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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION
TALLAHASSEE, FLORIDA

IN RE: Application for rate increase and increase in service availability charges by Southern States Utilities, Inc. 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.

DOCKET NO. 950495-WS



BEFORE:

CHAIRMAN SUSAN F. CLARK
COMMISSIONER J. TERRY DEASON
COMMISSIONER JULIA L. JOHNSON
COMMISSIONER DIANE K. KIESLING
COMMISSIONER JOE GARCIA

PROCEEDING:

AGENDA CONFERENCE

ITEM NUMBER:

50**

DATE:

February 6, 1996

PLACE:

4075 Esplanade Way, Room 148
Tallahassee, Florida

REPORTED BY:

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Notary Public in and for the
State of Florida at Large

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FPSC-RECORDS/REPORTING

1 PARTICIPATING:

2 Charles Beck, representing OPC
3 Kenneth Hoffman and Brian Armstrong, representing
4 SSU.

5 * * * * *

6 STAFF RECOMMENDATIONS

7 Issue 1: Recommendation that OPC's Motion to Reestablish
8 Official Filing Date be denied.
9 Issue 2: Recommendation that this docket remain open.

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CHAIRMAN CLARK: Item 50.

MR. JAEGER: Commissioners, Item Number 50 is Staff's recommendation concerning the Office of Public Counsel's motion to reestablish an official date of filing and SSU's response.

CHAIRMAN CLARK: Any questions?

COMMISSIONER KIESLING: Move it.

MR. JAEGER: Although we did not specifically address oral argument, Staff recommends that each side be given five minutes as has been being done in all SSU.

CHAIRMAN CLARK: I'm unclear. Was there a request for oral argument?

MR. JAEGER: There is not a request for oral argument, but this has not gone to hearing and they have been routinely granting the five minutes to each side.

CHAIRMAN CLARK: Go ahead, Mr. Beck.

MR. BECK: Thank you, Chairman Clark. I will try to be brief.

CHAIRMAN CLARK: Thank you.

MR. BECK: The Director of the Division of Water and Wastewater made a determination that August 2nd was the official filing date in this case. More than three

1 months later, Southern States comes in and files 39
2 volumes of MFRs. And I think you will recall at one
3 agenda they were piled up over here. You could see the
4 volume of the material they filed. Now, a portion of
5 those documents, and just a portion dealt with interim.
6 And it was in response to your order on the interim
7 rates. But a substantial portion of the MFRs had
8 absolutely nothing to do with the interim. It had
9 forecasted 1996 data on all of their systems. We are
10 required to respond to what the company filed as MFRs
11 and that should be the starting date for the case.
12 What will the Commission do if tomorrow they come in
13 with another 39 volumes, or if they come in in April
14 with another 39 volumes? Our time to respond has to
15 start -- there has to be some definite point when the
16 information stops and we start to respond. Since they
17 determined to come in, and not in response to a
18 Commission order, they did it on the forecasted '96
19 data in November, since they filed 39 volumes of MFRs,
20 that should be the beginning of the case.

21 Thank you.

22 CHAIRMAN CLARK: Thank you, Mr. Beck. Mr.
23 Armstrong or Mr. Hoffman.

24 MR. HOFFMAN: Madam Chairman, I will be very
25 brief. We filed the supplemental petition for interim

1 revenue relief in response to the authorization to do
2 so granted by the Commission. It includes detailed
3 information on the 1994 interim test year period. Mr.
4 Beck is correct, there was some information on final
5 rates, but that information was provided in response to
6 Public Counsel's request that the company make sure
7 that the customers had all information available
8 concerning the different ranges of rate structure.
9 None of the filings in any manner changed the revenue
10 requirement as originally requested.

11 CHAIRMAN CLARK: Questions, Commissioners?

12 COMMISSIONER DEASON: Let me ask Mr. Hoffman a
13 question. You're saying that the additional
14 information dealing with '96 projections that you filed
15 subsequent to the August 2nd date was in response to a
16 request from Public Counsel's Office and was not as a
17 bolster to your position concerning your original
18 revenue requirement request?

