

RUTLEDGE, ECENIA, UNDERWOOD, PURNELL & HOFFMAN

ORIGINAL  
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

April 7, 1997

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. 950495-WS

Dear Ms. Bayo:

Enclosed herewith for filing in the above-referenced docket on behalf of Florida Water Services Corporation ("Florida Water") are the following documents:

1. Original and fifteen copies of Florida Water Corporation's Response in Opposition to Tropical Isles Homeowners Association's Petition for Intervention and Motion to Dismiss Petitions and Offer to Take Over Facilities;

ACK

AFA

APP

CAF

CMU

CTR

EAG

LEG

LIN

OPC

RCH

SEC

WAS

OTH

2. A disk containing a copy of the Response.

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

RECEIVED FILED

EPSC-BUREAU OF RECORDS

DOCUMENT NUMBER-DATE

03584 APR-75

FPSC-RECORDS/REPORTING

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

ORIGINAL  
FILE COPY

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: April 7, 1997

**FLORIDA WATER SERVICES CORPORATION'S  
RESPONSE IN OPPOSITION TO TROPICAL ISLES  
HOMEOWNERS ASSOCIATION'S PETITION FOR INTERVENTION**

**-and-**

**MOTION TO DISMISS PETITIONS AND OFFER  
TO TAKE OVER FACILITIES**

Florida Water Services Corporation ("Florida Water"), formerly Southern States Utilities, Inc. ("SSU"), by and through its undersigned counsel, hereby responds in opposition to the Petition for Intervention filed by Tropical Isles Homeowners Association ("TIHA") and moves to dismiss TIHA's Petition to Levy Fine for Failure to Comply with Commission Order, Petition to Establish Wastewater Rates based upon Water Consumption Data and Offer to Take Over Facilities.

**A. Background**

1. On October 30, 1996, the Commission issued Order No. PSC-96-1320-FOF-WS, the Final Order in this rate case. In the Final Order, the Commission discussed the desire expressed by certain customers within the Tropical Isles service area for metered

DOCUMENT NUMBER-DATE

03584 APR-76 13917

FPSC-RECORDS/REPORTING

residential wastewater only ("RWO") rates and a vacation rate. Florida Water has no water customers in the Tropical Isles service area. Water service in Florida Water's Tropical Isles service area is provided by the City of Ft. Pierce Utility Authority ("Authority").

2. The Commission established a flat rate RWO for the Tropical Isles wastewater customers based on Tropical Isles' revenue requirement. However, the Commission ordered Florida Water to investigate whether it could feasibly obtain metered water data from the City of Ft. Pierce and required Florida Water to file a report with the Commission within one hundred twenty days from the issuance date of the Final Order. In discussing the requirements of the report, the Commission stated:

This report shall detail the steps taken in this investigation, as well as the utility's calculation of a metered rate taking into account the approved wastewater rate structure. **A docket shall then be initiated so that we may address this issue.** The utility is further ordered to notify the customers of Tropical Isles that this issue is being explored and that the results will be presented to the Commission.

Final Order, at 239 (emphasis supplied). The Commission also ordered Florida Water to include within its report a discussion of the feasibility of implementing a vacation rate for the Tropical Isles RWO customers. Final Order, at 240.

3. On February 6, 1997, Florida Water timely provided the report required by the Commission to Maggi O'Sullivan of the Commission's Division of Legal Services. A copy of the report is

attached hereto as Exhibit "A".<sup>1</sup>

4. The February 6, 1997 report submitted by Florida Water fully complies with the requirements set forth in the Final Order concerning the report. Specifically, the report addresses Florida Water's continued efforts to obtain the necessary monthly water consumption data from the Authority; the fact that Florida Water has not been provided such data by the Authority; and, as a result, Florida Water's inability at this time to calculate base facility charge/gallonage charge rates for RWO service for the Tropical Isles service area. Florida Water committed in the report to continue its efforts and report back to the Commission within one hundred twenty days following the February 6 report. Florida Water intends to submit a supplemental report (with attached correspondence between Florida Water and the Authority) during the week of April 7, 1997. In addition, the report discusses the issue of the vacation rate and, specifically, Florida Water's inability to move forward on this issue until it receives data from and is able to engage in meaningful communication with the Authority.

