

MACFARLANE FERGUSON & McMULLEN

ORIGINAL

ATTORNEYS AND COUNSELORS AT LAW

400 NORTH TAMPA STREET, SUITE 2300
P. O. BOX 1531 (ZIP 33601)
TAMPA, FLORIDA 33602
(813) 273-4200 FAX (813) 273-4396

625 COURT STREET
P. O. BOX 1669 (ZIP 33757)
CLEARWATER, FLORIDA 33756
(813) 441-8966 FAX (813) 442-8470

IN REPLY REFER TO:

December 16, 1997

Tampa Office

Public Service Commission
Records and Reportings
2540 Shumard Oak Blvd.
Tallahassee, FL 32399-0850

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PUBLIC SERVICE COMMISSION
TALLAHASSEE, FLORIDA

Re: Application of Southern States Utilities, Inc., et al.
Docket No. 920199-WS

Gentlemen:

Enclosed please find the following for proper filing in the above-captioned case:

MOTION TO STRIKE FWSC'S PLEADINGS CONCERNING SURCHARGE,
TO DISQUALIFY ATTORNEY RETAINED BY FWSC, AND FOR SANCTIONS
(Original plus 15 copies)

Would you please be so kind as to stamp the enclosed copy of this transmittal letter when received and return same to this office in the enclosed stamped self-addressed envelope. Thank you.

Very truly yours,

Susan W. Fox

Susan W. Fox

(Signed for attorney to avoid delay)

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Susan W. Fox
EPSC BUREAU OF RECORDS

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EPSC-RECORDS/REPORTING

ORIGINAL

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application of)
Southern States Utilities, Inc.)
and Deltona Utilities, Inc.)
for Increased Water and)
Wastewater Rates in Citrus,)
Nassau, Seminole, Osceola, Duval,)
Putnam, Charlotte, Lee, Lake,)
Orange, Marion, Volusia, Martin,)
Clay, Brevard, Highlands,)
Collier, Pasco, Hernando, and)
Washington Counties.)
_____)

Docket No. 920199-WS

**MOTION TO STRIKE FWSC'S PLEADINGS CONCERNING SURCHARGE,
TO DISQUALIFY ATTORNEY RETAINED BY FWSC, AND FOR SANCTIONS**

Sugarmill Woods Civic Association hereby moves to strike the briefs, motions and pleadings of Florida Water Services Corporation, to disqualify the attorney retained by FWSC, and for sanctions against FWSC for its advocacy efforts to advance the interest of one group of customers over another.

1. In appealing the order granting refunds and denying surcharges, FWSC painted itself to the First District Court of Appeal as a mere stakeholder who should be neither benefitted nor harmed by the Commission's decision in this matter.

2. FWSC lacks standing to advocate either refunds or surcharges; it is a mere stakeholder with fiduciary responsibilities to return any erroneously collected revenues to the appropriate parties.

3. Other than the timing of payment of refunds as it may impact FWSC's financial condition, FWSC has no legitimate interest

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FDSC RECORDS/REPORTING

in the refund and surcharge issues, or should be estopped from taking a position due to its prior inconsistent position.

4. Nevertheless, FWSC has filed briefs advocating the "no refund/no surcharge" position, and has even gone so far as to hire an attorney to represent customers advocating that position and to solicit participation and attendance at the PSC proceedings and Agenda Conference by customers advocating that position through offering free transportation, free food, and other amenities.

5. FWSC sent a letter advocating its preferred outcome (i.e., "no refund/no surcharge") to customers along with the notice of their opportunity to file comments with the Commission and advising them that FWSC through its parent corporation had hired them an attorney. (See attachment.)

6. FWSC's conduct has unnecessarily prejudiced the customers seeking a refund and caused them to incur additional costs and fees.

7. The attorney retained by and paid by FWSC cannot exercise independent judgment on behalf of the customers and has an inherent conflict of interest.

8. The Public Counsel has retained two attorneys (Joseph McGlothlin and Darol Carr) to represent the interests of these customers and at least one customer group has hired an attorney (John Marks). Thus, these customer interests are adequately represented.

WHEREFORE, Sugarmill Woods requests the Commission to enter an order striking FWSC's briefs and other pleadings, except as they

relate to the timing of refunds, disqualify any attorneys retained by FWSC, and impose such other sanctions as the Commission may deem just and proper.

