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Public Service Commission

-M-E-M-O-R-A-N-D-U-M-

DATE: January 17, 1997
TO: Mary Bane, Deputy Executive Director/Technical
FROM: Donna Cyrus-Williams, Division of Legal Services *DW*
 Richard Redemann, Division of Water and Wastewater *RR*
RE: Docket No. 960907-WS - Application for amendment of Certificates Nos. 306-W and 255-S in Charlotte/Lee Counties by Southern States Utilities, Inc.

Staff has filed a recommendation for Docket No. 960907-WS, which is scheduled to be heard at the January 21, 1997 Agenda Conference, as Item No. 30. This recommendation addresses Florida Water Services Corporation's (utility or FWSC), formerly Southern States Utilities, Inc., Motion to Dismiss an objection to its application for amendment filed by the City of Cape Coral (the City).

On January 17, 1997, Matt Feil, staff attorney for FWSC, filed a Request for Deferral of this item. This item was previously deferred from the December 17, 1996 Agenda. In its request, the utility states that counsel for the utility and the City have reached an agreement in principle which will include the City's withdrawing its Objection and the utility withdrawing its Motion to Dismiss. The utility further states that the agreement is currently being put to writing and must receive final approval of the parties before becoming final. The utility anticipates filing the agreement by the first week of February 1997. Therefore, the utility requests a deferral until such time as the City and utility file a written stipulation reflecting resolution of their dispute and staff recommends disposition thereof.

The City Attorney's office has advised staff that they are in agreement with the utility's request for deferral. Therefore, staff requests that Docket No. 960907-WS, scheduled for the January 21, 1997 Agenda Conference as Item No. 30, be deferred for a period of at least forty days to allow the parties sufficient time to resolve their dispute.

- ACK _____
- AFA _____
- APP _____
- CAF _____
- CMU _____ **cc:** Chairman Julia Johnson
- CTR _____ Division of Records and Reporting
- EAG _____ Division of Legal Services (Jaber, Davis)
- LEG _____ Division of Water and Wastewater (Hill, Messer)
- LIN _____
- OPC _____
- RCH _____
- SEC 1 _____
- WAS _____
- OTH _____

*Recommend approval -
MAB*

DOCUMENT NUMBER-DATE
 00646 JAN 17 97
 FPSC-RECORDS/REPORTING



P. O. Box 609520, Orlando, FL 32860-9520
407/880-0058

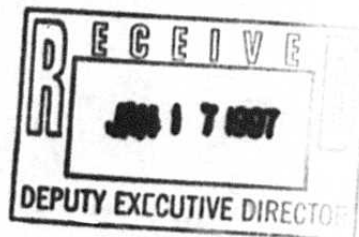
*** FAX COVER SHEET ***

TO: Mary Bone

FAX NO.: 1-904-413-6057

FROM: Matt Feil

RE: Jan 21 Agenda Item No 30



DATE: 1-17-97

TOTAL NUMBER OF PAGES (INCLUDING THIS PAGE): 4

PLEASE CONTACT Nancy Cook, x 456 IMMEDIATELY IN THE EVENT YOU DO NOT RECEIVE ALL PAGES.

SENT FROM THE Legal DEPARTMENT FAX #407-880-1395

Water For Florida's Future



January 17, 1997

Chairman Julia L. Johnson
Division of Records & Reporting
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0850

by fax only

Re: JANUARY 21 AGENDA ITEM NO. 30 Docket No. 960907-
WS -- Application for Amendment of Certificates Nos.
306-W and 255-S in Charlotte/Lee Counties by Southern
States Utilities, Inc.

Dear Chairman Johnson:

I write on behalf of the City of Cape Coral ("City") and Florida Water Services Corporation, formerly Southern States Utilities, Inc., ("Utility") to request a deferral of the above item from the Commission's January 21 Agenda Conference until such time as the City and the Utility file a written stipulation reflecting resolution of their dispute and staff recommends disposition thereof as noted below.

The staff recommendation on Item No. 30 concerns the Utility's Motion to Dismiss the City's Objection. This recommendation was deferred from the Commission's December 17 Agenda Conference until the January 21 Agenda Conference because the City and the Utility were close to settling their dispute. Yesterday, counsel for the Utility and the City reached agreement in principle for a resolution which will include the City's withdrawing its Objection and the Utility's withdrawing its Motion to Dismiss. Commission consideration of the Item No. 30 recommendation will be obviated under the stipulation; further, in the City's view, critical to the stipulation is an issue the Commission has been asked to rule on as part of Item No. 30.

The stipulation is currently being put to writing and must receive the various approvals required at both the Utility and the City before becoming final. The City believes that the earliest its council will be able to approve the stipulation is on January 27.

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Accordingly, the Utility and the City anticipate filing the stipulation by the first week of February. The Utility and the City will request that the stipulation be incorporated into either a Commission order acknowledging withdrawal of the Utility's Motion to Dismiss and the City's Objection or an order disposing of the Utility's requested territory amendment. (According to the current CASR, if there is a hearing on the City's Ojection, the utility's prefiled direct testimony must be filed March 24, so an order of the former variety could also serve to cancel the filing dates and hearing now scheduled.)

Accordingly, the Utility and the City request a deferral of Item No. 30 from the Commission's January 21 Agenda Conference until such time as the Utility and the City file their stipulation and staff recommends disposition thereof as stated above.

Because offices are closed Monday January 20 in observance of the Martin Luther King, Jr., Holiday, the Utility and the City respectfully request that if it all possible, they be informed today of your decision in this matter. If the item is deferred, the City's earlier request for teleconference participation at the Agenda will also be obviated.

If you have any questions or comments regarding the foregoing, please call me at (407) 880-0058, ext. 260, or Ms. Cliff Repperger with the City at (941) 574-0408.

Sincerely yours



Matthew Feil, Esq.
Staff Attorney

cc: Donna Cyrus-Williams, Legal Division
Mary Bane, Deputy Executive Director

Chairman Johnson
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Charles Hill, Water & Wastewater
Richard Redemann, Water & Wastewater
Bruce Conroy, City of Cape Coral