

FLORIDA PUBLIC SERVICE COMMISSION

VOTE SHEET

FEBRUARY 3, 1998

RE: DOCKET NO. 950495-WS - 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.

Issue 1: Did the Notices of Cross-Appeal of the Final Order filed by Citrus County and the Office of Public Counsel trigger the automatic stay provisions of Rule 25-22.061(3)(a), Florida Administrative Code, and, if so, should the Commission order Florida Water Services Corporation to show cause in writing within twenty days why it should not be fined for its apparent violation of that rule?

Recommendation: The automatic stay provisions of Rule 25-22.061(3)(a), Florida Administrative Code, were triggered by the filing of the Notices of Cross-Appeal, but show cause proceedings should not be initiated.

No vote was taken on this issue.

COMMISSIONERS ASSIGNED: Full Commission

COMMISSIONERS' SIGNATURES

MAJORITY

DISSENTING

DOCUMENT NUMBER-DATE

01780 FEB-4 98

FPSC-REC-8086/REPORTING

Handwritten signatures in the majority column, including one that appears to be "Susan Clark".

Empty lines in the dissenting column.

REMARKS/DISSENTING COMMENTS:

Commissioner Garcia did not participate in the final vote on this item. COMMISSIONER GARCIA PARTICIPATED IN THE VOTE VIA VIDEO TELECONFERENCE. IN HIS VOTE, HE: AGREED WITH THE MAJORITY / DISSENTED. COMMISSIONER GARCIA WILL SIGN THE ORIGINAL VOTE SHEET UPON HIS RETURN TO TALLAHASSEE.

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Issue 2: Should the Commission interpret paragraphs 10 through 12 of Florida Water's Motion as a request to vacate the automatic stay and grant Florida Water's request that it be allowed to continue collecting final rates pursuant to the Final Order?

Recommendation: Yes, the Commission should interpret paragraphs 10 through 12 of Florida Water's Motion as a request to vacate the automatic stay and grant its request that it be allowed to continue collecting final rates pursuant to the Final Order. However, the Commission should deny Florida Water's request that the bond for interim rates be converted to a general appeal bond, and require Florida Water to supply a corporate undertaking within 10 days of the date of the Order in the amount of \$967,560 in the event that the issues raised by the Office of Public Counsel in its Cross-Appeal are affirmed by the First District Court of Appeal.

No vote was taken on this issue.

Issue 3: What action should the Commission take on Florida Water's Motion to Establish Mechanism to Hold Florida Water Harmless Should the Commission Approved Rate Structure Be Reversed?

Recommendation: Because Order No. PSC-96-1320-FOF-WS is on appeal, the Commission has no jurisdiction to modify it substantively. The Commission does have jurisdiction, pursuant to Rule 9.310, Florida Rules of Appellate Procedure, to vacate the automatic stay or to impose any lawful conditions such as requiring a bond or corporate undertaking. However, to fashion a remedy as requested by Florida Water would require more than a system of stays. Therefore, the Motion to Establish Mechanism to Hold Florida Water Harmless Should the Commission Approved Rate Structure Be Reversed should be dismissed for lack of jurisdiction.

APPROVED

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Issue 4: Should the docket be closed?

Recommendation: No. The docket should remain open pending the outcome of the appeal.

APPROVED