Respectfully submitted,



SUSAN W. FOX
Florida Bar No. 241547
MACFARLANE FERGUSON & McMULLEN
P. O. Box 1531
Tampa, Florida 33601
(813) 273-4200
Attorneys for Sugarmill Woods
Civic Association, Inc., f/k/a
Cypress and Oaks Villages
Association, Inc.

and

Michael B. Twomey
Post Office Box 5256
Tallahassee, Florida 32314-5256
(850) 421-9530
Attorney for Senator Ginney Brown-Waite
Morty Miller, Spring Hill Civic Association,
Inc., Sugarmill Manor, Inc., Cypress Village
Property Owners Association, Inc., Harbour
Woods Civic Association, Inc., Hidden Hills
Country Club Homeowners Association, Inc.
and Citrus County.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the above and foregoing has been furnished via ^{hand or} U.S. Mail, postage prepaid, this ~~15th~~ day of December, 1997 to the following persons:

Brian P. Armstrong, Esquire
Southern States Utilities, Inc.
1000 Color Place
Apopka, Florida 32703

Arthur J. England, Jr., Esq.
Greenberg, Traurig, Hoffman,
Lipoff, Rosen & Quentel, P.A.
1221 Brickell Avenue
Miami, Florida 33131

Kenneth A. Hoffman, Esquire
William B. Willingham, Esq.
Rutledge, Ecenia, Underwood,
Purnell & Hoffman, P.A.
Post Office Box 551
Tallahassee, Florida 32302

Robert A. Butterworth, Esquire
Attorney General
Michael A. Gross, Esquire
Assistant Attorney General
Office of the Attorney General
PL-01, The Capitol
Tallahassee, Florida 32399

Michael B. Twomey, Esquire
Route 28, Box 1264
Tallahassee, Florida 32310

Larry M. Haag, Esquire
County Attorney
2nd Floor, Suite B
111 West Main Street
Inverness, Florida 34450

Jack Shreve, Esquire
Public Counsel
Harold McLean, Esquire
Office of the Public Counsel
c/o The Florida Legislature
111 West Madison Street - Room 812
Tallahassee, Florida 32399

Robert D. Vandiver, Esquire
General Counsel
Christina T. Moore, Esq.
Associate General Counsel
Lila Jaber, Esq.
Division of Legal Services
Florida Public Service Commission
2540 Shumard Oak Boulevard - Room 370
Tallahassee, Florida 32399-0862

Michael S. Millin, Esq.
P. O. Box 1563
Fernandina Beach, Florida 32034

Joseph A. McGlothlin
Vicki Gordon Kaufman
McWhirter, Reeves, McGlothlin
Davidson, Rief & Bakas
117 South Gadsden Street
Tallahassee, Florida 32301

Darol H. M. Carr
Farr, Farr, Emerich, Sifrit
Hackett and Carr, P.A.
P. O. Box 2159
Port Charlotte, Florida 33949

Charles R. Forman
Forman, Krehl & Montgomery
320 Northwest 3rd Avenue
Ocala, Florida 34475

Arthur Jacobs, Esq.
P. O. Box 1110
Fernandina Beach, FL 32035-1110

John R. Marks, III
Knowles, Marks & Randolph, P.A.
215 South Monroe Street - Suite 130
Tallahassee, FL 32301



Attorney



October 22, 1997

Dear Friends and Customers,

Attached is an official notice written by the Public Service Commission about a controversial rate adjustment with which many of you may be familiar. The issue concerns a mistake made by the Public Service Commission (PSC) and how to correct it. The details are outlined in the notice, and we encourage you to take the time to read it carefully.

Simply put, the PSC must decide to do one of two things (Florida Water supports option number two):

1. It can order Florida Water to add a monthly surcharge to the bills of some customers so that refunds can be made to others. On average, the surcharge can range from several dollars up to thousands of dollars.
2. It can do nothing, allowing the current rates to continue without assigning refunds or surcharges to any Florida Water customer.

Since 1992, we have been actively involved in this debate to find a solution that is equitable to all of our customers. This past summer, we were the first and only party to this debate to request distribution of a notice to give you the opportunity to participate in a decision that will affect you. Unfortunately, at the time, the PSC decided not to notice you. We are pleased that they reconsidered this decision and we can now notice you.

In addition, because of the financial impact this decision could have on you and because customers facing potential surcharges were not adequately represented, our parent company has agreed to pay the fees of an attorney hired by some customers to oppose the surcharges. The company's stockholders, not our customers, are paying the fees for this attorney.

Florida Water believes the best possible solution for all of our customers is for the PSC not to surcharge or refund anyone. We believe that our customers should not be assessed a surcharge to pay refunds to other customers because the PSC made a mistake. There is no legal requirement for refunds to be made, but the courts have ruled that if refunds are required, surcharges must also be assessed. Unfortunately, when all is said and done, the outcome is out of our hands. Therefore, if the PSC insists on a refund for some customers, it must surcharge the remaining customers to pay for the refund as ordered by the court. However, you should know that we are doing everything within our power to seek a resolution that is in the best interest of all of our customers. We encourage you to do the same. We urge you to let the PSC know your views by contacting them at the address and/or phone numbers indicated on the enclosed notice.

