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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Petition of the Board of County Commissioners of Collier County, Florida, for Declaratory Statement Regarding the Florida Public Service Commission's Entitlement to Regulatory Assessment Fees Collected By Southern States Utilities, Inc. in Collier County, Florida, After February 27, 1996)

DOCKET NO. 960806-WS
FILED: July 5, 1996

PETITION OF THE BOARD OF COUNTY COMMISSIONERS OF COLLIER COUNTY, FLORIDA, FOR DECLARATORY STATEMENT REGARDING THE FLORIDA PUBLIC SERVICE COMMISSION'S ENTITLEMENT TO REGULATORY ASSESSMENT FEES COLLECTED BY SOUTHERN STATES UTILITIES, INC. IN COLLIER COUNTY, FLORIDA, AFTER FEBRUARY 27, 1996

The Board of County Commissioners of Collier County, Florida, ("Collier County") by and through their undersigned counsel, pursuant to Section 120.565, Florida Statutes, and Rule 25-22.020, Florida Administrative Code, petition the Florida Public Service Commission ("Commission") to publish a declaratory statement regarding its entitlement, if any, to regulatory assessment fees collected by Southern States Utilities, Inc. ("SSU") from its customers in Collier County, Florida, after February 27, 1996. Specifically, Collier County would petition this Commission to declare that it has no statutory right to any regulatory assessment fees collected by

SSU in Collier County after February 27, 1996 in view of Collier County's Resolution No. 96-104 rescinding the Commission's Chapter 367, Florida Statutes, jurisdiction in Collier County as of that date and Commission Order No. PSC-96-0582-FOF-WS acknowledging Collier County's resolution. In support thereof, Collier County states:

ACK _____
AFA _____
APP _____
CAF _____
CMU _____
CTR _____
ENG _____
LEG _____
LIN _____
OPC _____
RCH _____
SEV _____
W'S _____
OTH _____

1. The name of the Petitioner is the Board of County Commissioners of Collier County.

2. The address of the Petitioner is 3301 E. Tamiami Trail, Naples, Florida, 34112.

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[Signature]
FPSC-BUREAU OF RECORDS

DOCUMENT NUMBER-DATE
07182 JUL -5 96
FPSC-RECORDS/REPORTING

3. The name of the Agency is the Florida Public Service Commission.

4. The Commission rule, order or statutory provision on which the declaratory statement is sought is Order No. PSC-96-0582-FOF-WS, Order Acknowledging Rescission of Commission Jurisdiction and Establishing Procedure For Cancellation of Certificates in Collier County, dated May 3, 1996 and Section 350.113, Florida Statutes, "Florida Public Service Commission Regulatory Trust Fund; moneys to be deposited therein."

5. The description of how Order No. PSC-96-0582-FOF-WS, Order Acknowledging Rescission of Commission Jurisdiction and Establishing Procedure For Cancellation of Certificates in Collier County, dated May 3, 1996 and Section 350.113, Florida Statutes, affect Collier County in its particular set of circumstances is as follows:

A. The Commission's authority to regulate water and wastewater utilities is established by Chapter 367, Florida Statutes. Specifically, Section 367.171(1), Florida Statutes, provides, in relevant part:

(1) The provisions of this chapter shall become effective in a county of this state upon the adoption of a resolution by the board of county commissioners of such county, or, in counties operating under a countywide charter, by the appropriate board, declaring that such county is subject to the provision of this chapter. Any board of county commissioners which adopts such a resolution shall immediately notify the commission of its adoption and submit the resolution to the commission. A county, after 10 continuous years under the jurisdiction of the commission, may by resolution or ordinance rescind any prior resolution or ordinance imposing commission jurisdiction and thereby exclude itself from the provisions of this chapter, except that the county may not exclude itself from the provisions of this section.

B. By resolution adopted April 16, 1985, Collier County declared itself subject to the provisions of Chapter 367, Florida Statutes, providing this Commission with regulatory authority over investor-owned water and wastewater utilities operating in Collier County.

C. On February 27, 1996, after 10 continuous years under the jurisdiction of this Commission, Collier County adopted Resolution 96-104 (Attachment A), which rescinded this Commission's jurisdiction in Collier County effective on that date.

D. On May 3, 1996, this Commission issued its Order No. PSC-96-0582-FOF-WS, Order Acknowledging Rescission of Commission Jurisdiction and Establishing Procedure For Cancellation of Certificates in Collier County (the "Jurisdictional Order"). The Jurisdictional Order (Attachment B) recognized Collier County's rescission of this Commission's jurisdiction effective on February 27, 1996, and determined that the timing of the cancellation of Commission water and wastewater operating certificates for jurisdictional utilities in Collier County would be dependent upon whether or not a utility had cases or appeals "pending" within the meaning of Section 367.171(5), Florida Statutes, which states:

(5) When a utility becomes subject to regulation by a county, all cases in which the utility is a party then pending before the commission, or in any court by appeal from any order of the commission, shall remain within the jurisdiction of the commission or court until deposed of in accordance with the law in effect on the day such case was filed by any party with the commission or initiated by the commission, whether or not the parties or the subject of any such case relates to a utility in a county wherein this chapter no longer applies. (Emphasis supplied).

E. The Commission stated in the Jurisdictional Order that seven utilities had valid Commission water and/or wastewater certificates to provide service in Collier County, including SSU which holds certificates 452W and 386S. The Commission recognized that SSU had three cases that were either pending before the Commission or on appeal. Accordingly, the Commission determined that it would cancel the certificates of the six utilities with no "pending" cases, but would delay cancellation of SSU's Collier County certificates pending the outcome of

the appeal of Docket No. 930945-WS.¹ The Commission ordered that the certificates held by SSU for its systems in Collier County would be returned for cancellation within 30 days of the conclusion of the appeal of Docket No. 930945-WS if the decision was that the Commission did not have jurisdiction over all of SSU's systems and, conversely, that the certificates would not be canceled if it were determined that the Commission maintained jurisdiction over the SSU systems in Collier County.

F. The Jurisdictional Order also stated:

The cancellation of the certificates pursuant to this order does not affect the authority of the Commission to collect, or the obligation of the utilities to pay, regulatory assessment fees accrued prior to the February 27, 1996, transfer of jurisdiction to Collier County. (Emphasis supplied).

G. Section 350.113, Florida Statutes, provides that the Commission shall have a Trust Fund to be used by it in the performance of its various functions and duties required it by law. The statement in the Jurisdictional Order that regulatory assessment fees accrued prior to the February 27, 1996 transfer of jurisdiction are owing to the Commission appears consistent with the provisions of Section 350.113(3)(e), Florida Statutes, which provides that the Commission is only entitled to regulatory assessment fees for the specific period the Commission retains jurisdiction and which states, in relevant part:

... Each regulated company which is subject to the jurisdiction of the commission, but which did not operate under the commission's jurisdiction during the entire preceding 6-month period, shall, within 30 days after the close of the first 6-month

¹ Order No. PSC-96-0582-FOF-WS, Pages 2-3. Docket No. 930945-WS, In re: Investigation into Florida Public Service Commission Jurisdiction over SOUTHERN STATES UTILITIES, INC. in Florida, in which the Commission determined that it had jurisdiction over all SSU systems in Florida irrespective of whether or not they were located in "jurisdictional" counties. A number of Florida counties appealed this determination and obtained an automatic stay of the order pending resolution of the appeal. The appeal is still pending.

period during which it commenced operations under, or become subject to, the jurisdiction of the commission, pay to the commission the prescribed fee based upon its gross operating revenues derived from intrastate business during those months or parts of months in which the regulated company did operate during such 6-month period. In no event shall payments under this section be less than \$25 annually.

H. As evidenced by the attached Commission "E-Mail" from Staff Attorney Maggi O'Sullivan to Staff Attorney Lila Jaber (Attachment C), the Commission will only be handling current SSU cases and any new complaints or matters arising since the jurisdictional change will be referred to Collier County. Accordingly, it appears that the Commission is no longer carrying out its consumer affairs complaint resolution functions with respect to any water or wastewater utility in Collier County, including SSU's. Furthermore, it appears that the Commission is not attempting to exercise any jurisdiction over SSU's water and wastewater operations in Collier County, except for the limited "pending case" jurisdiction provided by Section 367.171(5), Florida Statutes.

I. Consistent with its resumption of regulatory authority over water and wastewater utilities within its county boundaries, Collier County has promulgated Ordinance 96-6, related to the regulation of such utilities, and has employed the necessary staff to that end and expended monies for such staff and the operation of the Office of Utility Regulation. (Relevant portions of Ordinance 96-6 are attached as Attachment D).

J. As stated in the attached affidavit of Assistant Collier County Attorney Thomas C. Palmer (Attachment E), SSU has, to date, refused to remit to Collier County the regulatory assessment fees it has been collecting from Collier County residents since February 28, 1996 through its present interim rates which were approved by this Commission in Docket No. 950495-

WS, which is another of the "pending" cases for which this Commission retains jurisdiction. As stated by Mr. Palmer, SSU General Counsel, Brian Armstrong, has taken the position that SSU concedes that the utility has no entitlement to the regulatory assessment fees, but that it is concerned that this Commission may make retroactive demand for the regulatory assessment fees for the period from February 28, 1996 to the date of a favorable appellate court opinion in Docket 930945-WS finding that the Commission has jurisdiction over SSU's systems in Collier County. Mr. Armstrong has stated that SSU is fearful of remitting the regulatory assessment fees to Collier County at this time and then being faced with a subsequent conflicting demand for the same funds from this Commission.

