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June 7, 1996

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VIA FED EX OVERNIGHT DELIVERY

RE: Docket No. 950495-WS

Dear Ms. Bayo:

Enclosed herewith for filing in the above-referenced docket is the original and fifteen copies of the Post-Hearing Brief of Burnt Store Lakes. Please acknowledge receipt of these documents by stamping the extra copy of this letter "filed" and returning the same to me.

Your consideration in this matter is greatly appreciated.

Very truly yours,

Darol H. Carr
DAROL H. M. CARR
For the Firm

ACK ✓
AFA 2
APP _____
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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

IN RE: Application for rate increase in Brevard, Charlotte/Lee, Citrus, Clay, Duval, Highlands, Lake, Marion, Martin, Nassau, Orange, Osceola, Pasco, Putnam, Seminole, Volusia, and Washington Counties by SOUTHERN STATES UTILITIES, INC.; Collier County by MARCO SHORES UTILITIES (Deltona), Hernando County by SPRING HILL UTILITIES (Deltona); and Volusia County by DELTONA LAKES UTILITIES (Deltona)

Docket No. 950495-WS

POST-HEARING BRIEF OF BURNT STORE LAKES

PRELIMINARY STATEMENT

Pursuant to Rule 25-22.056, Florida Administrative Code, Burnt Store Lakes files its post-hearing brief.¹

BACKGROUND

On June 28, 1995, SSU filed an application for interim and final water and waste water rates for its 152 service areas. On August 1, 1995, SSU was directed to file supplemental information concerning Hernando, Hillsborough, and Polk counties, though rates for those counties will not be changed in this proceeding.

Order No. PSC-95-1327-FOF-WS denied SSU's interim rate request. SSU filed a supplemental petition for interim relief. The Commission approved interim rates for SSU in Order No. PSC-95-0125-FOF-WS. The final hearing in this case was held on April 29-30, May 1-4, 6-10, 1996.

¹The following abbreviations are used in this brief. The City of Keystone Heights and the Marion Oaks Homeowners Association are referred to as Keystone/Marion. The Florida Public Service Commission is referred to as the Commission. Southern States Utilities, Inc. is referred to as SSU. Burnt Store Lakes is referred to as Burnt Store. Marco Island is referred to as Marco.

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FPSC-RECORDS/REPORTING

There are numerous parties to this docket, including the Office of the Public Counsel. Early in the case, Public Counsel advised the Commission that he had a conflict in representing various customer groups on rate design issues. This conflict arose because some SSU customers support a uniform rate structure while others support a stand-alone rate structure. Public Counsel expeditiously attempted to make arrangements to ensure that the various groups were properly represented in this case.

During the last week of the final hearing, the undersigned were retained to represent Burnt Store. Burnt Store subsequently moved to intervene in this docket and the motion was granted by the Commission. As a result of the date of intervention, Burnt Store was unable to offer evidence or otherwise contribute to the record in this proceeding. Nevertheless, the record supports Burnt Store's position on the issue addressed herein.

ADOPTION OF KEYSTONE/MARION BRIEF

On the issue of overall rate uniformity, Burnt Store's position is aligned with that of Keystone/Marion. Accordingly, the post-hearing brief of Keystone/Marion is adopted by Burnt Store in its entirety and incorporated by reference as if set forth fully in this post-hearing brief. In addition to the foregoing position on rate uniformity, Burnt Store makes the following supplemental argument.

SUMMARY OF SUPPLEMENTAL ARGUMENT

The Commission should implement a uniform statewide rate structure for SSU that does not discriminate among SSU's individual

utilities based upon type of water treatment. The reverse osmosis utilities servicing Burnt Store and Marco should therefore be included in the uniform rate structure.

The record in this proceeding establishes no basis for excluding Burnt Store or Marco from the uniform rate structure. SSU maintains that Burnt Store and Marco should be excluded from the uniform rate structure based upon the cost of water treatment at those facilities as opposed to costs of treatment at so-called conventional facilities. In fact, the record and the current rate structure establish that including Burnt Store and Marco in the uniform rate structure will have at most a marginal impact on overall system cost and, therefore, uniform rates.

