

RUTLEDGE, ECENIA, UNDERWOOD, PURNELL & HOFFMAN

FILE COPY

PROFESSIONAL ASSOCIATION
ATTORNEYS AND COUNSELORS AT LAW

STEPHEN A. ECENIA
KENNETH A. HOFFMAN
THOMAS W. KONRAD
R. DAVID PRESCOTT
HAROLD F. X. PURNELL
GARY R. RUTLEDGE
R. MICHAEL UNDERWOOD
WILLIAM B. WILLINGHAM

POST OFFICE BOX 551, 32302-0551
215 SOUTH MONROE STREET, SUITE 420
TALLAHASSEE, FLORIDA 32301-1841

GOVERNMENTAL CONSULTANTS:
PATRICK R. MALOY
AMY J. YOUNG

TELEPHONE (904) 681-6788
TELECOPIER (904) 681-6515

September 3, 1996

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

HAND DELIVERY

Re: Docket No. 920199-WS

Dear Ms. Bayo:

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

1. Original and fifteen copies of Southern States Utilities, Inc.'s Motion for Stay of Order No. PSC-96-1046-FOF-WS; and
2. An original and one copy of a Notice of Appeal.

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

Thank you for your assistance with this filing.

Sincerely,

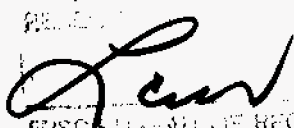


Kenneth A. Hoffman

KAH/rl

cc: All Parties of Record
Trib.3

ACK _____
ACA _____
AD: _____

Notice of Appeal to Linda

FLORIDA PUBLIC SERVICE COMMISSION

notice
DOCUMENT NUMBER-DATE
09266 SEP-3 96
FPSC-RECORDS/REPORTING

Motion
DOCUMENT NUMBER-DATE
09265 SEP-3 96
FPSC-RECORDS/REPORTING

ORIGINAL
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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

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

Docket No. 920199-WS

Filed: September 3, 1996

**SOUTHERN STATES UTILITIES, INC.'S
MOTION FOR STAY OF ORDER NO. PSC-96-1046-FOF-WS**

Southern States Utilities, Inc. ("SSU"), by and through its undersigned counsel, and pursuant to Rule 25-22.061(1), Florida Administrative Code, hereby moves the Commission to grant a stay of Order No. PSC-96-1046-FOF-WS (Final Order on Remand and Requiring Refund) (hereinafter referred to as "Final Order Requiring Refund") pending judicial proceedings. In support of this Motion, SSU states as follows:

1. On August 14, 1996, the Commission issued the Final Refund Order Requiring Refund. The Order arose from proceedings before the Commission resulting from the remand by the First District Court of Appeal in Citrus County v. Southern States Utilities, Inc., 656 So.2d 1307 (Fla. 1st DCA 1995). In Citrus County, the Court affirmed the Commission's determination of SSU's final revenue requirements but reversed the Commission imposed uniform rate structure. On remand, and pursuant to the Final Order Requiring Refund, the Commission has ordered SSU to:

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... make refunds to those customers who paid more under the uniform rate structure than under the modified stand-alone rate structure approved on remand.¹

2. SSU has appealed the Final Order Requiring Refund to the First District Court of Appeal. A copy of the Notice of Appeal is attached hereto as Exhibit "A".

3. Rule 25-22.061(1)(a), F.A.C., provides that the Commission shall grant a stay of an appealed Commission order which involves the refund of monies to customers. The rule provides:

(1)(a) When the order being appealed involves the refund of moneys to customers or a decrease in rates charged to customers, the Commission shall, upon motion filed by the utility or company affected, grant a stay pending judicial proceedings. The stay shall be conditioned upon the posting of good and sufficient bond, or the posting of a corporate undertaking, and such other conditions as the Commission finds appropriate.

(emphasis supplied).

4. Rule 25-22.061(1)(a), F.A.C., is mandatory in nature. The rule affords no discretion to the Commission to deny a stay when the order appealed involves the refund of monies to customers. Accordingly, the Commission is required to enter an order staying the Final Order Requiring Refund pending the disposition of judicial proceedings initiated by SSU on this date.²

¹Final Order Requiring Refund, at 13. SSU's refund obligation amounts to approximately \$10 million.

²Due to the mandatory nature of Rule 25-22.061(2)(a), F.A.C., SSU is not required to present and has not presented any form of financial justification for the requested stay. Were the stay not mandatory, such a requirement would be easily met in light of the \$10 million refund obligation imposed by the Order, an obligation which substantially exceeds the \$6.7 million of

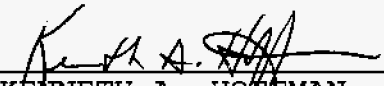
5. Under the rule, the Commission retains authority to condition the stay upon SSU's posting of adequate security and such other conditions as the Commission finds appropriate. SSU is prepared to post the specific security required by the Commission. SSU requests that it not be required to incur the expense of posting a bond to secure the refund. SSU and its general body of ratepayers will be spared the expense of a bond if the Commission permits SSU to post a corporate undertaking to secure the refund.

WHEREFORE, SSU requests the Commission to enter an Order:

(A) granting a stay of Order No. PSC-96-1046-FOF-WS pending judicial proceedings; and

(B) requiring that such stay be conditioned upon the posting of a corporate undertaking; however, if such request is denied SSU is prepared to purchase and post a bond to secure the refund.

Respectfully submitted,


KENNETH A. HOFFMAN, ESQ.
WILLIAM B. WILLINGHAM, ESQ.
Rutledge, Ecenia, Underwood,
Purnell & Hoffman, P.A.
P. O. Box 551
Tallahassee, FL 32302-0551
(904) 681-6788

ARTHUR J. ENGLAND, JR., ESQ.
Greenberg, Traurig, Hoffman,
Lipoff, Rosen & Quentel, P.A.
1221 Brickell Avenue
Miami, Florida 33131-3260
(305) 579-0605

additional revenue authorized by the Commission in this rate case.

and

BRIAN P. ARMSTRONG, ESQ.
Southern States Utilities, Inc.
1000 Color Place
Apopka, Florida 32703
(407) 880-0058

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was furnished by U.S. Mail to the following on September 3, 1996:

John R. Howe, Esq.
Office of Public Counsel
111 West Madison Street
Room 812
Tallahassee, FL 32399-1400

Lila Jaber, Esq.
Division of Legal Services
Florida Public Service
Commission
2540 Shumard Oak Boulevard
Room 370
Tallahassee, FL 32399-0850

Mr. Harry C. Jones, P.E.
President
Cypress and Oak Villages
Association
91 Cypress Boulevard West
Homasassa, Florida 32646

Michael S. Mullin, Esq.
P. O. Box 1563
Fernandina Beach, Florida 32034

Larry M. Haag, Esq.
County Attorney
111 West Main Street #B
Inverness, Florida 34450-4852

Susan W. Fox, Esq.
MacFarlane, Ferguson
P. O. Box 1531
Tampa, Florida 33601

Michael B. Twomey, Esq.
Route 28, Box 1264
Tallahassee, Florida 31310

Joseph A. McGlothlin, Esq.
Vicki Gordon Kaufman, Esq.
117 S. Gadsden Street
Tallahassee, FL 32301

Darol H.N. Carr, Esq.
David Holmes, Esq.
P. O. Drawer 159
Port Charlotte, FL 33949

Michael A. Gross, Esq.
Assistant Attorney General
Department of Legal Affairs
Room PL-01, The Capitol
Tallahassee, FL 32399-1050

By: 
KENNETH A. HOFFMAN, ESQ.

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