19 MR. HOFFMAN: Right. It was not to bolster it,
20 Commissioner Deason. Public Counsel had been filing a
21 number of motions to dismiss throughout this case
22 criticizing the company for not providing enough
23 information about what our proposed rates would be
24 under different rate structures. So when we filed that
25 supplemental filing, in addition to filing the

1 information on the interim, we filed additional
2 information on the proposed final rates which outlined
3 essentially what the different rates would be under
4 different rate structures. But we did not in any
5 manner change the amount of our requested final revenue
6 requirement.

7 COMMISSIONER DEASON: But the additional
8 information did contain information concerning the
9 veracity of your '96 projections, is that correct?

10 Is that your understanding, Mr. Beck?

11 MR. BECK: It broke it down on a system-by-system
12 basis on their forecasted '96 data. And this is
13 information -- we never asked them to file MFRs, that
14 was their decision to file that as MFRs. And I assume
15 as in all cases that they will move them into evidence
16 at the beginning of the case. We have to respond to
17 that.

18 COMMISSIONER DEASON: Mr. Hoffman.

19 MR. HOFFMAN: Commissioner Deason, Mr. Armstrong
20 tells me that the information was rate structure
21 information and was provided in response to, you know,
22 the Commission's request and Public Counsel request
23 that we make every bit of information available which
24 explains and supports what the different rates would be
25 under the different rate structures.

1 COMMISSIONER DEASON: You're saying that
2 additional information had nothing to do with the
3 calculation of revenue requirements?

4 MR. HOFFMAN: It in no manner changed the total
5 requested revenue requirement.

6 COMMISSIONER DEASON: I'm not talking about
7 changing it, bolstered your calculations, what you
8 claimed the revenue requirements to be.

9 MR. HOFFMAN: No. No, I don't think it did.

10 CHAIRMAN CLARK: Okay. Any further questions on
11 Item 50?

12 COMMISSIONER DEASON: Before we vote, Madam
13 Chairman, I need to raise a question. And it's
14 something that fits into the question of interim, and I
15 think this is the appropriate time to do it. I hate to
16 take the time given the hour, but obviously we can't
17 talk about things outside of a forum like this.

18 We have just concluded a number of public hearings
19 and we have two more to go, and during this latest
20 round of hearings one of the things that has been of
21 great concern to the customers is the level of interim
22 rates. And one of the responses that we give, and
23 rightfully so, is that interim rates are subject to
24 refund, which they are. But one thing that causes me
25 some concern is that due to the court's decision and

1 our interpretation of the court's decision and then our
2 ultimate decision to implement a modified stand-alone
3 rate structure for interim, there are a number of
4 customers whose rates under that rate structure are
5 much higher than they are under a different rate
6 structure, under a uniform rate structure.

7 My concern is that for those customers who do have
8 extremely high rates that they may be taking false
9 comfort in our assertion that those rates are subject
10 to refund. I think it's more accurate to say that the
11 company's revenue requirement is subject to refund if
12 the ultimate revenue requirement we determine in total
13 company dollars is less than what was granted on an
14 interim basis. But it's not the rates themselves that
15 are subject to refund. For example, if we determine a
16 revenue requirement that is even greater than what we
17 gave on interim, and we go to a different rate
18 structure, it's very possible that some of these
19 customers that have extremely high interim rates are
20 going to see a rate reduction, but they are not going
21 to see a refund of dollars. And I guess I'm pointing
22 this out.

23 I want to, first of all, confirm that with Staff,
24 that that is the situation, and then make sure that all
25 my fellow Commissioners understand that and that we are

1 not taking false comfort in talking to these customers
2 that if their final rate is less than their interim
3 rate there is going to be a refund, because that may
4 not be the case. And, first of all, am I correct on
5 that?

6 MR. WILLIS: You're correct, Commissioner Deason,
7 it's the revenue requirement that's subject to refund,
8 not rates themselves.