All factors advanced by SSU in support of uniform rates also support including all SSU utilities in the uniform rate system regardless of treatment method. Excluding Burnt Store and Marco would create an unfairly discriminatory rate structure. Specifically, excluding these utilities from uniform rates would result in a small number of customers paying rates more than double those paid by all other SSU customers and would further deny Burnt Store and Marco customers all other benefits of uniform rates. Finally, the Commission's prior investigation of uniform rates found in favor of a uniform rate structure with all SSU utilities included.

To further its rate making goals, the Commission should therefore approve uniform rates for all SSU utilities subject to

this docket, and not excepting therefrom any system based upon treatment method.

SUPPLEMENTAL ARGUMENT

Issue 135

Should the Utility's plant capacity charges be differentiated by type of treatment?

Burnt Store's Position: No. The appropriate rate structure for SSU is a uniform structure for all SSU utilities that does not segregate utilities based on type of treatment.

I. The evidence in this proceeding and the present rate structure provide no basis for excluding reverse osmosis facilities from a uniform rate structure :

Throughout this docket, SSU has attempted to distinguish between so-called conventional utilities and those utilities employing a reverse osmosis ("R.O.") method of water treatment. Presently two utilities in the SSU system utilize R.O. Those are Burnt Store and Marco. SSU maintains that Burnt Store and Marco should be excluded from the proposed uniform rate structure based upon the cost level of the R.O. method. An analysis of SSU's evidence and the current rate structure establishes that there is no basis to exclude R.O. utilities from a uniform rate system.

SSU's primary witness on the R.O. issue was John Starling (Tr. 3033-3042). Mr. Starling's testimony was offered by SSU in an effort to establish that the cost of R.O. water treatment justifies excluding Burnt Store and Marco from a uniform rate structure. In every rate proceeding, Florida Statutes, Section 367.08(2)(a) requires the Commission consider a number of factors including the

cost of providing service. Mr. Starling's testimony is based exclusively on hypothetical numbers. No actual costs of R.O. treatment have been offered to support excluding the R.O. facilities. Accordingly, the evidence in this proceeding is legally insufficient for the Commission to exclude Burnt Store and Marco from uniform rates.

Mr. Starling's testimony establishes that the asserted distinction between "conventional" and R.O. systems is without basis. In fact, Mr. Starling testified that throughout SSU's present system of 96 utilities, six distinct water treatment methods are presently implemented. Those are water purchasing, chlorination, aeration/storage, iron filtration, lime softening, and R.O. (Tr. 3035). Mr. Starling further testified that cost disparities exist among the various water delivery methods.² Starling's cost comparison was based upon the calculation of hypothetical utility costs that included essentially one-time expenses for water treatment plant and equipment.³ Accordingly, it is reasonable to conclude that the disparity of actual operating costs is significantly lower than those figures provided in Mr. Starling's testimony. Nevertheless, SSU asserts that R.O. costs

²Utilizing a weighted scale, Mr. Starling testified to the following cost disparities with simple chlorination serving as a base cost of one: iron filtration - 1.38; aeration and/or storage - 1.56; lime softening - 2.50; reverse osmosis - 4.9.

³Exhibit JMS-1 includes in its R.O. cost analysis expenditures of \$162,000.00 for water treatment equipment (plant), \$437,500.00 for permeation and \$1,400,000.00 for water treatment equipment (Exhibit JMS-1).

justify excluding Burnt Store and Marco from the proposed uniform rate structure.

Even if Mr. Starling's cost numbers are taken at face value, a simple mathematical analysis reveals that the impact of Burnt Store and Marco in a system wide uniform rate structure will be, at most, marginal. The SSU system is dominated by the aeration/storage and chlorination methods (Tr. 3035)⁴78. Utilizing Mr. Starling's revenue requirements for each type of treatment (Tr. 3041)⁵ results in an average system wide revenue requirement of approximately \$175,000.00 per utility when Burnt Store and Marco are excluded from the average. The system wide average revenue requirement when Burnt Store and Marco are included is \$192,000.00 per utility. The increase in the system wide average revenue requirement per utility when the R.O. facilities are included is 9.7%. By comparison, excluding those utilities utilizing the aeration/storage method from an otherwise uniform system would reduce the average utility revenue requirement by 11.6%. This analysis reveals that treatment methods other than R.O. will have a greater cost impact on uniform rates and that Mr. Starling's testimony provides no cost basis for discriminating against the customers of the Burnt Store and Marco facilities based upon the method of water treatment utilized.

⁴Presently 35 plants of 96 in the SSU system utilize chlorination and 37 plants utilize aeration/storage.