K. It is Collier County's position, which it believes is shared by this Commission, that regulatory jurisdiction over SSU's operations in Collier County can only be exercised by one regulatory agency at a time. It is also Collier County's position that it is exercising the day-to-day regulatory jurisdiction over SSU's facilities in Collier County and that this Commission has recognized Collier County's exercise of this authority in Order No. PSC-96-0582-FOF-WS, Order Acknowledging Rescission of Commission Jurisdiction and Establishing Procedure For Cancellation of Certificates in Collier County, dated May 3, 1996. Furthermore, it is Collier County's position and belief that this Commission's Staff has recognized that the Commission is not entitled to any regulatory assessment fees from the operation of SSU's facilities located in Collier County from February 28, 1996 to the date of any appellate court opinion potentially favorable to the Commission in Docket No. 930945-WS. See Attachment F, April 25, 1996 letter from Commission General Counsel Robert D. Vandiver to Michael Twomey regarding status of regulatory assessment fees for facilities in Collier County, wherein he states:

Our records indicate that Collier County rescinded Commission jurisdiction on February 27, 1996. Regardless of the pending cases, it has been the Commission's practice to cease collecting regulatory assessment fees on the date a county rescinds Commission jurisdiction. Accordingly, consistent with the Commission's past practice, the Commission will not collect regulatory assessment fees from any utility in Collier County as of February 27, 1996.

L. That this Commission recognizes that County governments rescinding regulatory authority from this Commission are entitled to exercise that authority over SSU's systems or facilities located within their boundaries pending resolution of the appeal in Docket No. 930945-WS appears to be bolstered by this Commission's Order No. PSC-95-1385-FOF-WS, issued November 7, 1995, (Attachment G) wherein this Commission recognized that SSU's facilities located in the counties of Hillsborough, Hernando, and Polk were not subject to a rate increase in a pending rate case in Docket No. 950495-WS as the result of the automatic stay obtained by the counties in connection with the appeal of the final order entered in Docket No. 930945-WS.

M. Collier County is currently expending funds to exercise its legal responsibility to regulate SSU's operations pursuant to its rescission of this Commission's regulatory authority in Collier County. Other than its actions in connection with the "pending cases" of SSU related to Collier County, this Commission is not exercising nor attempting to exercise regulatory authority over SSU's operations in Collier County pursuant to Chapter 367, Florida Statutes. SSU, which apparently concedes that it is not entitled to the regulatory assessment fees it is collecting from Collier County residents, refuses to remit the same to Collier County for the stated reason that it fears this Commission will later make a duplicate demand for the same regulatory assessment fees. Collier County is of the belief that this Commission is properly not making demand for these

regulatory assessment fees because it is legally not entitled to them pursuant to the provisions of Section 350.113, Florida Statutes.

N. Collier County may find it necessary to undertake the necessary legal action against SSU to compel it to remit to the County those regulatory assessment fees the utility is collecting from Collier County residents, which the utility is clearly not entitled to retain for its own purposes, but which the utility refuses to remit to any regulatory agency.² Prior to undertaking such appropriate legal action, Collier County believes it appropriate to exhaust its administrative remedies by petitioning this Commission to issue an appropriate declaratory statement on its entitlement to the subject regulatory assessment fees.

WHEREFORE, the Board of County Commissioners of Collier County, Florida, respectfully requests that the Florida Public Service Commission issue its declaratory statement in this docket stating: 1) that pursuant to Order No. PSC-96-0582-FOF-WS, Order Acknowledging Rescission of Commission Jurisdiction and Establishing Procedure For Cancellation of Certificates in Collier County, dated May 3, 1996 and Section 350.113, Florida Statutes, it has no entitlement to, nor will it make any claim against, regulatory assessment fees collected by Southern States Utilities, Inc. from its customers located in Collier County, Florida, for the period from February 28, 1996 until the date of any appellate decision in Docket No. 930945-WS favoring the resumption of Commission jurisdiction in Collier County; and 2) that the Commission's

² The regulatory assessment fees are being collected pursuant to interim rates approved by this Commission in Docket No. 950495-WS, which is a "pending case" before this Commission and in which final permanent rates are not expected to be approved until August 15, 1996 at the earliest. Absent action by this Commission in this declaratory statement, Collier County is not only being deprived of the regulatory assessment fees necessary to carry out its regulatory responsibilities, it is also being required to pay regulatory assessment fees to SSU in its status as a customer of SSU.

entitlement to regulatory fees collected by SSU in Collier County as the result of a favorable appellate decision in Docket No. 930945-WS will only be owing pro rata during the appropriate 6-month regulatory assessment period beginning on the date the issue of the Commission's jurisdiction over SSU's systems in Collier County is finally resolved.

Respectfully submitted,

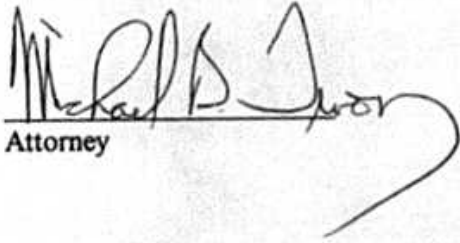


Michael B. Twomey
Attorney for the Board of County
Commissioners of Collier County, Florida
Post Office Box 5256
Tallahassee, Florida 32314-5256
(904) 421-9530

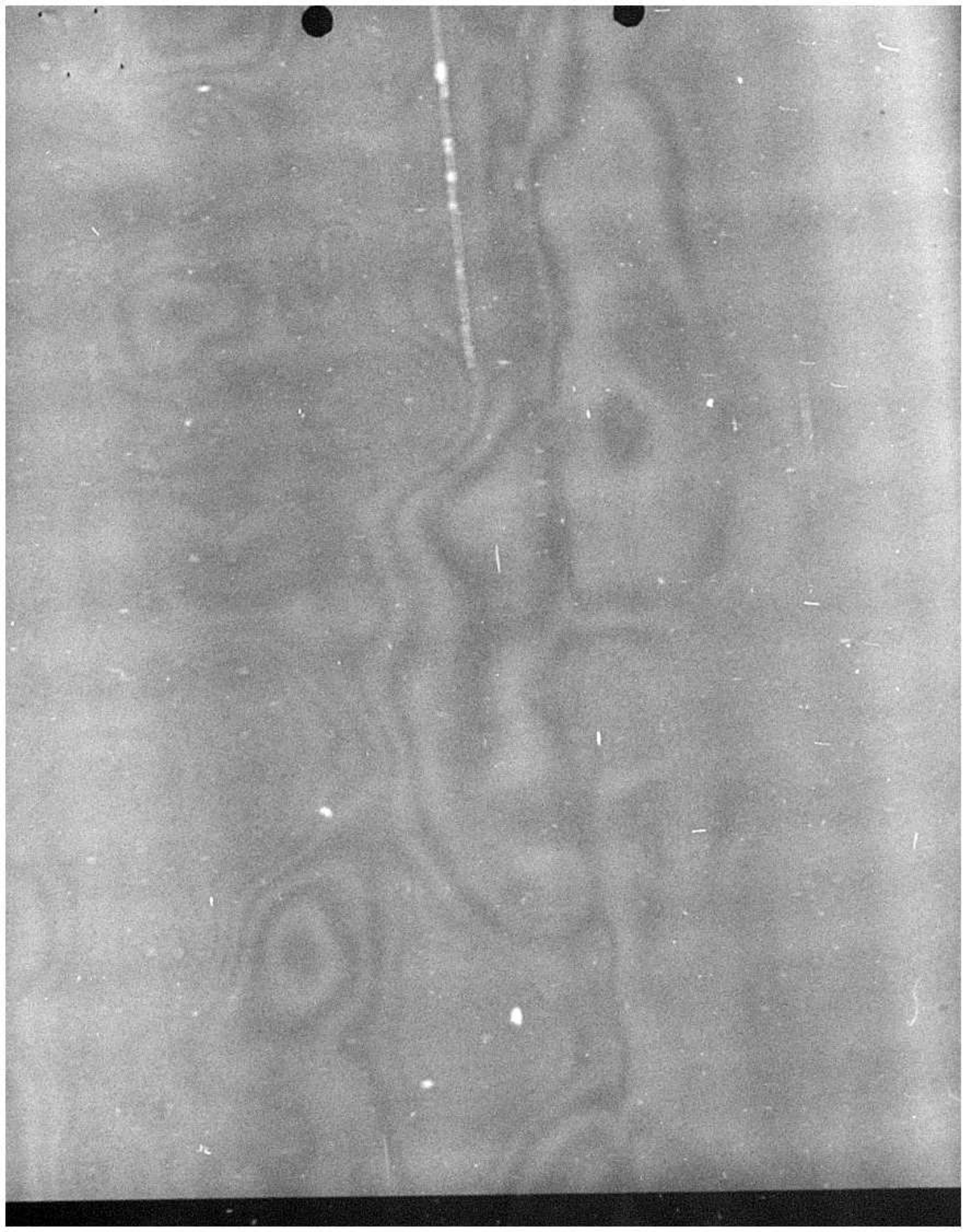
CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and accurate copy of the foregoing has been furnished by hand delivery or U.S. Mail, postage prepaid, this 5 th day of July, 1996 to the following individual:

Brian Armstrong, Esquire
General Counsel
Southern States Utilities, Inc.
1000 Color Place
Apopka, Florida 32703



Attorney



A RESOLUTION OF COLLIER COUNTY, FLORIDA, PURSUANT TO SECTION 367.171, FLORIDA STATUTES, RESCINDING COLLIER COUNTY RESOLUTION NO. 85-104 AND EXCLUDING COLLIER COUNTY FROM THE PROVISIONS OF CHAPTER 367, FLORIDA STATUTES, AND REMOVING JURISDICTION OF THE FLORIDA PUBLIC SERVICE COMMISSION OVER PRIVATE WATER AND WASTEWATER UTILITIES IN COLLIER COUNTY AS PROVIDED BY CHAPTER 367, FLORIDA STATUTES.

