy answer is.

7           We can set a maximum, but then you have the  
8 question of if you're not going to change that until  
9 the next full revenue requirements case, how do you  
10 treat all of the indexes and pass-throughs. And I  
11 don't want to be in a position of going back in and  
12 recalculating and making sure every rate is consistent  
13 with that. It looks to me like we have an obligation,  
14 consistent with the statute, if they -- a particular  
15 system meets the statutory requirements, they get that  
16 pass-through or that index and it's a percentage  
17 applied to their existing rates, regardless if it  
18 causes them to exceed 52 or 65.

19           But now we're in interim and we've got to be  
20 consistent with what was done in the last case. And  
21 I'm not so sure that we can be consistent with the  
22 last case and start tinkering with these maximums now.  
23 And that's the dilemma.

24           COMMISSIONER KIESLING: And I understand  
25 that dilemma and had the same kind of thought

1 processes that you just went through. And I came,  
2 personally, down to the conclusion that we should  
3 stick with the caps as they had been, the 52 and 65,  
4 and, you know, it seems inherent in setting them at  
5 that level that if additional pass-throughs or indexes  
6 occur in the future that makes someone go over that,  
7 that that is simply what happens. You know, I don't  
8 think we can continue to go back in and keep  
9 readjusting caps to take into account every time  
10 there's a pass-through or price index. That doesn't  
11 seem to me a good policy of how to approach these  
12 kinds of changing circumstances. And at least, you  
13 know, to get us started, even though there may be more  
14 discussion, I'm willing to move Staff primary on  
15 Issue 3.

16           COMMISSIONER GARCIA: I'll second that. I  
17 don't think I have very much -- I agree with what  
18 Commissioner Kiesling said. The more we fiddle with  
19 this, I think the more problems we find. And I think  
20 that's where it was and we move on. And I agree with  
21 Commissioner Deason, what we have to do is bring it up  
22 in the record of the case before us and explore it  
23 there and that's the proper venue for that type of  
24 discussion.

25           CHAIRMAN CLARK: There's been a motion and a

1 second. Any discussion?

2 COMMISSIONER DEASON: I think I can support  
3 the motion. And implicit in your motion is that we're  
4 not making any decision that on a going-forward basis  
5 anytime there's a pass-through and index that we go  
6 back and recalculate everything.

7 COMMISSIONER KIESLING: Absolutely not.  
8 This is on interim and all I'm doing is voting on the  
9 pure issue that's before us.

10 CHAIRMAN CLARK: But we certainly need to  
11 cover that --

12 COMMISSIONER KIESLING: In the final  
13 decision.

14 CHAIRMAN CLARK: -- in this rate case.

15 MR. WILLIS: It will be covered.

16 CHAIRMAN CLARK: There's been a motion and  
17 second. All of those in favor say aye.

18 COMMISSIONER DEASON: Aye.

19 COMMISSIONER JOHNSON: Aye.

20 COMMISSIONER KIESLING: Aye.

21 COMMISSIONER GARCIA: Aye.

22 CHAIRMAN CLARK: Aye. Opposed nay.

23 Issue No. 4.

24 MR. RENDELL: Commissioners, Issue No. 4  
25 deals with the appropriate security. Staff is

1 recommending that Southern States cannot support a  
2 corporate undertaking based on the analysis by the  
3 Division of Auditing and Finance. The other forms of  
4 security available would be a bond, an escrow or  
5 Letter of Credit.

6 COMMISSIONER KIESLING: And I move Staff.

7 COMMISSIONER GARCIA: I second.

8 COMMISSIONER DEASON: I have a question.

9 The amount in your recommendation is \$5,864,375. Is  
10 that correct?

11 MR. RENDELL: That's correct.

12 COMMISSIONER DEASON: That's both for water  
13 and wastewater.

14 MR. RENDELL: That's correct.

15 COMMISSIONER DEASON: I know I've done  
16 something wrong and I've overlooked something. I just  
17 made a simple calculation. I've just added the  
18 revenue increases that were being recommended for  
19 water and wastewater as found on Attachment A and came  
20 up with 5,891,937.