5. On March 24, 1997, TIHA filed a petition for intervention alleging that its members are substantially affected by the above-discussed report submitted by Florida Water pursuant to the Final Order. On the same date, TIHA filed a petition requesting the Commission to impose a fine on Florida Water for allegedly failing to comply with the Final Order. TIHA also requested the Commission

---

<sup>1</sup>In a related matter, on March 18, 1997, Florida Water filed a Petition to Establish RWO rates for all of its jurisdictional service areas. That Petition was assigned Docket No. 970328-SU.

to establish wastewater rates based upon water consumption data. Finally, TIHA included within its petition an offer to purchase Florida Water's Tropical Isles facilities for \$10.00 plus reimbursement for plant investments made by Florida Water following its acquisition of the Tropical Isles facilities.

**B. Florida Water's Response in Opposition to the Petition to Intervene**

6. TIHA has failed to timely seek intervention in this docket. Rule 25-22.039, Florida Administrative Code, requires a putative intervenor to file its petition for leave to intervene at least five days before the final hearing. The final hearing in this docket commenced on April 29, 1996. Commission precedent is clear and consistent in denying untimely petitions for leave to intervene filed after a final hearing has been concluded. See City of Plant City v. Mayo, 337 So.2d 966, 971 (Fla. 1976); In Re: Application for Rate Increase by Southern States Utilities, Inc., 93 F.P.S.C. 11:38, 40-41 (1993); Id., 96 F.P.S.C. 8:198, 200-201 (1996). In this case TIHA's petition for intervention, filed approximately nine months after the conclusion of the final hearing, is untimely and should be denied.

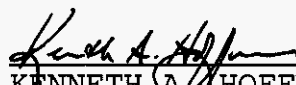
7. Moreover, the Final Order expressly states that the Commission will initiate a separate docket to address the RWO rate for the Tropical Isles customers. That docket has not yet been initiated. When that docket is initiated, TIHA may exercise its right to timely seek intervention.

C. Florida Water's Motion to Dismiss TIHA's  
Petition

8. As previously discussed, TIHA's petition for intervention is untimely filed in the wrong docket. Since TIHA's petition for intervention must be denied, TIHA's petitions seeking affirmative relief and offer to take over the facilities must also be dismissed.<sup>2</sup> By filing this motion, Florida Water does not waive its right to move to dismiss and/or strike TIHA's petitions seeking affirmative relief (and offer to take over facilities) on procedural, substantive and/or jurisdictional grounds should TIHA decide to timely file these requests in the new docket contemplated by the Final Order.

WHEREFORE, Florida Water respectfully requests that the Commission enter an order denying TIHA's petition for intervention and dismissing TIHA's petition to levy fine for failure to comply with Commission order, petition to establish wastewater rates based upon water consumption data and offer to take over facilities.

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

---

<sup>2</sup>TIHA's petition to levy fine and establish wastewater rates based upon water consumption data (and offer to take over facilities) are not authorized by Rules 25-22.056, 25-22.058, 25-22.059, 25-22.060 or 22.061, Florida Administrative Code, which address post-hearing filings.

and

BRIAN P. ARMSTRONG, ESQ.  
MATTHEW FEIL, ESQ.  
Florida Water Services Corporation  
1000 Color Place  
Apopka, Florida 32703  
(407) 880-0058

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing was furnished by U. S. Mail to the following on this 7th day of April, 1997:

Lila Jaber, Esq.  
Division of Legal Services  
2540 Shumard Oak Boulevard  
Gerald L. Gunter Building  
Room 370  
Tallahassee, FL 32399-0850

Ms. Anne Broadbent  
President  
Sugarmill Woods Civic Asso.  
91 Cypress Blvd., West  
Homosassa, FL 34446

Charles J. Beck, Esq.  
Office of Public Counsel  
111 W. Madison Street  
Room 812  
Tallahassee, FL 32399-1400

Arthur I. Jacobs, Esq.  
P. O. Box 1110  
Fernandina Beach, FL  
32305-1110

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

Mr. Frank Kane  
1208 E. Third Street  
Lehigh Acres, FL 33936

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

Mr. Paul Mauer, President  
Harbour Woods Civic Association  
11364 Woodsong Loop N  
Jacksonville, FL 32225

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

Larry M. Haag, Esq.  
111 West Main Street  
Suite #B  
Inverness, FL 34450

Frederick C. Kramer, Esq.  
Suite 201  
950 North Collier Boulevard  
Marco Island, FL 34145

  
KENNETH A. HOFFMAN, ESQ.