WHEREAS, on April 16, 1985, the Board adopted Resolution No. 85-104 and thereby declared and effectuated that Collier County immediately become subject to all provisions of Chapter 367, Florida Statutes, thereby establishing Chapter 367 jurisdiction of the Florida Public Service Commission over private water and wastewater utilities within Collier County; and

WHEREAS, Section 367.171(1), Florida Statutes, provides that a county, after ten (10) continuous years under Chapter 367, Florida Statutes, jurisdiction of the Florida Public Service Commission may, by resolution or ordinance, rescind any such prior resolution or ordinance of that county which imposed Florida Public Commission jurisdiction over such utilities, and thereby assume County jurisdiction over such private water and wastewater utilities; and

WHEREAS, the interests of the citizens of Collier County will be better served presently and in the future if private water and wastewater utilities are hereafter regulated locally by Collier County, a political subdivision of the State of Florida.

NOW, THEREFORE, BE IT RESOLVED by the Board of County Commissioners of Collier County, Florida, that:


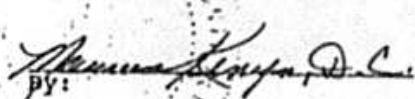
1. Pursuant to Section 367.171, Florida Statutes, Resolution No. 85-104, which was adopted by Collier County on April 16, 1985, and which established Chapter 367, Florida Statutes, jurisdiction of the Florida Public Service Commission over private water and wastewater utilities within Collier County, is hereby rescinded.

2. This Resolution expressly excludes Collier County from the provision of Chapter 367, Florida Statutes, except to the very limited extent provided otherwise in Section 367.171, Florida Statutes, and thereby immediately removes Chapter 367, Florida Statutes, jurisdiction of the Florida Public Service Commission over private water and wastewater utilities in Collier County as provided by law.

3. The Clerk to the Board shall, as soon as possible, notify the Florida Public Service Commission of the adoption of this Resolution and shall mail a certified copy of this Resolution to the Office of Records and Reporting of the Florida Public Service Commission in Tallahassee, Florida.

This Resolution adopted this 27 day of February, 1996 after motion, second and majority vote favoring same.

ATTEST:
DWIGHT E. BROCK, Clerk


BY: 

BOARD OF COUNTY COMMISSIONERS
COLLIER COUNTY, FLORIDA


JOHN C. NORRIS, Chairman

Approved as to form and
legal sufficiency:


David C. Weigel
County Attorney



BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Resolution 96-104 by) DOCKET NO. 960272-WS
Board of Collier County) ORDER NO. PSC-96-0582-FOF-WS
Commissioners rescinding Florida) ISSUED: May 3, 1996
Public Service Commission)
jurisdiction over private water)
and wastewater companies in)
Collier County.)

The following Commissioners participated in the disposition of this matter:

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

ORDER ACKNOWLEDGING RESCISSION OF COMMISSION JURISDICTION
AND ESTABLISHING PROCEDURE FOR CANCELLATION
OF CERTIFICATES IN COLLIER COUNTY

BY THE COMMISSION:

BACKGROUND

On April 16, 1985, the Collier County Board of County Commissioners adopted a resolution declaring Collier County subject to the provisions of Chapter 367, Florida Statutes. This resolution invoked Public Service Commission jurisdiction over all investor-owned water and wastewater systems. The Commission has actively regulated the utilities in Collier County since that time. On February 27, 1996, the Collier County Board of County Commissioners met and adopted Resolution No. 96-104 rescinding Florida Public Service Commission jurisdiction in Collier County effective immediately.

ACKNOWLEDGEMENT OF RESOLUTION

Section 367.171(1), Florida Statutes, provides that a county, after 10 continuous years under jurisdiction of the Commission, may by resolution or ordinance rescind said jurisdiction and thereby exclude itself from the provisions of Chapter 367, Florida Statutes. Collier County has met that requirement. We, therefore, acknowledge Collier County's Resolution No. 96-104, rescinding Florida Public Service Commission jurisdiction in Collier County as of February 27, 1996.

DISPOSITION OF CERTIFICATES

Section 367.171(5), Florida Statutes, states that:

When a utility becomes subject to regulation by a county, all cases in which the utility is a party then pending before the Commission, or in any court by appeal from any order of the Commission, shall remain within the jurisdiction of the Commission or court until disposed of in accordance with the law in effect on the day such case was filed by any party with the Commission or initiated by the Commission, whether or not the parties or the subject of any case relates to a utility in a county wherein this chapter no longer applies.

The following utilities had valid Public Service Commission certificates to provide water and wastewater service in Collier County:

<u>Utility</u>	<u>Certificate Number(s)</u>	
Eagle Creek Utility II, Inc.		406S
Florida Cities Water Company - Golden Gate Division	456W	390S
Goodland Isles, Inc.		418S
North Marco Utility Company, Inc.		384S
Orange Tree Utility Company	482W	419S
Rookery Bay Utility Company		383S
Southern States Utilities, Inc.	452W	386S

The following utility has cases pending before the Commission:

<u>Utility</u>	<u>Docket Number(s)</u>
Southern States Utilities, Inc.	930880-WS
Southern States Utilities, Inc.	930945-WS
Southern States Utilities, Inc.	950495-WS

Certificate No. 406S, held by Eagle Creek Utility II, Inc.;
Certificates Nos. 456W and 390S, held by Florida Cities Water
Company; Certificate No. 418S, held by Goodland Isles, Inc.;

ORDER NO. PSC-96-0582-FOF-WS
DOCKET NO. 960272-WS
PAGE 3

Certificate No. 384S, held by North Marco Utility Company, Inc.; Certificates Nos. 482W and 419S, held by Orange Tree Utility Company; and Certificate No. 383S, held by Rookery Bay Utility Company are cancelled and shall be returned to the Commission within 30 days of this Order.

Certificates Nos. 452W and 386S, which are held by Southern States Utilities, Inc., shall be returned to the Commission within 30 days of the conclusion of Docket No. 930945-WS for cancellation if a decision is rendered that the Commission does not have jurisdiction over all of SSU's facilities. If a decision is rendered that maintains Commission jurisdiction, then the certificates held by SSU will not be cancelled as the Commission will continue to regulate this facility.

The cancellation of the certificates pursuant to this order does not affect the authority of the Commission to collect, or the obligation of the utilities to pay, regulatory assessment fees accrued prior to the February 27, 1996, transfer of jurisdiction to Collier County.

This docket shall remain open until all dockets currently pending before the Commission have been closed.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that the Collier County Resolution No. 96-104, rescinding Commission jurisdiction in Collier County as of February 27, 1996, is hereby acknowledged. It is further

ORDERED that Certificate No. 406S, held by Eagle Creek Utility II, Inc.; Certificates Nos. 456W and 390S, held by Florida Cities Water Company; Certificate No. 418S, held by Goodland Isles, Inc.; Certificate No. 384S, held by North Marco Utility Company, Inc.; Certificates Nos. 482W and 419S, held by Orange Tree Utility Company; and Certificate No. 383S, held by Rookery Bay Utility Company are cancelled and shall be returned to the Commission within 30 days of this Order. It is further

ORDERED that Certificates Nos. 452W and 386S, which are held by Southern States Utilities, Inc., shall be returned to the Commission for cancellation within 30 days of the conclusion of Docket No. 930945-WS if a decision is rendered that the Commission does not have jurisdiction over all of Southern States Utilities, Inc.'s facilities. It is further

ORDER NO. PSC-96-0582-FCF-WS
DOCKET NO. 960272-WS
PAGE 4

ORDERED that this docket shall remain open until all dockets currently pending before the Commission have been closed.

By ORDER of the Florida Public Service Commission, this 3rd day of May, 1996.

/s/ Blanca S. Bayó

BLANCA S. BAYÓ, Director
Division of Records and Reporting

This is a facsimile copy. A signed copy of the order may be obtained by calling 1-904-413-6770.