Sincerely,

A handwritten signature in black ink, appearing to read "John Cirello".

John Cirello, Ph.D., P.E.
President and Chief Executive Officer

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The Commission issued an order requiring FWSC to provide information by service area of the potential refund and surcharge amounts with and without interest as of June 30, 1997. The Commission also allowed all parties in the case to file briefs giving their opinion of the appropriate action the Commission should take. The Commission identified the following potential options for the parties to argue in their briefs:

1. require refunds with interest and allow surcharges with interest;
2. do not require refunds and do not allow surcharges because the rates have been changed prospectively;
3. order refunds without interest and allow surcharges without interest;
4. allow the utility to make refunds and collect surcharges over an extended period of time to mitigate financial impacts; and
5. allow the utility to make refunds and collect surcharges over different periods of time.

It should be noted, however, that the parties may identify and argue other options not contained in this list. Further, the Commission is not bound by the options listed above, or any other options identified by parties, in making its decision.

Please be advised that if the Commission should approve refunds and surcharges with interest, according to billing records, the potential impact on you, as a customer during the period of time uniform rates were in effect (September 15, 1993 through January 23, 1996), is estimated to be, including interest to August 31, 1997 (if interest is approved) the following:

WATER REFUND	\$225.72
SEWER REFUND	\$407.24
NET REFUND	\$632.96

FWSC implemented the modified stand alone rates for all of its facilities affected by the remand decision, excluding Spring Hill, on January 23, 1996. For Spring Hill customers, the uniform rate was not discontinued until June 14, 1997. Therefore, there is a separate issue regarding a potential refund for the Spring Hill customers for this period of time. The potential refund and/or surcharge for this period of time is not reflected in the previous paragraph.

Please be advised that the above potential impact is an estimate only and is subject to a final decision by the Commission which is scheduled to be made on December 15, 1997. There are many variables that must be considered by the Commission in making its final determination. Please understand that a decision on any one of these variables may have an impact on your potential refund and/or surcharge.

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Further, the Commission has directed us to inform you that you may send your written comments and letters regarding your views on what action the Commission should take in this matter. All written submittals should be addressed to:

Director, Division of Records and Reporting
Florida Public Service Commission
Docket No. 920199-WS
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0850

Further if you require further assistance or information you may contact the Public Service Commission's Division of Consumer Affairs at: 1-800-342-3552 or you may fax your comments to 1-800-511-0809. Any person who is hearing or speech impaired should contact the Florida Public Service Commission by using the Florida Relay Service, which can be reached at 1-800-955-8771 (TDD). This notice was prepared by the Commission.

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PSC is to blame for controversy

The Chronicle has missed the point in its "Bad decision" editorial. It is not the utility that pits customers against each other; it is the Florida Public Service Commission that has created the conflict through its own decisions.

Florida Water Services agrees with your opinion: "Refunds for one community shouldn't be paid by other communities." And, to legally accomplish that, the Florida Public Service Commission's only option is to rule that there be neither refunds nor surcharges.

That is the position we have consistently stated since this entire matter arose in 1993.

In August 1997, Florida Water Services urged the PSC to allow customer notifications of the potential surcharge/refund issue and hold public hearings to gather customer input. The attorney representing customers seeking refunds and the commission legal staff argued against our motion. Equally important, the attorney hired by the public counsel's office to represent surcharge customers was silent on the issue. The PSC denied our motion.

At that point our parent company decided to fund a lawyer to represent those customers who would be impacted by surcharges. One month later, the Office of Public Counsel followed our lead and asked that customers be notified as to the potential impact of surcharges but did not request public hearings. The PSC agreed to order customer notification.

Had the PSC granted our original request in August, customers would have been made aware of the issue

early and public hearings would have been held throughout the state. That would have given all customers the opportunity to be heard and there would be no need for any group of customers to travel to Tallahassee to address the Public Service Commission. Our parent company, by providing transportation, is giving those customers subject to potential surcharges their opportunity to be seen and heard by the PSC.

The decision facing the Florida Public Service Commission is unprecedented and does, indeed, have the

effect of pitting customers against customers. Hopefully, the PSC, when presented with both sides of the issue, will do the right thing and order no refunds and no surcharges.

Tracy L. Smith
Manager, Government Relations
Florida Water Services

12-11-97

Chronicle