9 COMMISSIONER DEASON: And I'm not so sure there is
10 anything we can do about it. In fact, I can't. I
11 can't move to reconsider our interim decision, because
12 I voted against it on that rate structure issue
13 concerning the notice to customers of what the
14 potential rate would be and what the final rate was.
15 But I just wanted to make sure that we are all
16 understanding what the framework is that we are working
17 under, and I just felt compelled to bring that out.

18 COMMISSIONER GARCIA: Let me then ask Staff, what
19 would happen if, let's say, we approved no rate
20 increase, how would that revenue be returned to the
21 customers?

22 MR. WILLIS: That's simple. If you approve no
23 revenue increase then all revenue would be refunded in
24 excess of what should have been collected, and that
25 would mean that you would refund back to the level of

1 rates -- you would refund back to the level of rates
2 that were approved in 920199. You would have to stay
3 with the modified stand-alone rate structure. You
4 would refund to each individual customer the additional
5 revenue that they paid over and beyond that rate
6 structure approved in 920199.

7 MR. JAEGER: Or the rate structure approved for
8 the few systems that weren't under 920199, is that
9 correct?

10 MR. WILLIS: That's true.

11 CHAIRMAN CLARK: Isn't that where the real issue
12 comes in? I recall when we voted on interim rates
13 there was a couple of base-facility charges that were
14 extreme. But as I understood from the Staff, that, at
15 least in one case, that was because they were not part
16 of the other rate case, and you felt compelled that
17 because interim rates must be used, the same
18 adjustments as in the last case, that they couldn't be
19 brought in line with what was done in terms of the
20 modified stand-alone.

21 MR. WILLIS: That's correct.

22 CHAIRMAN CLARK: And Commissioner Deason is right,
23 it is probably given them a false sense of security to
24 say that it will be refunded. I think that for the
25 remaining cases that need customer hearings, I probably

1 need to make it clear that if we find they were not
2 entitled to that entire revenue, there may be a refund,
3 but that doesn't mean if your rate is less that you
4 will, in fact, get a refund.

5 MR. WILLIS: Correct.

6 COMMISSIONER DEASON: I'm not being critical of
7 what is being told to the customers, I just --

8 CHAIRMAN CLARK: I didn't take it that way. I
9 took it as a helpful note.

10 COMMISSIONER DEASON: Just so that we all, Staff
11 and Commissioners, all of us understand what
12 potentially could happen when it comes time to -- if
13 there is going to be any interim refund, and I don't
14 know if there is or not -- that there may be some
15 customers that think they are entitled to a refund and
16 they won't be a refund forthcoming.

17 CHAIRMAN CLARK: Yes. I didn't take that as a
18 criticism. I took that as sort of we need to be aware
19 of that and make sure other people are aware of it
20 because, goodness knows, this is a case where we need
21 to be as precise as possible.

22 COMMISSIONER JOHNSON: Staff, could you explain to
23 me again how the refund would actually work if we found
24 that -- if we were going to change the revenue
25 requirement, even though there may be a particular

1 customer whose rates might go down, they may not be
2 subject to the refund. How would it work? I don't
3 understand how it would work.

4 MR. WILLIS: Any refund would have to be
5 calculated based on the refund period, and I believe
6 that any refund would have to be based upon the rates
7 that were in effect during that period. If the
8 Commission said overall they should get a 10 percent
9 refund, you would have to go back and apply it back to
10 the rates that were in effect during the interim
11 period. It wouldn't be based upon the new rate
12 structure. If the Commission changes rate structure,
13 you wouldn't base your refund on the new rate
14 structure, it would have to be based on the rate
15 structure in effect during the interim period.