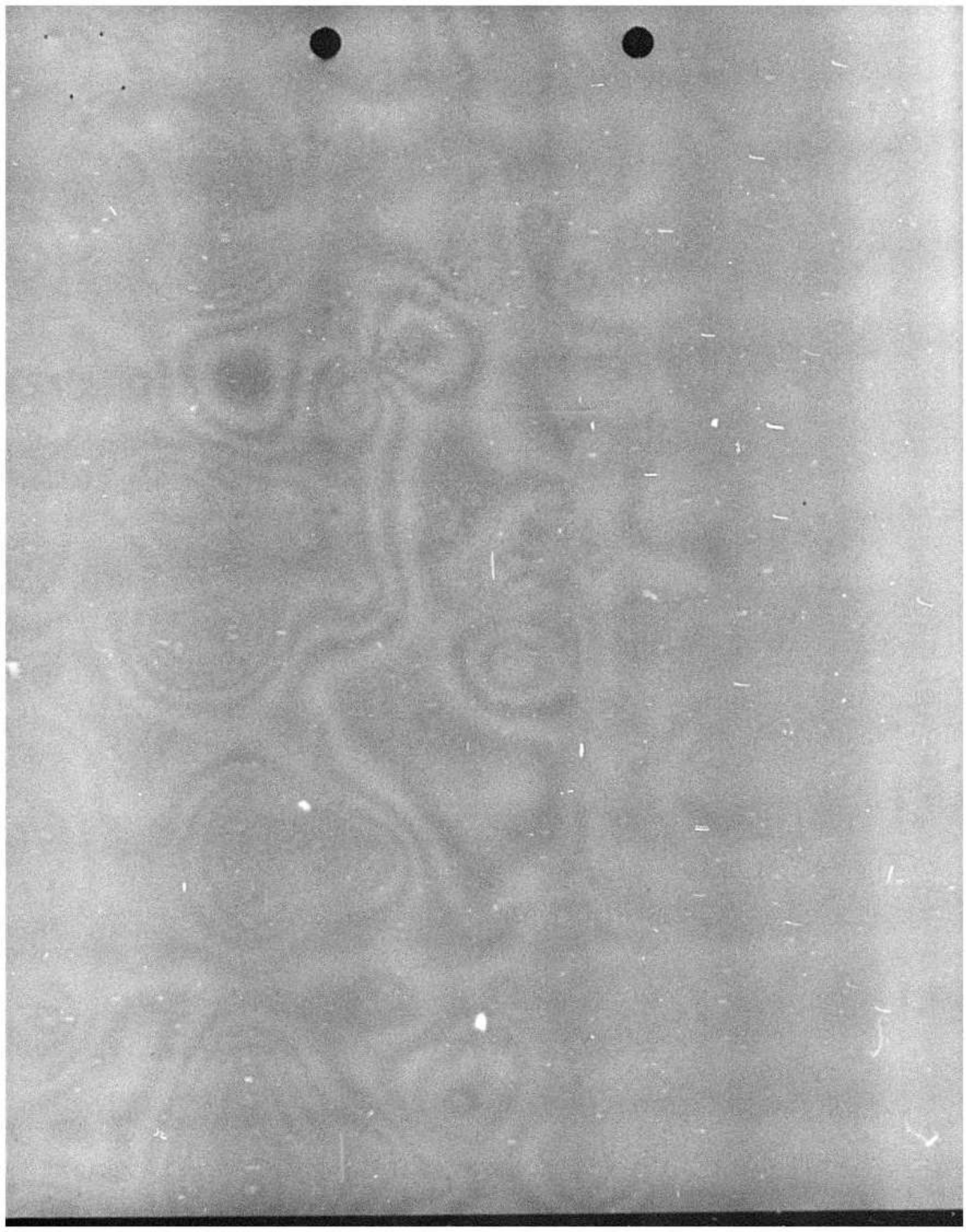
(S E A L)

MEO

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.59(4), Florida Statutes, to notify parties of any administrative hearing or judicial review of Commission orders that is available under Sections 120.57 or 120.68, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing or judicial review will be granted or result in the relief sought.

Any party adversely affected by the Commission's final action in this matter may request: 1) reconsideration of the decision by filing a motion for reconsideration with the Director, Division of Records and Reporting, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, within fifteen (15) days of the issuance of this order in the form prescribed by Rule 25-22.060, Florida Administrative Code; or 2) judicial review by the Florida Supreme Court in the case of an electric, gas or telephone utility or the First District Court of Appeal in the case of a water and/or wastewater utility by filing a notice of appeal with the Director, Division of Records and Reporting and filing a copy of the notice of appeal and the filing fee with the appropriate court: This filing must be completed within thirty (30) days after the issuance of this order, pursuant to Rule 9.110, Florida Rules of Appellate Procedure. The notice of appeal must be in the form specified in Rule 9.900 (a), Florida Rules of Appellate Procedure.



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



DIVISION OF CONSUMER AFFAIRS
BEVERLEE DeMELLO
DIRECTOR
(904) 413-6100
TOLL FREE 1-800-342-3552

Public Service Commission

FACSIMILE TRANSMITTAL COVER SHEET

DATE: July 3, 1996

TO: Mike Twomey

OFFICE/BUSINESS: _____

FAX NUMBER: (904) 421-8543

FROM: **DIVISION OF CONSUMER AFFAIRS**

FAX NO. (904) 413-6362 TELEPHONE NO. (904) 413-6100

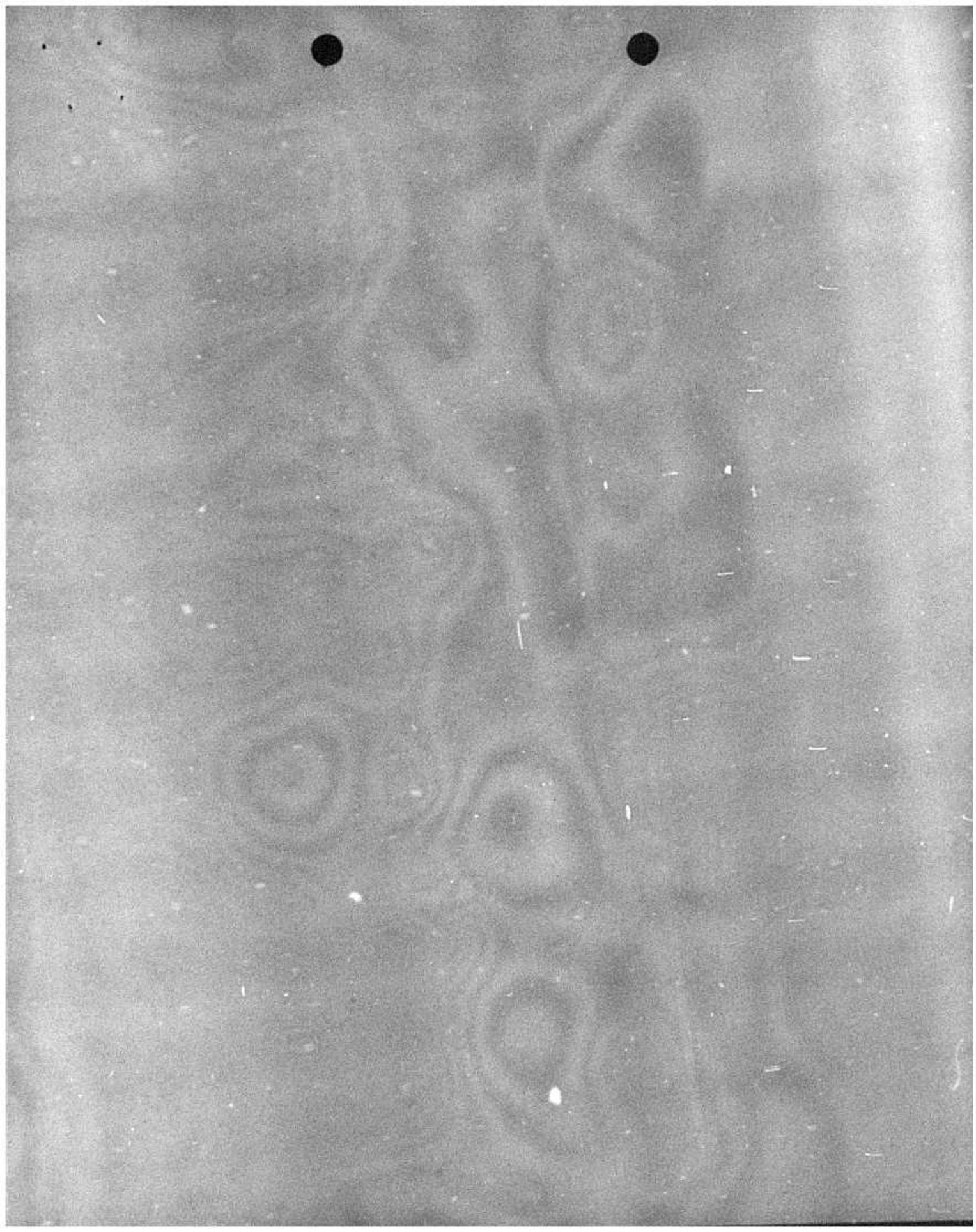
COMMENTS: _____

NUMBER OF PAGES, INCLUDING THIS COVER SHEET: 2

 From: Maggi O'Sullivan
 To: Lila Jaber
 Subject: fwd: Collier County/SSU

-----NOTE-----6/21/96--2:40pm-----
 CC: Leroy Rasberry

.....
 Mike Twomey has asked Leroy if the Commission will remove SSU's Collier County facilities from the Commission's Master Commission Directory (MCD), apparently similarly to what we did with Hernando County. I advised Leroy that the Commission will only be handling current SSU cases, and that any new complaint or matter that arose since the jurisdictional change should be referred to Collier county. However, I wanted to let you know about the MCD request. I'm not sure how we change that, or whether it should be changed.



