

FLORIDA PUBLIC SERVICE COMMISSION

VOTE SHEET

AUGUST 23, 1999

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, Pasco, Putnam, Seminole, St. Johns, St. Lucie, Volusia, and Washington Counties.

Issue 1: Should parties be allowed to participate?

Recommendation: Yes. Participation should be limited to ten minutes for each party.

**APPROVED**

COMMISSIONERS ASSIGNED: Full Commission

COMMISSIONERS' SIGNATURES

MAJORITY

DISSENTING

*[Handwritten signatures in the majority column]*  
Susan Clark  
J. Terry Hease

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REMARKS/DISSENTING COMMENTS:

DOCUMENT NUMBER-DATE

10048 AUG 23 99

FPSC-RECORDS/REPORTING

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Issue 2: Should the Commission accept Florida Water Services Corporation's New Offer of Settlement and Proposal for Disposition of Mandate on Remand?

Primary Recommendation: No, the New Offer of Settlement should be rejected as filed. However, primary staff would recommend acceptance if Florida Water would agree to withdraw the following provisions contained in C. and D. of paragraph 20 thereof:

1. [For a period running to June 28, 2002,] Florida Water would not be subject to an earnings investigation by the Commission or a petition or complaint to decrease Florida Water's water or wastewater rates or charges;
2. If Florida Water experiences earnings in excess of the top of the range of its authorized return on equity for the calendar years 1999, 2000, 2001 or 2002 such excess earnings would be shared between Florida Water and its customers on a one-third/two-thirds basis, one-third to be retained by Florida Water and two-thirds to be refunded to Florida Water's customers; and
3. Florida Water's shareholders would retain in full the gain on sale of Florida Water's Orange County land and facilities. In sufficient time prior to Commission consideration of this settlement proposal, the Commission would provide notice in the Florida Administrative Weekly of its intent to close Docket No. 980744-WS in recognition of this settlement. Any and all issues concerning Florida Water's gain on sale of its Orange County land and facilities shall not be revisited or reconsidered by the Commission.

Further, the Commission should recede from its finding in Order No. PSC-99-0093-FOF-WS that to do other than strictly adhere to the capband methodology in calculating rates based on the new revenue requirement would be a change in rate structure. If a revised offer of settlement is proposed which removes the provisions identified above, the Category II rates should be calculated as an across the board increase. Also,

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Sugarmill Woods' pending protest to the proposed agency action portion of Order No. PSC-99-0093-FOF-WS, issued January 15, 1999, would be mooted by the Commission's decision to approve the New Offer of Settlement, as there would be no assessment of a surcharge and therefore no surcharge methodology in dispute.

**MODIFIED**

*The Commission approved Fla. Water Services Corporation's offer of settlement as modified (see attachment) and clarified at the conference that regulatory asset be allocated for all service areas in the docket on a uniform basis consistent with methodology for Category I surcharges.*

Alternate Recommendation: The legal staff agrees with the primary staff that the utility's New Offer of Settlement should be rejected. However, legal staff would only recommend that the Commission accept a revised settlement offer if, in addition to the removal of the provisions identified in the primary staff recommendation, instead of the creation of a regulatory asset for the Category I and II surcharges, which we recommend is inconsistent with GTE v. Clark, the utility were to agree to charge surcharges only to those customers who were customers during the time the incorrect rates were in effect in the amount of the proposed regulatory asset over an appropriate period. The utility should be advised that the provision for the creation of a regulatory asset is unacceptable, and that this portion of the settlement offer, contained in paragraph 20 B., must be modified so as to conform with the requirements of GTE. Pending these revisions, legal staff would recommend that the Commission reject the offer as filed, and proceed to hearing.

**DENIED**

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Issue 3: Should the Office of Public Counsel's Motion for Consolidation be granted?

Recommendation: No, the Office of Public Counsel's Motion for Consolidation should be denied.