1995/isles



3/6/97

February 6, 1997

Ms. Maggi O'Sullivan  
Division of Legal Services  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, Florida 32399-0865

by fax & Federal Express

Re: Docket No. 950495-WS -- Application for rate increase and change 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, Pasco, Putnam, Seminole, St. Johns, St. Lucie, Volusia, and Washington Counties by Southern States Utilities, Inc.

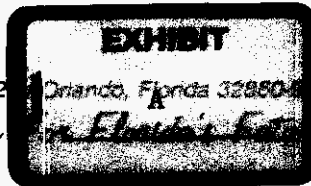
Dear Maggi:

In Order No. PSC-96-1320-FOF-WS, issued October 30, 1996, in the above docket, the Commission required Florida Water Services Corporation, formerly known as Southern States Utilities, Inc., (hereinafter "Florida Water" or "Utility") to investigate the feasibility of obtaining water meter consumption data for Florida Water's residential wastewater only ("RWO") customers in the Tropical Isles service area. The Commission suggested that the meter data could be used in designing a base facility charge/gallonage charge rate structure ("BFC/gallonage rates"). Further, the Commission ordered Florida Water to explore the feasibility of a vacation rate for Tropical Isles. This letter constitutes the report required by the Order.

Florida Water has to this point experienced difficulties in obtaining information from the Ft. Pierce Utility Authority. Therefore, Florida Water intends to make further attempts to obtain the pertinent information and report back to the Commission in another 120 days.

Below are the steps Florida Water has taken thus far in pursuit of the information in question.

- In early December of 1996, a Florida Water rate analyst contacted the Ft. Pierce Utility Authority (Authority) by telephone and was referred to Mr. Bill Abramowitz, a senior representative of the Authority. The Florida Water analyst explained that Florida Water needed monthly water consumption by customer for at least 12 historical months in order to calculate appropriate metered rates and that



DOCUMENT NUMBER-DATE

Florida Water Services Corporation / P.O. Box 60952 Orlando, Florida 32860-0952 / Phone 407/830-4581 FAX 407/830-4583

Water

03584 APR 7 1997

FPSC-RECORDS/REPORTING



once the new rates were implemented, Florida Water would need monthly meter reads by customer, including billing adjustments. Mr. Abramowitz assured the Florida Water analyst that he would look into the feasibility and cost of obtaining this information and get back to her.

- As of January 29, 1997, Mr. Abramowitz had not replied to Florida Water's request for information, so on that date another Florida Water rate analyst contacted Mr. Abramowitz. This analyst also described the type of information needed. Mr. Abramowitz told the analyst that the person in charge of doing cost analysis was Ms. Shirley Platt and that Florida Water would need to send a written request detailing the type and format of the required data the Authority could assess the cost of providing the initial historical data and the ongoing monthly consumption readings.

- On January 31, 1997, Florida Water sent a letter to Ms. Platt, requesting the information it had already requested verbally. A copy of the letter sent the Authority is attached hereto and marked "Attachment A."

As of today, February 28, 1997, Florida Water has not yet received the information requested from the Authority. Since Florida Water has yet to receive information from the Authority, Florida Water cannot calculate BFC/gallonage rates for Tropical Isle wastewater service.

The delay Florida Water is experiencing for receipt of the data requested is reminiscent of the problems Florida Water has experienced in the past when attempting to acquire data from other utilities. Those past experiences were the reason Florida Water had not attempted to obtain meter readings from the Authority in this case. Further, in the past, even when Florida Water had obtained water meter readings from another utility, that information was often not timely, properly adjusted or reliable. Billing adjustments, meter change outs, turn ons, turn offs, etc. not timely and properly reported result in billing errors and confusion for Florida Water customers.

Florida Water cannot do more on the subject of a vacation rate until it receives data from and can engage in a meaningful dialogue with the Authority. A vacation rate, if required, should simply be the base facility portion of a wastewater bill. This could be broken out from the RWO rate currently approved, but Florida Water would have to have historic records with an indication of the number of people on vacation and amount of time they are gone so that rates could be appropriately designed. Based on current and past experience, Florida Water has concerns with the timeliness and

Maggi O' Sullivan  
Page 3

reliability of customer vacation information as well. Florida Water also reiterates that any change in rate structure for Tropical Isles will not reduce the overall revenue collected from those customers. The change would only be a reallocation among customers with additional administrative expense to Florida Water.