MAR 1996
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Clerk
of Board

FILES

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AN ORDINANCE OF THE COUNTY OF COLLIER, FLORIDA, PROVIDING FOR REGULATION OF WATER, BULK WATER, AND WASTEWATER UTILITIES WITHIN THE UNINCORPORATED AREAS OF COLLIER COUNTY, FLORIDA; TITLE; PROCEEDINGS AFFECTING SUBSTANTIAL INTERESTS; DEFINITIONS; COLLIER COUNTY WATER AND WASTEWATER AUTHORITY, POWERS AND DUTIES; ISSUANCE OF FRANCHISE CERTIFICATES AND CERTIFICATES OF EXEMPTION; REGULATION OF SMALL UTILITIES; RATES; INTERIM RATES AND PROCEDURES; OFFICIAL DATE OF FILING; MISCELLANEOUS PROVISIONS; CHARGES FOR SERVICE AVAILABILITY; SERVICE; UTILITY SERVICE; SERVICE FOR RESALE; REGULATORY FEES; APPLICATION FEES; ANNUAL REPORTING REQUIREMENTS; NOTICE OF PUBLIC HEARINGS; CONDUCT OF PUBLIC HEARINGS; BOARD APPROVAL OF ORDERS OF THE AUTHORITY; POWERS OF THE BOARD; APPLICATION FOR TRANSFER OF FRANCHISE CERTIFICATE, FACILITIES OR CONTROL; EXAMINATION AND TESTING OF METERS; APPLICATION FOR ADDITION TO SERVICE AREA; APPLICATION FOR DELETION OF SERVICE TERRITORY; ABANDONMENT; ENFORCEMENT AND PENALTY PROVISIONS, REVOCATION OF FRANCHISE; EXEMPTION OF COUNTY UTILITY SYSTEMS; COMPLIANCE WITH OTHER APPLICABLE REGULATIONS; APPELLATE REVIEW; PROVISION FOR THE POSSIBILITY OF TRANSFER OF REGULATION TO ANOTHER GOVERNMENTAL AGENCY; CONFLICT AND SEVERABILITY; INCLUSION INTO THE CODE OF LAWS AND ORDINANCES; PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Board of County Commissioners of Collier County, Florida, has made the following determinations:

1. Section 367.171, Florida Statutes, authorizes the Board of County Commissioners to rescind Public Service Commission jurisdiction over private water and sewer Utilities in the unincorporated areas in Collier County and assume power and jurisdiction to regulate those Utilities.
2. The Board of County Commissioners, pursuant to Section 367.171, Florida Statutes, will adopt a Resolution rescinding Florida Public Service Commission jurisdiction over private water and sewer utilities in unincorporated Collier County.
3. The interests of the citizens of Collier County will be better served by Collier County regulating certain private water and sewer Utilities.
4. The regulation of water and sewer Utilities by Collier County is hereby declared to be in the public interest, and this Ordinance is in the exercise of the police power of the State for the protection of the public health, safety, and welfare, and the provisions of this Ordinance shall be liberally construed for the accomplishment of such purposes.
5. Pursuant to Section 125.01(t), Florida Statutes, Collier County is authorized to adopt ordinances and resolutions as needed to the exercise its powers and authority.

NOW THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF COLLIER COUNTY, FLORIDA THAT:

SECTION ONE: THAT THE FOLLOWING ORDINANCE IS ENACTED:

SECTION 1-1. TITLE; PROCEEDINGS AFFECTING SUBSTANTIAL INTERESTS.

This Ordinance is entitled the "Collier County Water and Wastewater Utilities Regulatory Ordinance." All proceedings relating to Utilities which are regulated by this Ordinance in which substantial interests of a party thereto will or may be determined, shall be conducted in compliance with the provisions of this Ordinance, Rules of the Board, and Rules of the Collier

County Water and Sewer Authority, all of which shall be construed to promote just, speedy, and inexpensive determination of each issue.

SECTION 1-2. DEFINITIONS.

For the purposes of this Ordinance the following terms, phrases, words, and their derivations shall have the meaning specified herein. When not inconsistent with the context, words used in the present tense include the future, words in the plural include the singular number, and words in the singular number include the plural number. The word "shall" is always mandatory and not merely directory. The word "may" is directory.

A. **Authority.** The Collier County Water and Wastewater Authority.

B. **Board.** The Board of County Commissioners of Collier County, Florida.

C. **Clerk of the Board.** The Clerk of the Circuit Court serving as Clerk and accountant to the Board.

D. **Bulk water utility.** Any person or business entity of any kind whatsoever, lessee, trustee or receiver, owning, operating, managing, or controlling a System or proposing construction of a System to provide untreated or treated water to a Utility, bulk user, or distributor of water for compensation.

E. **Combined notice.** A notice of any hearing before the Board which is combined with a notice of hearing before the Authority.

F. **Contribution-in-aid-of-construction; CIAC.** Any amount or money, services, and/or property, or any combination thereof, directly or indirectly received by a Utility at no cost to the Utility or which have value in excess of the consideration given by the Utility for same, the excess of which represents a gift, donation, or contribution to the capital of the Utility and is used or planned to be used to offset the acquisition, improvement and/or construction costs of the Utility's property, facilities, or equipment used to provide services to the customers of the Utility. The term CIAC includes payments to the utility such as system capacity charges, main extension charges, plant expansion fees, customer connections charges, and other similar monetary payments to the utility.

G. **Corporate undertaking.** The unqualified guarantee of a Utility to pay a refund, with or without interest, may be required by the Board.

H. **County.** Collier County, a political subdivision of the State of Florida. "County" may include the Board and the Authority unless the context clearly indicates otherwise.

I. **Days.** Consecutive calendar days.

J. **FPSC** means the Florida Public Service Commission.

K. **Franchise certificate (or "Franchise")** refers to a privilege granted by the Board to authorize a Utility to provide utility service within the boundaries of a specified geographic area or areas pursuant to this Ordinance.

L. **Governmental Agency.** This is a broad and inclusive definition that includes the Government of the United States, the State of Florida, and all districts, units, commissions, authorities, councils, committees, departments, divisions, bureaus, boards, sections, or other unit or subdivision or either or both of them, including the Florida Public Service Commission.

and Utility shall discontinue such service without approval from the Authority. In the event a Governmental Agency voluntarily enters into an agreement for resale, such agreement shall provide that such service will not be discontinued without ninety (90) days advance notice being given to the purchaser prior to discontinuing such service. Nothing contained herein shall be construed to prohibit any Governmental Agency from requiring adequate security be given to such Governmental Agency to ensure payments required in the respective agreement.

SECTION 1-12. REGULATORY FEES.

A. Only the Board may establish and amend regulatory fees.

B. First Installment of Regulatory Fee. Each Utility holding a Certificate from the Florida Public Service Commission (FPSC) as of the effective date of this Ordinance, shall pay a transitional regulatory fee to the Authority in an amount equal to the amount of regulatory assessment fee which would have been paid by the Utility to the FPSC for that calendar quarter as if that Utility were still under the FPSC's Chapter 367, Florida Statutes, jurisdiction. That initial fee shall be paid to the County not later than the date that such fee would have been paid quarterly to the FPSC as if that Utility were then still regulated by the FPSC.

C. In addition to the said transitional regulatory fee as denoted above, each Utility shall pay a regulatory fee to the Authority in quarterly installments. Notwithstanding the transition, there will be no time period for which this fee is not applicable. The quarterly installment must be paid within thirty (30) days after the end of the next consecutive fiscal quarter of the Utility. Each quarterly installment must be paid within thirty (30) days of the end of each fiscal quarter of the Utility. With each payment, the Utility shall file with the Chairman of the Authority, a Statement of Gross Receipts for the applicable quarter, sworn to by an authorized financial officer of the Utility.

D. After payment of the initial quarter's regulatory fees, the regulatory fee shall be four and one-half percent (4.5 %) of the Utility's gross revenues, derived from the Utility's gross receipts billed within the County for the then last twelve (12) months. Such percentage shall continue until changed by Rule of the Board. Commencing at the beginning of the Utility's second calendar quarter, each Utility that held a Certificate from the FPSC shall decrease its rates pro rata to eliminate the difference between the regulatory fee the Utility was required to pay to the FPSC and the regulatory fee the Utility must pay to the County.

E. The amount of the regulatory fee shall be determined by the Board from time-to-time after public hearing thereon, but shall never become effective earlier than sixty (60) days after adoption of each such implementing Resolution. The fee shall be charged pro rata to the Utility's customers and each Utility may add to its customer invoices a separate line item for the then applicable regulatory fee to be paid to the County.

F. The regulatory fees are to be used to pay for the ongoing costs of supervising and regulating Utilities in the County and enforcing and administering this Ordinance, including the County's costs for any court appointed receivers, and for operation, maintenance and/or repair to abandoned Franchised Utilities, which may include extraordinary repairs to protect the health, safety and welfare of the general public. Extraordinary repairs are those that are neither typical nor customary and which occur infrequently and payment of which shall require Authority approval.

To account for the time lag between billing and receipt of revenues from its customers, the gross revenues received by the Utility during the first three (3) months of the then last four (4) months shall be the sum used to calculate the regulatory fee to be paid to the County in that respective quarter. However, whenever a sale at wholesale is made of any water or wastewater service, this regulatory fee is not to be paid or payable on such revenues received by the selling Utility provided the Utility purchasing such water or wastewater service resells the same at retail directly to customers, whereupon such fee will be paid based upon those gross receipts by the end-use Utility. Also, revenues derived from the retail sale of water or wastewater service to Governmental Agencies need not be included in determining the amount of such fee. Each Utility that derives fifty percent (50%) or more of its revenues from the unincorporated area of the County, and which is subject to the provisions of this Ordinance as they relate to the Rates charged in the unincorporated areas, shall pay the regulatory fee as provided herein. The fee shall be the gross revenues received from the Utility's customers residing in the unincorporated area of the County.

