

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application by Southern)
States Utilities, Inc. for rate)
increase and increase in service)
availability charges 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,)
Polk, Putnam, Seminole, St. Johns,)
St. Lucie, Volusia and Washington)
Counties.)
)
)
)

Docket No. 950495-WS

Filed: March 17, 1997

FLORIDA WATER SERVICES CORPORATION'S
RESPONSE IN OPPOSITION TO OPC'S
REQUEST FOR ORAL ARGUMENT

Florida Water Services Corporation ("Florida Water"), formerly Southern States Utilities, Inc., by and through its undersigned counsel, files this Response in Opposition to the Request for Oral Argument filed by the Office of Public Counsel ("OPC") in connection with OPC's Motion for Reconsideration of Order No. PSC-97-0190-PCO-WS, an Order issued by the Prehearing Officer denying OPC's Motion to Establish Schedule for Filing Motions for Reconsideration. OPC's Request for Oral Argument should be denied on the following grounds:

1. Rule 25-22.0376(5), Florida Administrative Code, provides, in pertinent part, that "[o]ral argument on any motion filed pursuant to this rule may be granted at the discretion of the Commission." Rule 25-22.058(1), Florida Administrative Code, requires a party desiring oral argument to "... state with particularity why oral argument would aid the Commission in

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comprehending and evaluating the issues before it." OPC's Request for Oral Argument fails to establish that oral argument on its Motion for Reconsideration of Order No. PSC-97-0190-PCO-WS is necessary or would be helpful to the Commission.


2. The only reason given by OPC in support of its Request for Oral Argument is that its Motion for Reconsideration purports to deal with an issue never decided by the Commission. That is not the case. Curiously, OPC's Motion to Establish Schedule for Filing Motions for Reconsideration made no attempt to distinguish controlling case law. Specifically, OPC's Motion to Establish Schedule for Filing Motions for Reconsideration failed to address the decision of the Fourth District Court of Appeal in *City of Hollywood v. Public Employee Relations Commission*, 432 So.2d 79 (Fla. 4th DCA 1983) and the decision of the First District Court of Appeal in *Citizens of the State of Florida v. North Ft. Myers Utility, Inc. and the Public Service Commission* (Fla. 1st DCA Case No. 95-1439, November 16, 1995) which confirm the principle of law that the time for filing a motion for reconsideration is jurisdictional and non-discretionary. Thus, there is nothing new about the law on this subject despite OPC's allegations to the contrary.

3. Oral argument is appropriate only when the party requesting oral argument alleges and establishes that oral argument will provide some benefit, insight or education to the Commission not available from the pleadings. Here, by the time OPC's Motion for Reconsideration of Order No. PSC-97-0190-PCO-WS is heard, the

Commission will have addressed the identical issue raised in the Motion for Reconsideration on two occasions. The first occasion was when the Prehearing Officer correctly denied OPC's Motion to Establish Schedule for Filing Motions for Reconsideration. The second is scheduled to occur on March 18, 1997, when the full Commission considers OPC's Motion for Reconsideration of the Final Order¹ which the Staff has recommended be denied due to the untimely filing of the motion. OPC's instant Motion for Reconsideration would be the third time around on the same issue -- oral argument obviously is unnecessary.

WHEREFORE, Florida Water respectfully requests that the Commission deny OPC's request for oral argument on OPC's Motion for Reconsideration by the Full Commission of Order No. PSC-97-0190-PCO-WS.

Respectfully submitted,



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¹Order No. PSC-96-1320-FOF-WS issued October 30, 1996.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of Florida Water Services Corporation's Response in Opposition to OPC's Request for Oral Argument was furnished by U. S. Mail to the following on this 17th day of March, 1997:

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