In any event, as stated above, Florida Water will continue its efforts to establish a dialogue with the Authority.

Attached hereto as "Attachment B" is a proposed notice to customers of Tropical Isle regarding the status of the above issues to date.

If staff requires this notice to be sent out now or would prefer that a notice be delayed until more is known, please advise.

If you have any questions or comments on the above, please call me at (407) 884-8777, ext. 260.

Sincerely yours,

A handwritten signature in cursive script that reads "Matthew Feil". The signature is fluid and stylized, with a large initial "M" and a long, sweeping tail on the "l".

Matthew Feil, Esq.  
Staff Attorney

Attachments

13925



January 31, 1997

Ft. Pierce Utility Authority  
P.O. Box 3191  
Ft. Pierce, FL 34948-3191  
Attn: Ms. Shirley Platt

Dear Ms. Platt,

In early December a member of my staff contacted Bill Abramowitz regarding the possibility of receiving water meter readings for your customers in the Tropical Isles subdivision. It was explained to Mr. Abramowitz that we serve the wastewater collection needs for your water customers. Mr. Abramowitz informed us that he would look into it and contact us. In a follow up conversation we had with Mr. Abramowitz on January 29, 1997, we were given your name as a contact.

This request is being made at the behest of the Florida Public Service Commission, which has ordered us to investigate the feasibility of instituting a rate structure comprised of a monthly fixed base charge with a charge per each 1,000 gallons of wastewater collected. The only way we have of designing and charging such a structure is to base wastewater collection upon water consumption, which is why I am writing to you.

I need monthly 1996 readings for each of the customers in the Tropical Isles subdivision, and then I need to establish a mechanism for receiving the monthly readings when they occur. The format of the information I am requesting is customer name, service address, meter read date and meter reading. I would prefer to receive this information in electronic spreadsheet form, but a paper report could be used. I would also like to receive a report stating connects/disconnects and the relevant dates.

I thank you for your attention in this matter. Please let me know if I can answer any questions. I would appreciate your prompt reply.

Sincerely,

A handwritten signature in cursive script, appearing to read "Tony Isaacs".

Tony Isaacs,  
Rate Design Supervisor



BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION  
DOCKET NO. 950495-WS

NOTICE OF FPSC ORDER REGARDING THE INVESTIGATION OF ESTABLISHMENT OF A  
BASE/GALLONAGE AND VACATION RATE FOR WASTEWATER CUSTOMERS IN THE  
TROPICAL ISLES SERVICE AREA

Application by Southern States Utilities, Inc., now known as Florida Water Services Corporation for 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.

Dear Tropical Isles Wastewater Customer:

On October 20, 1996, the Commission issued Order No. PSC-96-1320-FOF-WS, its "Final Order Approving Rates and Charges." The order requested that Florida Water Services investigate the feasibility of establishing a base and gallonage charge rate structure as well as the possibility of establishing a vacation rate for your service area. In order to do that Florida Water Services has to obtain historic water billing information for each customer in your service area, as well as ongoing monthly water meter readings and other pertinent information. A report detailing our efforts in this regard has been forwarded to the Commission. You will be informed of the Commission's disposition of this matter.

Florida Water Services would like to make clear that the Commission has ordered a feasibility study concerning establishing different rate structures. **The Commission may or may not decide to implement a rate structure different than the flat monthly rate you are currently paying.**

Florida Water Services would further like to explain to our customers in Tropical Isles that any change in rate structure will not affect the amount of total revenues collected from your service area. The revenues which are required from your service area were set by the Commission in Order No. PSC-96-1320-FOF-WS and are not subject to change by a rate structure change. What this means is that if a different rate structure is ordered, some customers in your service area will pay higher bills, while others will pay lower bills.

If you have any questions concerning your bill or this notice, please call our Customer Service Representatives toll-free at (800) 432-4501.

We appreciate the opportunity to serve you.

Sincerely

Judy Lee Sweat  
Manager, Customer Business Office