H. Each Franchisee that fails to promptly submit to the County all required fees and accurate Statement of Gross Receipts within the prescribed period shall pay to the County a late regulatory fee charge of one percent (1%) of the delinquent fee per month, or fraction of a month.

I. All fees, including regulatory fees, collected by the County from Utilities pursuant to this Ordinance shall be placed in a separate trust account (called the "Utility Fee Trust Account") and such funds shall at all times remain separate and distinct from other County Funds unless and until the subject regulation of Utilities shall be by an entity other than the County, and in such event regulatory fees remaining after paying all expenses of termination of the Authority shall be refunded, with any interest accrued thereon, pro rata to each then regulated Utility. All such funds at the end of each fiscal year of the County shall automatically become the beginning balance for the succeeding fiscal year.

SECTION 1-13. APPLICATION FEES.

Application Fees. Only the Board may establish or amend Application fees. Application fees shall be established by, and may be amended from time-to-time, by resolution of the Board after public hearing. Any application filed by a Utility shall be accompanied by the applicable application fee. Such fees may be based upon the existing or proposed capacity of the Utility system, including proposed additions thereto or planned reductions therefrom in the Utility's then next fiscal year.

SECTION 1-14. ANNUAL FINANCIAL REPORTING REQUIREMENT.

A. Each Utility shall annually, within one hundred and twenty (120) days of the close of its fiscal year, file with the Authority a Financial Report of its operation in Collier County during the fiscal year. Such report shall be sworn to by the financial officer of the Utility. Any end-of-fiscal-year adjustments in the total regulatory fee paid to the County during the fiscal year then being reported shall be paid concurrently with submission of the annual report, or where an annual report correctly shows that overpayments of regulatory fees had been paid by the Utility during the fiscal year being reported, a Final Order allowing credit for the amount of those overpayments shall be issued by the Authority for the next fiscal year provided the Utility is not then delinquent in the payment of any other monies owed to the County.

sale or other transfer, any request for rate relief pending before the Authority shall automatically be deemed to have been withdrawn. Interim rates, if previously approved by the Authority, must be discontinued and any money collected pursuant to interim rate relief must be refunded to the customers of the Utility with interest.

G. The Authority may establish the then existing rate base for a Utility in its Preliminary Order to approve a sale, assignment, or any other transfer thereof, except no rate base need be established for any transfer to any governmental agency.

H. Any person, company or organization that obtains ownership or control over any system or any part thereof by any means, including through foreclosure of a mortgage or other encumbrance, must continue all utility service without interruption and shall remove or dismantle any portion of the system previously dedicated to public use which might impair the ability to provide existing service and service committed to.

I. Discretionary Public Hearing. At its discretion, the Authority and/or the Board may hold a public hearing to consider a completed application for any such transfer.

SECTION 1-20. EXAMINATION AND TESTING OF METERS.

A. The Board may by Rule provide for the examination and testing of all meters used for measuring any utility service of a Utility, and reasonable fees for same.

B. Any person may have a meter tested by the Utility upon payment of the applicable fee fixed by Rule of the Board.

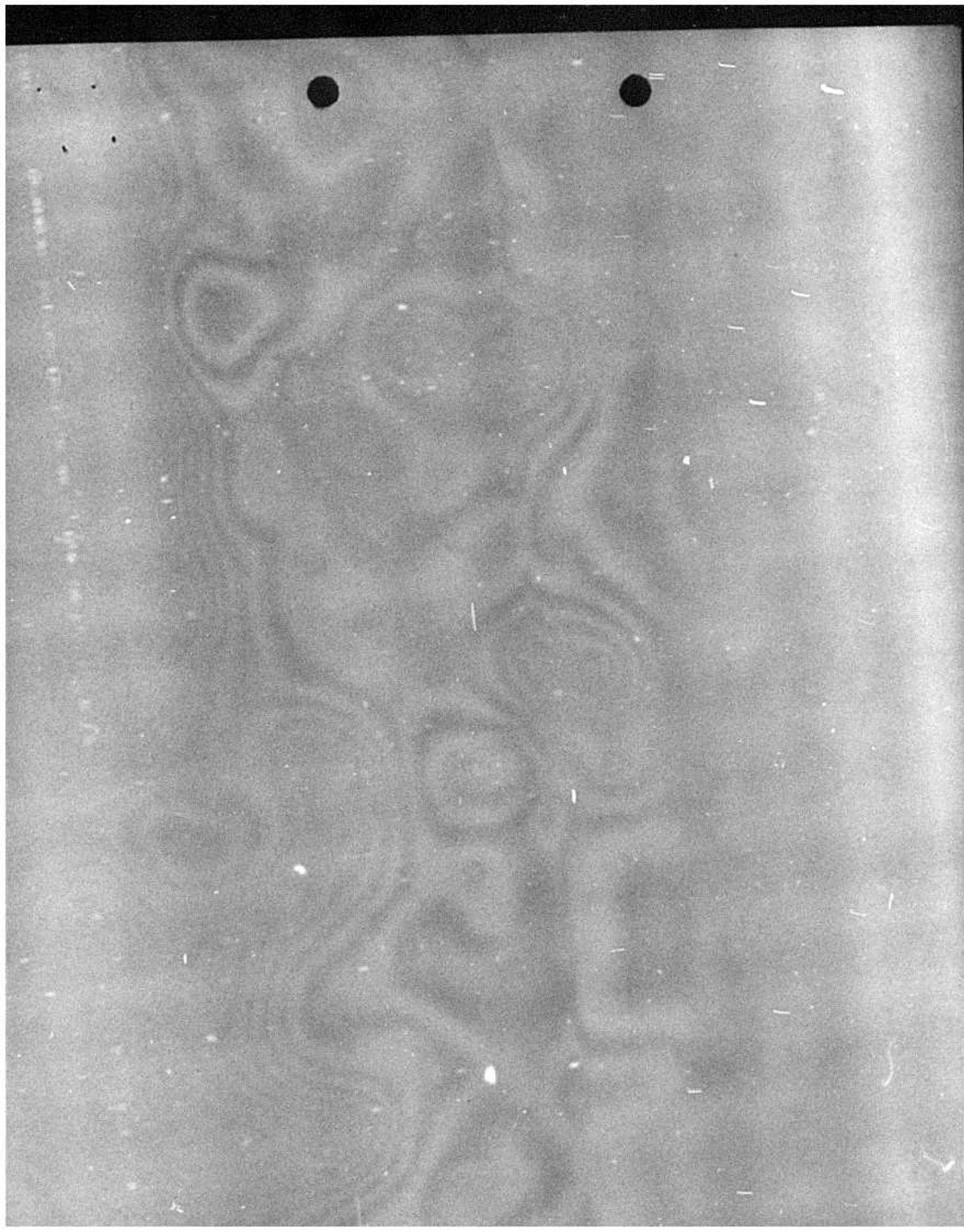
C. Utility customers, at their discretion, may pay the fee at the time of the request or have the Utility include the fee in the next regularly scheduled statement. However, the fee shall be repaid to the customer or user if the meter is found to have been incorrect to the disadvantage of the customer or user in excess of the degree or amount of tolerance customarily allowed for such meters, or otherwise as may be provided in the Rules of the Board. No fee may be charged for any meter testing done by the Authority.

SECTION 1-21. APPLICATION FOR ADDITION TO SERVICE AREA.

A. The Authority has Final Authority approval under this Section. Proposed additions of utility service into any additional service area shall not be commenced until the Utility first obtains an amended Franchise Certificate from the Authority that authorizes such additions.

B. An application to amend a Franchise Certificate to add to the Utility's territory shall be made at any time within sixty (60) days following the completion of all notice requirements for same in Rules of the Board. The application shall be filed with the applicable application fee per Rule of the Board and shall contain a map and legal description of all additional territory proposed to be served, along with such other minimum filing requirements by Rules of the Board. The Authority should issue a Final Order regarding the application.

C. Except in very exceptional instances and always based on necessity, the Authority will not authorize extension of franchise territory to any parcel of land that is not contiguous to the Utility's then service territory, or in such a manner as to create "pockets" of unserved area. Any application for extension of any service territory that is not in accord with this policy shall specify in detail the necessity for variance to this policy and how the public interest will be served notwithstanding lack of adherence to this policy.



AFFIDAVIT

STATE OF FLORIDA)
COUNTY OF COLLIER)

On this 2ND day of July, 1996, before me personally appeared Thomas C. Palmer, being by me duly sworn upon his oath, did say:

1. I, the undersigned Affiant, Thomas C. Palmer, at all times relevant and material hereto, have been and remain an Assistant County Attorney for Collier County, Florida, a political subdivision of the State of Florida.

2. This Affidavit is made in support of a Petition for a Declaratory Statement filed with the Florida Public Service Commission (FPSC) for and on behalf of Collier County.

