

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

IN RE: Application for rate increase)  
in Brevard, Charlotte/Lee, Citrus, )  
Clay, Duval, Highlands, Lake, )  
Marion, Martin, Nassau, Orange, ) DOCKET NO.: 920199-WS  
Osceola, Pasco, Putnam, Seminole, ) Filed: September 12, 1997  
Volusia, and Washinton Counties by )  
SOUTHERN STATES UTILITIES, INC.; )  
Collier County by MARCO SHORES )  
UTILITIES (Deltona); Hernando County)  
by SPRING HILL UTILITIES (Deltona); )  
and Volusia County by DELTONA LAKES )  
UTILITIES (Deltona) )  
\_\_\_\_\_ )

MOTION FOR FORMAL NOTICE TO CUSTOMERS AND  
REQUEST FOR EXTENSION OF TIME TO FILE BRIEFS

Come now, Joseph J. DeRouin, Victoria M. DeRouin, Peter H. Heeschen, Elizabeth A. Riordan, Carvell Simpson and Edward Slezak, by and through undersigned counsel, file this Motion for Formal Notice to Customers and Request for Extension of Time to File Briefs, and in support thereof state as follows:

1. Movants have filed a Petition to Intervene in this docket regarding refunds and surcharges which will have a substantial financial impact on Movants and other customers of Florida Water Service Corporation f/k/a Southern States Utilities, Inc.

2. By opinion filed June 17, 1997, in Southern States Utilities, Inc. v. Florida Public Service Commission, 22 F.L.W. D1492 (Fla. 1st DCA, June 17, 1997), the First District Court of

Appeals reversed both this Commission's prior order requiring Florida Water Service Corporation to make a one-sided refund to customers and this Commission's denial of intervention to other customers similarly situated to Movants, who would be impacted by potential surcharges.

3. As recognized in the Commission's Order in this docket, dated August 27, 1997, the First District Court of Appeals ordered this Commission to consider petitions for intervention filed by customers or customer groups. Movants, as a member of that group of customers, have filed simultaneously with this Motion its Petition to Intervene due to the possibility of the imposition of a surcharge on one group of Florida Water Service customers due to the Florida Supreme Court decision in GTE Florida, Inc. v. Clark, 668 So. 2d 971 (Fla. 1996).

4. To date, this Commission has not issued or required any party to this docket to issue notice to Movants or other customers of the refund/surcharge issues previously addressed or to be addressed in this remand stage of the proceedings.

5. As the Commission is well aware, the Office of Public Counsel, which represented the Citizens of the State of Florida, has determined that it cannot protect and advocate on behalf of all customers on certain issues, such as refunds and rate design, where

different groups of customers have diverse and conflicting positions in this docket. Consequently, Movants have had no representation in this matter until September 12, 1997.

6. Movants having received no notice, essentially remain unaware of the potential refund/surcharge exposure they may face due to the reversal of the Commission's uniform rate structure by the First District Court of Appeals and the reversal by the District Court of the Commission's order requiring Florida Water Services to make refunds to certain customers while denying the utility the right to collect surcharges from Movants and other customers.

7. Movants believe that thousands of customers of Florida Water Services remain unaware of the potential surcharge exposure which would confront them if this Commission orders refunds in this docket and that customers similar to it would desire to intervene should they receive notice of the impact of the Commission's impending decision.

8. Movants have reviewed the Commission's August 5, 1997 agenda transcript and have grave concerns regarding the refusal of the Commission to require formal notification to Movants and other customers of Florida Water Services Corporation of the issues pending before this Commission in this docket, as it

prevents Movants and others from timely filing for intervention into these proceedings, thereby depriving them of their constitutionally guaranteed right of due process.

9. Movants further fear that several, if not a majority of the Commissioners, have misinterpreted the refund/surcharge issue contained in the opinion, filed June 17, 1997, of the First District Court of Appeal. Specifically, the August 5, 1997 transcript reveals that more than one Commissioner appears to have expressed a belief that the First District's opinion requires refunds and requires surcharges.

10. It is Movants' belief that the opinion of the First District is not a mandate to the Commission requiring refunds and surcharges. Additionally, the First District Court clearly held that no refunds could be required without surcharges. *Southern States Utilities v. Florida Public Service Commission*, 22 F.L. W. D1492 (Fla. 1st DCA, June 17, 1997). This is but one example of the many factual and legal controversies which Movants must review and research in order to ensure adequate representation in this docket.

WHEREFORE, Movants respectfully request that the Commission:

A) Order Florida Water Services Corporation to provide its customers formal notice of the issues to be addressed in this

remand stage of the proceedings; together with a history of the Commission orders and Court of Appeals decisions which have preceded;

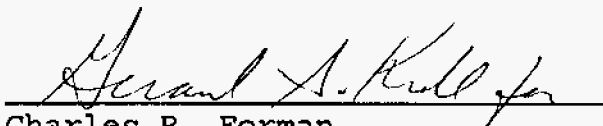
B) Establish a forty-five (45) day period from the date of notice during which interested persons and/or their counsel may intervene in this docket, and;

C) Extend the date for filing briefs until sixty (60) days after the intervention period has expired.

I HERBY CERTIFY that a true copy of the foregoing has been furnished to the attached list of addressees, by U.S. Mail, this 12th day of September, 1997.

Respectfully submitted,

By



Charles R. Forman  
FORMAN, KREHL & MONTGOMERY  
320 N. W. Third Avenue  
Ocala, FL 34478-0159  
(352) 732-3915  
Fla. Bar No. 229253

**ADDRESSEE LIST**  
**(DOCKET NO. 920199-WS)**

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

Lila Jaber, Esquire  
Division of Legal Services  
Florida Public Service  
Commission, Room 370  
2540 Shumard Oak Blvd.  
Tallahassee, FL 32399-0850

Ms. Anne Broadbent, President  
Sugarmill Woods Civic  
Association  
92 Cypress Boulevard West  
Homasassa, FL 34446

Michael S. Mullin, Esquire  
Post Office Box 1563  
Fernandina Beach, FL 32034

Larry M. Haag, Esquire  
County Attorney  
111 West Main Street #B  
Inverness, FL 34450-4852

Susan W. Fox, Esquire  
MacFarlane, Ferguson  
Post Office Box 1531  
Tampa, FL 33601

Michael B. Twomey, Esquire  
Route 28, Box 1264  
Tallahassee, FL 31310

Joseph A McGlothlin, Esquire  
Vicki Gordon Kaufman, Esquire  
117 South Gadsden Street  
Tallahassee, FL 32301

Darol H.N. Carr, Esquire  
David Holmes, Esquire  
Post Office Drawer 159  
Port Charlotte, FL 33949

Michael A. Gross, Esquire  
Assistant Attorney General  
Department of Legal Affairs  
Room PL-01, The Capitol  
Tallahassee, FL 32399-1050