**APPROVED**

Issue 4: Should Florida Water Services Corporation's Motion for Reconsideration of Order No. PSC-99-1199-PCO-WS be granted?

Recommendation: No. The Commission should deny Florida Water's Motion for Reconsideration of Order No. PSC-99-1199-PCO-WS, acknowledge that the Order on Abatement is no longer in effect, and confirm that as of the date of this vote, the tolling of the time for discovery responses has ended. If the Commission agrees that the New Settlement Offer of Florida Water should not be accepted, the utility should be required to respond to the Office of Public Counsel's Second Set of Interrogatories and Third Request for Production of Documents to which the utility had raised no objection within 23 days of the date of this Order. Also, the utility should be required to respond to all other discovery within the normal timeframes.

**NO VOTE**

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Issue 5: Should this docket be closed?

Recommendation: No, the docket should remain open in order to conduct the hearing now scheduled for February 2-4, 2000.

**MODIFIED**

*Staff's modified recommendation to close the docket was approved.*

**DOCKET NO. 950495-WS  
AUGUST 23, 1999 SPECIAL AGENDA CONFERENCE**

**FLORIDA WATER SERVICES CORPORATION'S MODIFIED  
OFFER OF SETTLEMENT AND PROPOSAL FOR DISPOSITION  
OF MANDATE ON REMAND**

On June 14, 1999, Florida Water Services Corporation ("Florida Water") filed a Motion for Approval of New Offer of Settlement and Proposal for Disposition of Mandate on Remand. In the primary recommendation of staff in the memorandum dated August 11, 1999, staff expresses concerns with the following three parts of Florida Water's June 14, 1999 Offer of Settlement:

1. That Florida Water would not be subject to an earnings investigation by the Commission or a petition or complaint to decrease Florida Water's rates or charges for the three-year stay out period running to June 28, 2002<sup>1</sup>;
2. That Florida Water would share any excess earnings experienced for the calendar years 1999 through 2002 on a one-third/two-thirds basis, one-third to be retained by Florida Water and two-thirds to be refunded to Florida Water's customers<sup>2</sup>; and
3. That the Commission would close Docket No. 980744-WS (Orange County gain on sale docket) and Florida Water would retain in full the gain on sale of its Orange County land and facilities with the further condition that all issues concerning the gain on sale would not be revisited or reconsidered by the Commission<sup>3</sup>.

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<sup>1</sup>See Florida Water's Motion for Approval of New Offer of Settlement and Proposal for Disposition of Mandate on Remand, at pp. 6-7, par. 20 (C).

<sup>2</sup>Id.

<sup>3</sup>Id., at par. 20(D).

Florida Water submits the following modifications to its previously filed (June 14, 1999) Offer of Settlement to address staff's three concerns:

1. To demonstrate Florida Water's good faith and desire to continue its progress towards sound and amiable relations with its customers, particularly those in Collier County, Nassau County, Charlotte County, Volusia County, Citrus County, and Putnam County, and others that support Florida Water's settlement proposal under consideration today, Florida Water proposes a three-year one-sided stay out for general rate filings by the Company for all service areas in this docket. Indexing and pass-throughs would be allowed. The three-year stay out would run to June 28, 2002; provided however, that if a petition or complaint is filed seeking a decrease in Florida Water's rates and/or the Commission pursues an earnings investigation or decrease in Florida Water's rates, then the three-year stay out is terminated as of the date such a docket is opened and Florida Water may pursue appropriate rate relief. (Modification).

2. In light of the above modification, Florida Water has addressed staff's concern by eliminating that part of the three-year stay out provision which would have required a sharing of any excess earnings for calendar years 1999, 2000, 2001 or 2002 on a one-third/two-thirds basis. (Modification).

3. The Commission need not close Docket No. 980744-WS, the Orange County gain on sale docket. (Modification).

All remaining terms of the June 14, 1999 Offer of Settlement shall remain unchanged.