3. All statements of fact herein are based on the personal knowledge of the undersigned Affiant.

4. Effective on February 27, 1996, pursuant to Section 367.171(1), *Florida Statutes*, the Board of County Commissioners of Collier County adopted Collier County Resolution No. 96-104 to thereby cause Collier County to be excluded (become non-jurisdictional) from the provisions of Chapter 367, Florida Statutes.

5. On February 27, 1996, the Board of County Commissioners of Collier County adopted Collier County Ordinance No. 96-6. Section 1-12 of that ordinance provides that Southern States Utilities ("SSU"), among other water and/or wastewater utilities in Collier County, must pay regulatory assessment fees to Collier County.

6. SSU has not paid any regulatory fees to Collier County, which fees are overdue and are owed to Collier County.

7. Brian Armstrong, General Counsel for SSU, during discussions over the telephone, has advised the undersigned Affiant substantially as follows:

a. SSU acknowledges that it must pay regulatory assessment fees to either Collier County or to the FPSC for the "interim" time period from February 28, 1996 until the issue whether or not the FPSC will have Chapter 367, Florida Statutes, jurisdiction over SSU's facilities in Collier County is finally decided.

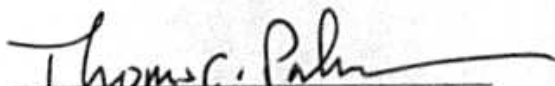
b. SSU will not voluntarily pay regulatory assessment fees to Collier County because SSU fears that if SSU pays those fees to Collier County, the FPSC may assert an after-the-fact claim to SSU that those regulatory fees should have been paid the FPSC and not to Collier County.

c. Even if SSU Collier County and SSU enter into an agreement whereby the County would agree to unconditionally hold SSU harmless against any claim for such fees asserted against SSU by the FPSC, such a claim from the PSC to SSU would necessarily embroil SSU in the issues.

d. SSU should be willing to pay regulatory assessment fees to Collier County for the above described "interim" time period if the FPSC issues an unequivocal and unambiguous Declaratory Statement that will estop or otherwise preclude the FPSC from thereafter asserting against SSU any claim for those interim period regulatory assessment fees.

8. The above stated position and policy of SSU was conveyed to the undersigned Affiant after Collier County had offered to enter into a written agreement with SSU whereby Collier County would hold SSU harmless from any and all such claims by the FPSC, and after Mr. Armstrong had read a copy of a two page letter, dated April 25, 1996, from Robert A. Vandiver, General Counsel for the FPSC, to Mr. Michael Twomey, wherein Mr. Vandiver wrote that the FPSC, "... consistent with the Commission's past practice, the Commission will not collect regulatory assessment fees from any utility in Collier County as of February 27, 1996."

FURTHER AFFIANT SAYETH NOT.


Thomas C. Palmer

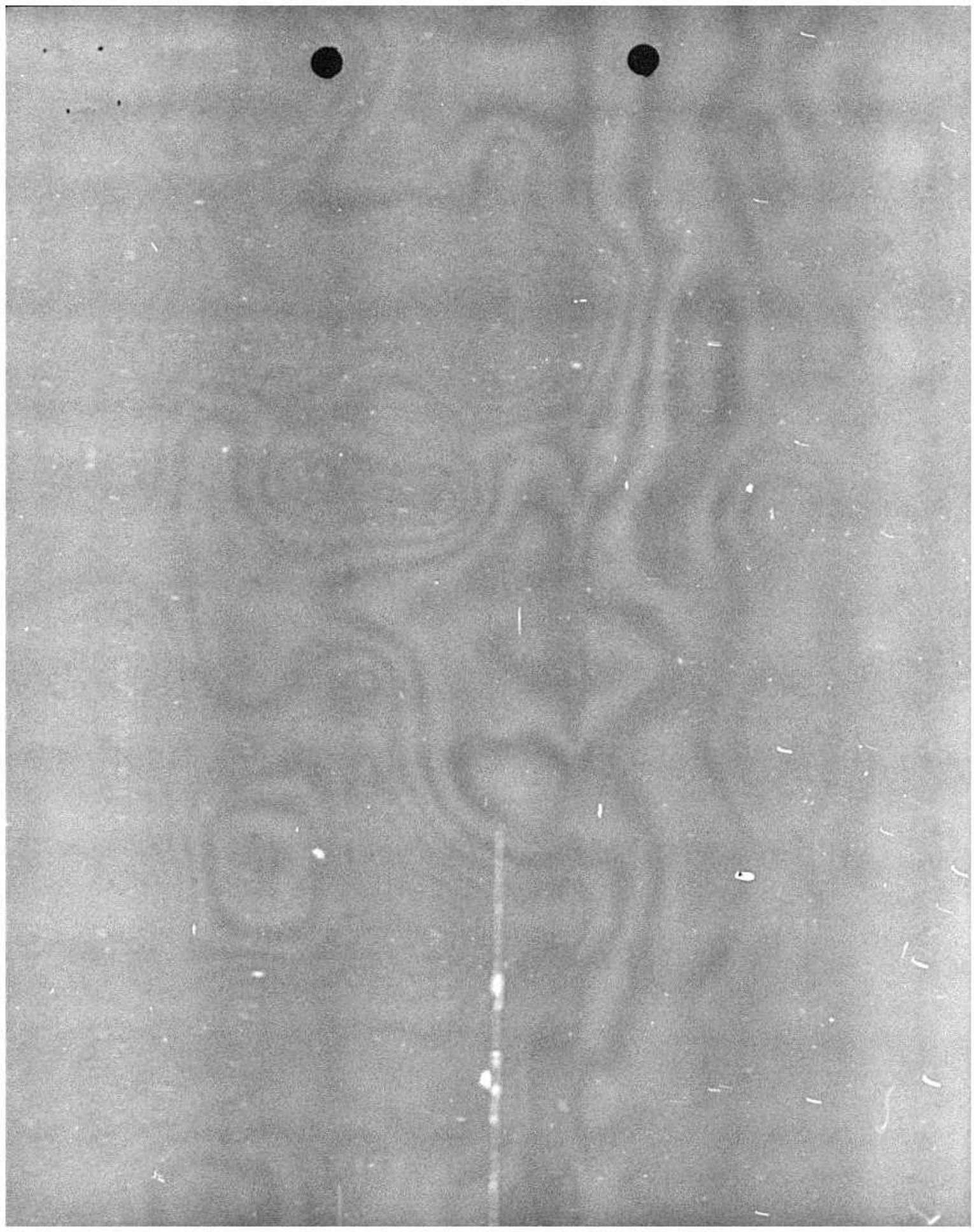
The above eight (8) paragraph Affidavit was SUBSCRIBED AND SWORN TO before me, the undersigned Notary Public, this 2nd day of July, 1996, by THOMAS C. PALMER, who is personally know to me.

Marian R. Barnett
Notary Public

My Commission expires:



MARIAN R. BARNETT
COMMISSION # CC 473869
EXPIRES AUG 8, 1999
BONDED THRU
ATLANTIC BONDING CO., INC.



State of Florida

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



General Counsel
ROBERT D. VANDIVER
(904) 413-6248

Public Service Commission

April 25, 1996

Michael Twomey, Esquire
Route 28, Box 1264
Tallahassee, FL 32310

Re: Status of regulatory assessment fees for facilities in Collier County

Dear Mr. Twomey:

At the April 16, 1996 Agenda Conference, you raised the question of whether the Commission continues to collect regulatory assessment fees from utilities in Collier County after the date the County rescinds Commission jurisdiction. The purpose of this letter is to respond to the concerns raised at the Agenda Conference.

It is my understanding that the question raised was directed to the cases pending before the Commission regarding Southern States Utilities, Inc. For purposes of your information, please note that there are cases pending before the Commission or the First District Court of Appeal for Southern States Utilities, Inc. See, Section 367.171(5), Florida Statutes, wherein it states that when a utility becomes subject to regulation by a county, pending cases remain within the jurisdiction of the Commission or court.

Our records indicate that Collier County rescinded Commission jurisdiction on February 27, 1996. Regardless of the pending cases, it has been the Commission's practice to cease collecting regulatory assessment fees on the date a county rescinds Commission

Continuation of Letter to:
Michael Twomey, Esquire
April 25, 1996
Page 2

jurisdiction. Accordingly, consistent with the Commission's past practice, the Commission will not collect regulatory assessment fees from any utility in Collier County as of February 27, 1996.