⁵Burnt Store maintains that these figures exaggerate the actual cost disparity for the reverse osmosis method as set forth above.

An analysis of the current approved interim rates for the SSU system again indicates no basis for excluding R.O. facilities from a uniform rate structure. The approved interim base facility charge ("BFC") for the 96 SSU utilities currently ranges from a low of \$5.30 to a high of \$61.83. The gallonage charge per 1,000 gallons ("GC") currently ranges from \$0.00 to \$4.62. Burnt Store's customers presently pay a BFC of \$13.53 and a GC of \$3.85. Marco's customers pay a BFC of \$8.53 and a GC of \$3.21. The average BFC between Burnt Store and Marco is \$11.03. The average GC between Burnt Store and Marco is \$3.53.

Under the current interim rate structure, thirty-four utilities⁶ currently impose an approved BFC exceeding the average BFC between Burnt Store and Marco. Moreover, twenty-six utilities⁷ impose an approved GC exceeding the average GC between Burnt Store and Marco. Thus, more than one third of SSU's utilities currently charge rates higher than the average rates charged by Burnt Store and Marco. Those other utilities will have a greater impact on average rates in a uniform rate structure than will Burnt Store and Marco.

Given Mr. Starling's cost calculations and the current non-uniform rate structure, there is no cost or rate basis for excluding R.O. facilities from a uniform rate structure.

⁶ This number constitutes 35% of the 96 utilities in the SSU system.

⁷ This number constitutes 27% of the 96 utilities in the SSU system.

III. Uniform rates will not result in any unfair subsidy to customers of Burnt Store or Marco:

Once the Commission adopts the concept of uniform rates, it will then be approving a certain level of subsidy throughout the system. The preceding section demonstrates that the level of subsidy to be enjoyed by customers of Burnt Store and Marco in a uniform rate system will be less than that enjoyed by the customers of the seven SSU facilities utilizing the aeration/storage method, and less than those customers who are presently paying higher rates than the customers of Burnt Store and Marco. Burnt Store and Marco fall squarely within the range of rates presently paid in the stand alone rate structure and should not be excluded from uniform rates.

IV. The factors offered in support of uniform rates support including Burnt Store and Marco in the uniform rate structure:

In support of the uniform rate concept, SSU has espoused a number of factors supporting uniform rates for all SSU utilities. Specifically, those are lower rates, mitigation of rate shock, lower rate case expense, ease of understanding, administrative efficiency, reduction in rate filing costs, access to capital, no illegal subsidies. Consideration of each factor supports including Burnt Store and Marco in the uniform rate structure:

A. Lower Rates: Uniform rates will result in a larger base of rate payers over which to distribute the cost of operations and major capital expenditures (Tr. 1401). Including the customers of Burnt Store and Marco will further broaden the base of rate

payers over which to distribute future operations costs and capital expenditures. Moreover, including Burnt Store and Marco will allow SSU to avoid allocating large capital and operating costs to a small group of customers.

B. Mitigating Rate Shock: Including the customers of Burnt Store and Marco in the uniform rate structure will result in smaller per customer rate increases in the future by distributing necessary additional revenues over a larger base of paying customers (Tr. 1402).

C. Lower Rate Case Expense: Combining all SSU facilities into a uniform rate structure will result in lower rate case expenses (Tr. 1402). To the contrary, segregating Burnt Store and Marco from the uniform rate structure would necessitate future rate filings for relatively small utilities and customer bases.

D. Easily Understood: Uniform rates are easily understood by paying customers (Tr. 1402). Excepting Burnt Store and Marco from uniform rates would complicate the rate structure and diminish customer understanding.

E. Administrative Efficiency: When administrative functions are combined, cost savings result for customers (Tr. 1403). Segregating Burnt Store and Marco from the uniform rate structure would result in unnecessary duplication of administrative functions for the two utilities excluded from the uniform rate structure.

F. Frequency and costs of rate filings reduced: When rates are averaged, SSU can offset revenue deficiencies in one area

against another. This eliminates the need for frequent rate cases (Tr. 1403). To the contrary, excluding Burnt Store and Marco from the uniform rate structure would require independent rate cases for rate increases for two relatively small utilities resulting in a disproportionate expenditure for rate filings.

