



JACK SHREVE
PUBLIC COUNSEL

STATE OF FLORIDA
OFFICE OF THE PUBLIC COUNSEL

c/o The Florida Legislature
111 West Madison Street
Room 812
Tallahassee, Florida 32399-1400
904-488-9330

ORIGINAL
FILE COPY

December 16, 1996

Blanca S. Bayo, Director
Division of Records and Reporting
Florida Public Service Commission
2540 Shumard Oak Blvd.
Tallahassee, FL 32399-0850

Re: Docket No. 950495-WS

Dear Ms. Bayo:

Enclosed for filing in the above-referenced docket are the original and 15 copies of Citizens' Response to Southern States' "Motion to Stay refund of Interim Rates and Reduction to AFPI Charges Pending Appeal and Motion to Release/Modify Bond Securing Refund of Interim Rates".

Please indicate the time and date of receipt on the enclosed duplicate of this letter and return it to our office.

Sincerely,

Charles J. Beck
Deputy Public Counsel

- ACK
- AFA
- APP
- CAF CJB:bsr
- CMU Enclosure
- CTR
- EAG
- LEG 2
- LIN 5
- OPC
- RCH
- SEC 1
- WAS
- OTH

RECEIVED & FILED

EPSC-BUREAU OF RECORDS

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

**ORIGINAL
FILE COPY**

In re: Application for a rate)
increase 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 by Southern States)
Utilities, Inc.)
_____)

Docket No. 950495-WS

Filed: December 16, 1996

CITIZENS' RESPONSE TO SOUTHERN STATES' "MOTION TO STAY REFUND OF INTERIM RATES AND REDUCTION TO AFPI CHARGES PENDING APPEAL AND MOTION TO RELEASE/MODIFY BOND SECURING REFUND OF INTERIM RATES"

The Citizens of Florida ("Citizens"), by and through Jack Shreve, Public Counsel, file this response and opposition to the pleading entitled "motion to stay refund of interim rates and reduction to AFPI charges pending appeal and motion to release/modify bond securing refund of interim rates" filed by Southern States Utilities, Inc. ("Southern States") on December 3, 1996.

The Commission Should Not Reduce or Release the Bond Securing the Refund of Interim Rates

1. Commission order no. P.C.-96-0125-FOF-WS issued January 25, 1996

DOCUMENT NUMBER-DATE
13333 DEC 16 1996
FPSC-RECORDS/REPORTING 13543

(hereafter "order granting interim rates"), granted Southern States' request for interim rates. The Commission calculated rate base for each individual facility (order granting interim rates at 5), calculated net operating income for each facility (order granting interim rates at 8), and calculated interim revenue requirements for each facility (order granting interim rates at 9). For those plants determined by the Commission to be underearning, the Commission calculated interim revenue requirements facility-by- facility using the minimum of the last authorized rate of return(order granting interim rates at 9). Interim rates were calculated based on these individual revenue requirements using a modified stand alone rate design (order granting interim rates at 10).

2. In the case in chief, revenue requirements were calculated in much the same fashion. Issue 115 asked whether Southern States' revenue requirement should be calculated on a plant specific basis. The staff recommended that the revenue requirement should be calculated on a plant specific basis, and the Commission agreed. The staff recommendation stated that if any revenue combinations needed to be made, they should be addressed as a rate issue, not as a revenue requirement issue. See staff recommendation dated July 24, 1996, at 423; transcript of July 31, 1996 special agenda at 343.

3. When it came time to determine whether the Commission should refund all or part of the interim rates, the Commission abandoned the facility-by-facility approach it used to set interim rates. Instead, the Commission decided to combine the revenue

requirements for all of the plants included in docket 920199-WS. By combining these revenue requirements, the Commission denied refunds to numerous facilities that would be entitled to a refund if the Commission used revenue requirements on a facility-by-facility basis to determine refunds.

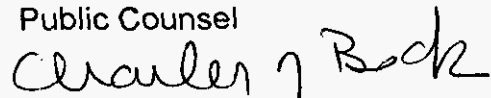
4. This inconsistent approach to setting interim rates and refunding interim rates is not only unfair to customers; it also violates the interim statute. Section 367.082, Florida Statutes (1995), directs the Commission to look at the revenue requirements "of the utility" both for the purpose of setting interim rates and determining the amount to be refunded. The approach is symmetric. The Commission cannot use one definition of the "utility" for setting rates and then redefine it for the purpose of determining the refund of interim rates. Here, the Commission set interim rates for the utility on a facility-by-facility basis, so it must determine the refund of interim rates in the same manner.

5. If the First District Court of Appeal relinquishes jurisdiction, the Citizens intend to seek reconsideration of the Commission's decision to deny refunds of interim rates to all facilities that were part of docket 920199-WS. If the First District Court of Appeal does not relinquish jurisdiction, the Citizens intend to raise the issue in the pending appeal. Either way, in order to protect customers, the Commission should not reduce or eliminate the bond securing the refund of interim rates until the matter is settled.

WHEREFORE, the Citizens request the Commission to deny Southern States' motion to release or modify the bond securing the refund of interim rates.

Respectfully submitted,

JACK SHREVE
Public Counsel

A handwritten signature in cursive script that reads "Charles J. Beck". The signature is written in dark ink and is positioned to the right of the printed name.

Charles J. Beck
Deputy Public Counsel

Office of Public Counsel

c/o The Florida Legislature
111 West Madison Street
Room 812
Tallahassee, FL 32399-1400

Attorneys for the Citizens
of the State of Florida

**CERTIFICATE OF SERVICE
DOCKET NO. 950495-WS**

I HEREBY CERTIFY that a correct copy of the foregoing has been furnished by U.S.

Mail or *hand-delivery to the following party representatives on this 16th day of

December, 1996.

Ken Hoffman, Esq.
William B. Willingham, Esq.
Rutledge, Ecenia, Underwood
Purnell & Hoffman, P.A.
P.O. Box 551
Tallahassee, FL 32302-0551

*Lila Jaber, Esq.
Division of Legal Services
Fla. Public Service Commission
2540 Shumard Oak Blvd.
Tallahassee, FL 32399

Brian Armstrong, Esq.
Matthew Feil, Esq.
Southern States Utilities
General Offices
1000 Color Place
Apopka, FL 32703

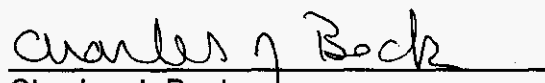
Michael B. Twomey, Esq.
P. O. Box 5256
Tallahassee, Florida
32314-5256

Arthur Jacobs, Esq.
Jacobs & Peters, P.A.
Post Office Box 1110
Fernandina Beach, FL
32035-1110

Darol H.N. Carr, Esq.
David Holmes, Esq.
Farr, Farr, Emerich, Sifrit,
Hackett & Carr, P.A.
2315 Aaron Street
P.O. Box 2159
Port Charlotte, FL 33949

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

Joseph A. McGlothlin, Esq.
McWhirter, Reeves, McGlothlin,
Davidson, Rief & Bakas, P.A.
117 S. Gadsden
Tallahassee, FL 32301


Charles J. Beck
Deputy Public Counsel