16 COMMISSIONER JOHNSON: And then just do a
17 percentage based upon --

18 MR. WILLIS: Normally, it's a percentage decrease.
19 That would only apply to the -- in this case, we would
20 have to go back and figure out how we would apply the
21 percentage decrease because this was a modified
22 stand-alone rate structure which means you do have some
23 which are capped, some which are not capped. You have
24 some which aren't included in the modified stand-alone
25 rate structure which are pure stand-alone rates. So

1 everybody's refund would be based upon exactly --

2 COMMISSIONER JOHNSON: Okay, I understand.

3 MR. WILLIS: It is intricately tied to the rate
4 structure.

5 COMMISSIONER DEASON: But if it is based upon a
6 percentage of the rates that they had paid during that
7 interim period, assuming final revenue requirements are
8 less than interim revenue requirements. But it is very
9 possible that if the final revenue requirement is more
10 than interim -- well, we know there would be no refund
11 then, but it's very possible, especially for those
12 systems who are on a strict stand-alone, not a capped
13 stand-alone, those systems that were not part of the
14 127 the last time, those systems that have extremely
15 high rates right now, if we go to a capped stand-alone,
16 they are probably going to see a rate reduction. If we
17 go to a uniform, they are going to see a rate
18 reduction, but they are not going to see any refund of
19 interim. And that's kind of a unique situation. And a
20 lot of these customers are going to come into these
21 hearings and complaining of a \$100 a month water and
22 wastewater bills, we are telling them, "Well, there may
23 be a refund." And, true, there may be. But at the
24 same time there may not be. And they may see a
25 substantial reduction in their monthly rates that they

1 are paying for this period and there may not be a
2 refund during the interim.

3 MR. WILLIS: There will not be a refund based on a
4 change in rate structure.

5 COMMISSIONER DEASON: Right. And it's just
6 another complication of a very complicated case.

7 MR. WILLIS: Correct.

8 CHAIRMAN CLARK: We have Item 50 before us now.
9 Is there a motion on Item 50?

10 COMMISSIONER KIESLING: Move it.

11 CHAIRMAN CLARK: Is there a second?

12 COMMISSIONER JOHNSON: Second.

13 THE COURT: All those in favor say aye.

14 COMMISSIONER DEASON: Before we vote, let me say
15 that I'm going to vote with the motion, and it's based
16 upon the representation that this is rate structure
17 information that was filed to give the Commission all
18 the necessary information to implement the court's
19 decision on an interim basis. So let me say that if
20 during the litigation of this case it comes to light
21 that there is information that was filed in this
22 subsequent filing that is being used to bolster the
23 company's case on the total revenue requirements, I
24 will look very unfavorably upon that, and would
25 consider favorably a motion to not allow that evidence

1 in the record.

2 COMMISSIONER GARCIA: Mr. Beck, what would be the
3 date that you wanted to move back to?

4 MR. BECK: November 13th, the day they filed the
5 39 volumes.

6 COMMISSIONER GARCIA: I will just state this, and
7 Mr. Hoffman can take it, or the company can take it. I
8 would agree with Commissioner Deason on this. And if
9 this is something that the company can give a little
10 bit of leeway on because I think it benefits all the
11 parties involved in getting more information out there
12 and giving more time to something -- I guess Pandora's
13 box was already opened a long time ago with this case.
14 And if it's something that gives the company and the
15 citizens of this state more time to ponder the issues,
16 I would suggest to the company, and clearly I'm no one
17 to tell the company, but I would tell you that if it is
18 found later on that that is the case, that is not the
19 case of what the company is reporting now, I would also
20 look at it very unfavorably in terms of allowing that
21 information.

22 CHAIRMAN CLARK: Okay. There has been a motion
23 and a second. All those in favor say aye.

24 COMMISSIONER GARCIA: Aye.

25 COMMISSIONER JOHNSON: Aye.

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COMMISSIONER KIESLING: Aye.

COMMISSIONER DEASON: Aye.

CHAIRMAN CLARK: Aye. Opposed, nay. Thank you,
Mr. Beck.

Thank you, Mr. Hoffman and Mr. Armstrong.

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CERTIFICATE OF REPORTER


STATE OF FLORIDA)

COUNTY OF LEON)

I, JANE FAUROT, Court Reporter, do hereby certify that the foregoing proceedings was transcribed from cassette tape, and the foregoing pages numbered 1 through 16 are a true and correct record of the proceedings.

I FURTHER CERTIFY that I am not a relative, employee, attorney or counsel of any of the parties, nor relative or employee of such attorney or counsel, or financially interested in the foregoing action.

DATED THIS 19th day of February, 1996.



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