G. Access to Capital: Uniform rates allow utilities to minimize operating risk, allowing better access to capital markets (Tr. 1403). As SSU witness Denny testified, it is much more difficult to fund capital projects for small systems when a small customer base is going to pay for a large capital improvement (Tr. 437). Including Burnt Store and Marco in a uniform rate structure will allow those utilities to benefit from better access to capital markets. Excluding Burnt Store and Marco from the uniform rate structure would subject those utilities to disproportionately high capital costs resulting in unnecessarily increased rates and potential rate shock.

Given the foregoing, it is established that each of the factors supporting the concept of uniform rates likewise supports including Burnt Store and Marco in the uniform rate structure rather than discriminating against the R.O. method of water treatment.

V. Excluding Burnt Store and Marco from a uniform rate structure will result in an unfairly discriminatory rate:

Florida Statutes, Section 367.081, governing this proceeding, requires the Commission to fix rates that are just, reasonable,

compensatory, and *not unfairly discriminatory*. Approval of a uniform rate structure that excludes Burnt Store and Marco would discriminate against R.O. customers by unfairly requiring them to pay excessive rates and by unfairly denying them all other benefits of uniform rates.

SSU's proposed uniform rate for so-called conventional facilities includes a base facility charge of 9.17. SSU's proposed base facility charge for Burnt Store and Marco is 23.62⁸ SSU thereby asks the Commission to require the customers of Burnt Store and Marco to pay a base facility charge that is 257% greater than that of all other SSU customers. This differential is grossly disproportionate to the rate impact that would result from including Burnt Store and Marco in the uniform rate structure⁹, and would constitute an unfairly discriminatory rate.

Once a uniform rate structure is approved, excluding Burnt Store and Marco would unfairly deprive the customers of those utilities of the advantages of uniform rates. The customers of Burnt Store and Marco would be exposed to unmitigated rate shock, denied the benefits of administrative consolidations and cost distribution and subjected to higher capital costs.¹⁰

⁸Note that SSU makes no proposed distinction between the base facility charge for Burnt Store and Marco, notwithstanding the fact that Marco Island operates on a fifty percent R.O. and fifty percent lime softening method (Tr. 3036).

⁹ See section I above.

¹⁰ See section IV above.

When uniform rates are adopted, the only decision that will comport with the Commission's statutory directive to set rates that are not unfairly discriminatory will be to include Burnt Store and Marco in the uniform rate structure.

VI. Commission findings in its investigative docket support uniform rates for all SSU utilities with no discrimination based on water treatment method.

In Docket Number 9300880, the Commission undertook an extensive analysis and investigation of the uniform rate concept and concluded that the benefits of uniform rates outweigh any of the perceived disadvantages and that uniform statewide rates should be the goal for SSU (Order No. PSC-94-1123-FOF-WS). In that docket there was no consideration of excluding particular utilities based upon water treatment method. Nevertheless, the Commission found that uniform rates would result in affordable rates for all SSU ratepayers, even those at poverty level (Id. at 256). The Commission also considered whether differences among various utilities warranted any rate adjustment. On that issue the Commission undertook an extensive statistical analysis and concluded that no significant differences exist and that no rate adjustment is necessary. (Id. at 257). These prior findings support truly uniform rates throughout the SSU system, without discrimination based on water treatment method.

VII. Conclusion.

There is no basis in the record of this docket or the current rate structure for excluding Burnt Store or Marco from a uniform

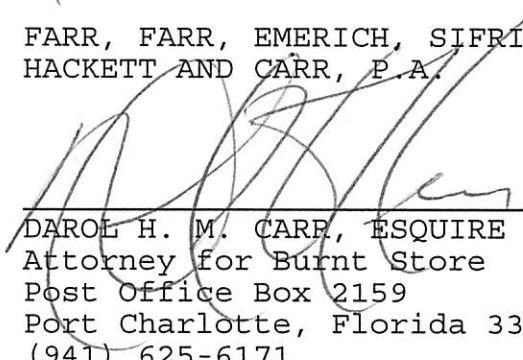
rate structure. To do so would create an unfairly discriminatory rate structure. Moreover, all factors supporting uniform rates support including Burnt Store and Marco in a uniform rate structure. Finally, the Commission's extensive investigation of the uniform rate concept found no basis for treating any utility in the SSU system differently. The Commission should approve a uniform rate structure for SSU that includes Burnt Store and Marco.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the above and foregoing has been furnished by U.S. Mail to all those listed on the attached service list this 7 day of JUNE, 1996.

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