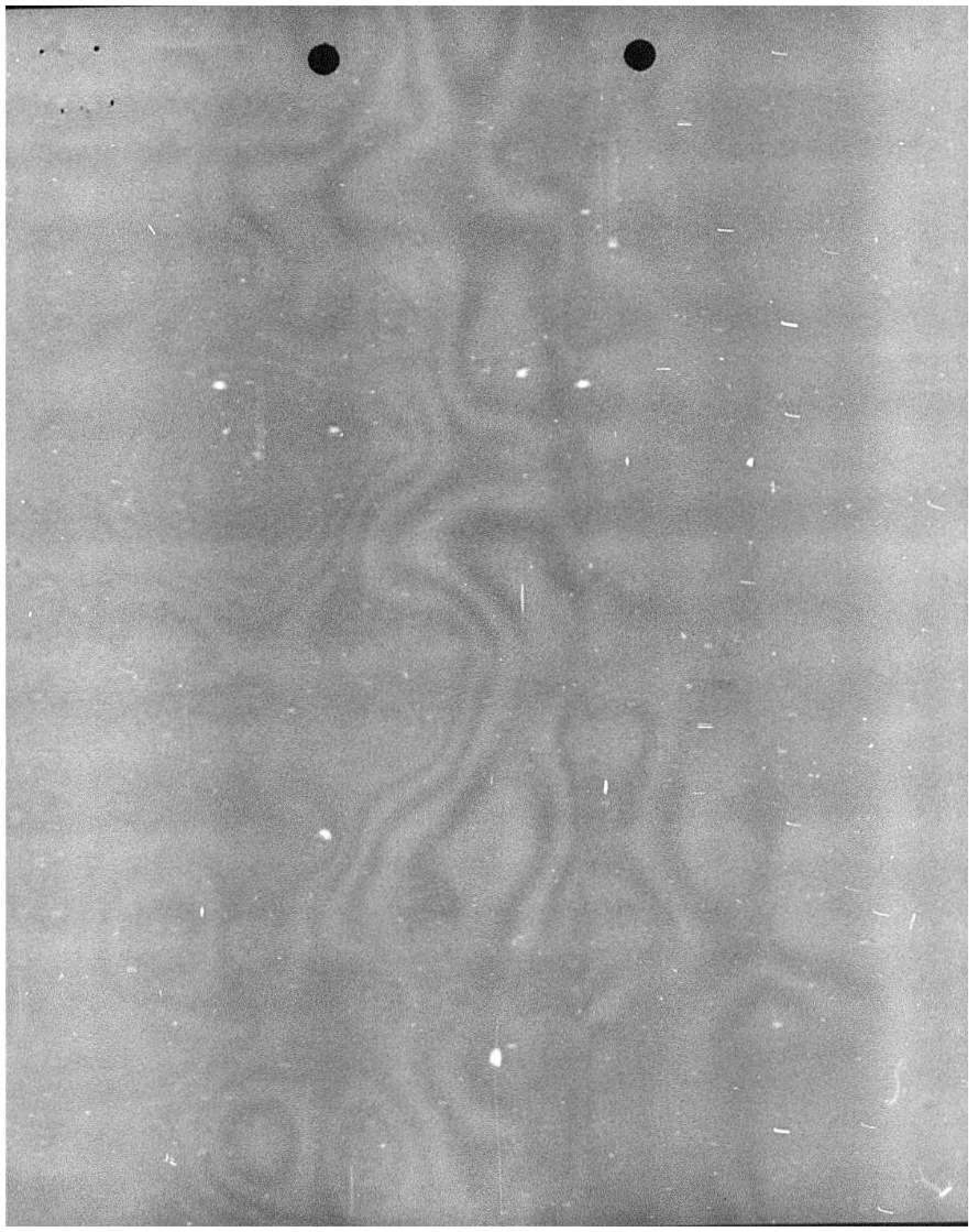
Sincerely,



Robert D. Vandiver
General Counsel

RDV:LAJ/mw

cc: Deputy Exec. Director/Adm. (Ward)
Division of Water and Wastewater (Hill, Williams, Messer)
Division of Legal Services (Jaber, O'Sullivan)
Mr. David C. Weigel, Esq.
Mr. Brian Armstrong, Esq.



BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: 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, Charlotte, Citrus, Clay, Collier, Duval, Highlands, Lake, Lee, Marion, Martin, Nassau, Orange, Osceola, Pasco, Putnam, Seminole, St. Johns, St. Lucie, Volusia, and Washington Counties.)

DOCKET NO. 950495-WS
ORDER NO. PSC-95-1385-POP-WS
ISSUED: November 7, 1995

RECEIVED BY

NOV 27 1995

COUNTY ATTORNEY'S OFFICE

The following Commissioners participated in the disposition of this matter:

SUSAN F. CLARK, Chairman
J. TERRY DEASON
JOE GARCIA
JULIA L. JOHNSON

ORDER MEMORIALIZING THE COMMISSION'S DECISION
THAT THE FACILITIES OF SOUTHERN STATES UTILITIES, INC.,
LOCATED IN THE COUNTIES OF HILLSBOROUGH, HERNANDO, AND POLK
ARE NOT SUBJECT TO A RATE INCREASE IN THIS RATE APPLICATION

BY THE COMMISSION:

BACKGROUND

Southern States Utilities, Inc. (SSU or utility) is a Class A utility, which provides water and wastewater service to facilities located in 25 counties. On June 28, 1995, SSU filed an application with the Commission requesting increased water and wastewater rates for 141 services areas, pursuant to Section 367.081, Florida Statutes, and for an increase in service availability charges, pursuant to Section 367.101, Florida Statutes. The utility also requested that the Commission approve an allowance for funds used during construction (AFUDC) and an allowance for funds prudently invested.

The intervention of the Office of the Public Counsel (OPC), was acknowledged by Order No. PSC-95-0901-PCO-WS, issued on July 26, 1995. The Sugarmill Woods Civic Association, Inc., the Spring Hill Civic Association, Inc., and the Marco Island Civic Association, Inc., have also intervened.

ORDER NO. PSC-95-1385-FOF-WS
DOCKET NO. 950495-WS
PAGE 2

The Commission recently reviewed the jurisdictional status of SSU's facilities throughout the state in Docket No. 930945-WS. In Order No. PSC-95-0894-FOF-WS, issued on July 21, 1995, the Commission determined that SSU's facilities and land constituted a single system and that the Commission had jurisdiction over all of SSU's facilities and land throughout the state pursuant to Section 367.171, Florida Statutes. That Order was appealed by Hernando, Hillsborough, and Polk Counties, and an automatic stay is in effect.

The utility's initial filing in this docket did not include SSU's facilities in Hernando, Hillsborough and Polk Counties, and our staff advised the utility that after a review of the information, the filing was incomplete and the minimum filing requirements (MFRs) were deficient. Our staff listed nine specific deficiencies concerning schedules and other filings, and also stated that, because of the Commission's decision in Docket No. 930945-WS, the application must be modified to include Hernando, Hillsborough, and Polk Counties.

SSU agreed to provide information to satisfy the nine specific deficiencies, but asserted that the MFRs did not require the information on Hernando, Hillsborough and Polk Counties. This matter was brought before the Commission at the August 1, 1995 Agenda Conference for resolution. We found that the utility's exclusion of Hernando, Hillsborough and Polk Counties constituted a deficiency in its filing. Our decision was memorialized by Order No. PSC-95-1043-FOF-WS, on August 21, 1995. On August 2, 1995, SSU filed the information on Hillsborough, Polk, and Hernando Counties.

On September 29, 1995, an Order Establishing Procedure, Order No. PSC-95-1208-PCO-WS, was issued, and among other things established the dates for the customer service hearings to be held in this proceeding. A service hearing for Hernando County was scheduled for October 13, 1995, and, after being duly noticed, was held on that date.

SERVICE HEARING

At the October 13, 1995, customer service hearing the Commission, after listening to the presentation of Hernando County Commissioner, Nancy Robinson, considered the effect of the automatic stay associated with the appeal of Order No. PSC-95-0894-FOF-WS. One Commissioner, while recognizing that Commission staff may still require information from Southern States Utilities, Inc., concerning the facilities in the counties of Hernando, Hillsborough, and Polk, made a motion for the Commission to acknowledge that the rates of those facilities would not be subject

ORDER NO. PSC-95-1385-FOF-WS
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PAGE 3

to change in this rate proceeding and that the three counties be removed from the style of this case. This motion was adopted by the four Commissioners present at the service hearing. Accordingly, we find that the counties of Hernando, Hillsborough, and Polk shall not be subject to a rate increase in this rate application.

Based on the foregoing, it is, therefore,

ORDERED by the Florida Public Service Commission that the rates of the facilities of Southern States Utilities, Inc., located in the counties of Hernando, Hillsborough, and Polk are not subject to change in this rate proceeding. It is further

ORDERED that those counties shall no longer be listed in the style of this case. It is further

ORDERED that this docket shall remain open for the further processing of this case.

By ORDER of the Florida Public Service Commission, this 7th day of November, 1995.

/s/ Blanca S. Bayó

BLANCA S. BAYÓ, Director
Division of Records and Reporting

This is a facsimile copy. A signed copy of the order may be obtained by calling 1-904-413-6770.

(S E A L)

RRJ

ORDER NO. PSC-95-1385-FOF-WS
DOCKET NO. 950495-WS
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NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.59(4), Florida Statutes, to notify parties of any administrative hearing or judicial review of Commission orders that is available under Sections 120.57 or 120.68, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing or judicial review will be granted or result in the relief sought.

Any party adversely affected by this order, which is preliminary, procedural or intermediate in nature, may request: (1) reconsideration within 10 days pursuant to Rule 25-22.038(2), Florida Administrative Code, if issued by a Prehearing Officer; (2) reconsideration within 15 days pursuant to Rule 25-22.060, Florida Administrative Code, if issued by the Commission; or (3) judicial review by the Florida Supreme Court, in the case of an electric, gas or telephone utility, or the First District Court of Appeal, in the case of a water or wastewater utility. A motion for reconsideration shall be filed with the Director, Division of Records and Reporting, in the form prescribed by Rule 25-22.060, Florida Administrative Code. Judicial review of a preliminary, procedural or intermediate ruling or order is available if review of the final action will not provide an adequate remedy. Such review may be requested from the appropriate court, as described above, pursuant to Rule 9.100, Florida Rules of Appellate Procedure.