21 MR. RENDELL: Commissioner, the way we  
22 calculate for interim purposes, we look at what is  
23 recommended by Staff, what their test year revenues  
24 are and we come up with a dollar amount for the year.  
25 And Staff came up with \$6,712,000. Then we look at



1 the amount of time until the very end of the case. So  
2 what we did, we actually overestimated 10 months. So  
3 that by the time that the rates were in effect to the  
4 time of final rates, ten months has passed and that  
5 would be the appropriate amount. So we take the  
6 amount, which Staff came up with 6.7 million, divided  
7 by 12, multiply it times ten months, add interest to  
8 it that's and how we came up with the 5.8 million.

9 COMMISSIONER DEASON: Okay.

10 CHAIRMAN CLARK: There's been a motion and a  
11 second on Issue 4. All those in favor say aye.

12 COMMISSIONER DEASON: Aye.

13 COMMISSIONER JOHNSON: Aye.

14 COMMISSIONER KIESLING: Aye.

15 COMMISSIONER GARCIA: Aye.

16 CHAIRMAN CLARK: Aye. Opposed nay.

17 Issue 5.

18 COMMISSIONER GARCIA: Move Staff.

19 CHAIRMAN CLARK: Is there a discussion?

20 COMMISSIONER KIESLING: Second.

21 CHAIRMAN CLARK: All those in favor aye.

22 COMMISSIONER DEASON: Aye.

23 COMMISSIONER JOHNSON: Aye.

24 COMMISSIONER KIESLING: Aye.

25 COMMISSIONER GARCIA: Aye.

1 CHAIRMAN CLARK: With that, Issue 5 is  
2 approved. Issue 6.

3 MS. O'SULLIVAN: Commissioners, Issue 6  
4 Staff recommends that Commission deny Public Counsel's  
5 motion to cap interim rates. Public Counsel's motion  
6 is inappropriate when addressing interim rates.

7 CHAIRMAN CLARK: Is there a discussion? Is  
8 there a motion?

9 COMMISSIONER GARCIA: I'll move it.

10 COMMISSIONER KIESLING: Second.

11 CHAIRMAN CLARK: All those in favor say aye.

12 COMMISSIONER JOHNSON: Aye.

13 COMMISSIONER KIESLING: Aye.

14 COMMISSIONER GARCIA: Aye.

15 CHAIRMAN CLARK: Aye. Opposed nay.

16 COMMISSIONER DEASON: Nay.

17 CHAIRMAN CLARK: That's it. Thank you very  
18 much.

19 (Thereupon, the hearing concluded at  
20 10:58 a.m.)

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1 STATE OF FLORIDA)  
2 COUNTY OF LEON )

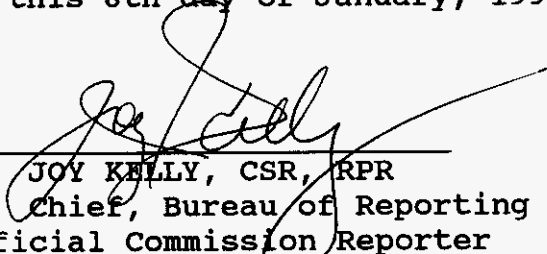
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3 I, JOY KELLY, CSR, RPR, Chief, Bureau of  
4 Reporting, Official Commission Reporter,

5 DO HEREBY CERTIFY that the Special Agenda  
6 Conference in Docket No. 950495-WS was heard by the  
7 Florida Public Service Commission at the time and  
8 place herein stated; it is further

9 CERTIFIED that I stenographically reported  
10 the said proceedings; that the same has been  
11 transcribed under my direct supervision; and that this  
12 transcript, consisting of 67 pages, constitutes a true  
13 transcription of my notes of said proceedings.

14 DATED this 8th day of January, 1996.

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