

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION
TALLAHASSEE, FLORIDA

IN RE: Joint petition of Citrus County, Hernando County, Cypress and Oaks Villages Association, Spring Hill Civic Association, and Florida State Senator Ginny Brown-Waite for full Commission hearing to set system-by-system, stand-alone rates for water and wastewater systems operated in Brevard, Charlotte/Lee, Citrus, Clay, Collier, Duval, Hernando, Highlands, Lake, Marion, Martin, Nassau, Orange, Osceola, Pasco, Putnam, Seminole, Volusia, and Washington Counties by SOUTHERN STATES UTILITIES, INC.

DOCKET NO. 930647-WS



COPY

BEFORE:

CHAIRMAN J. TERRY DEASON
COMMISSIONER SUSAN F. CLARK
COMMISSIONER LUIS J. LAUREDO
COMMISSIONER JULIA L. JOHNSON

PROCEEDING:

AGENDA CONFERENCE

ITEM NUMBER:

14**

DATE:

August 31, 1993

PLACE:

106 Fletcher Building
Tallahassee, Florida

REPORTED BY:

JANE FAUROT
Notary Public in and for the
State of Florida at Large

ACCURATE STENOTYPE REPORTERS, INC.
100 SALEM COURT
TALLAHASSEE, FLORIDA 32301
(904) 878-2221

DOCUMENT NUMBER-DATE

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FPSC-RECORDS/REPORTING

P R O C E E D I N G S

1
2 CHAIRMAN DEASON: Ladies and gentleman, if I could
3 have your attention, please. If I could have your
4 attention, please. If we could have quiet we will
5 proceed. Thank you. Thank you.

6 As I announced before we took recess for lunch, we
7 were going to begin the afternoon session with Item
8 Number 14. Before we begin, let me make two brief
9 announcements. One is that there are amplifying
10 headsets at the rear of the -- is it at the rear of the
11 room? Right at the front. For those persons who would
12 like use of those, they are here and it will better
13 enable you to hear the proceedings if you wish to use
14 one. In addition, there is room available in Room 115
15 where you may be seated and you can hear the
16 proceedings. You are not required to go down there,
17 but if some of the folks who are standing wish to have
18 a seat, you may go to Room 115 and a seat will be
19 provided for you, and you will be able to hear the
20 proceedings.

21 We are now on Item Number 14. Staff, do you have
22 any brief remarks at the beginning?

23 MS. BEDELL: No, sir. Just that Item 14 is
24 Staff's recommendation on the petition for the full
25 Commission to set system-by-system stand-alone rates

1 there are a great number of people that are served by
2 this utility that feel they have not yet received a
3 fair hearing. There are a number of issues that we
4 think that the application of uniform rates to these
5 customers is illegal. We think it is contrary to the
6 Florida Statutes. Now, we are not asking you today to
7 make that determination. We don't think that there was
8 sufficient evidence to support the decision of the
9 Commission to initiate the uniform rates. We are not
10 asking this Commission to make a decision on that
11 today. What we are suggesting to you, and what we are
12 requesting is a full and complete hearing on the issue
13 of uniform rates after and only after every customer
14 served by this system, this utility gets full, complete
15 and unambiguous notice of what this Commission intends
16 to do to them, that is, what the Staff intends to do to
17 them, or what the utility wants to do to them if, in
18 fact, they are in favor of uniform statewide rates.

19 The thrust of the argument of these petitioners is
20 that they did not receive anything, be it in the bill
21 inserts received from the Company, nor in the newspaper
22 publications, nor in the official notices of hearing
23 from this Commission that would give them the slightest
24 clue that this Commission intended to impose uniform
25 statewide rates, which in this case works a severe

1 hardship, economically, financially, against many, many
2 customers of this utility.

3 Some of the people who will speak to you will tell
4 you the size of the impact, the subsidy they have to
5 bear, and why they think it's unfair, why they can't
6 afford it. So, again, all we are asking for is a fair
7 fight. We would like complete notice. We would like
8 an opportunity to put on evidence in opposition to
9 uniform rates. We would like those parties that are in
10 favor, that are now in favor of uniform statewide rates
11 to be forced to put on affirmative testimony in support
12 of it, and then get in front all of you and have at it,
13 make legal arguments, present evidence, and so forth.

14 And then if we should lose then, we will accept
15 that, fine and well, and take an appeal if one is
16 warranted. We just feel that there wasn't an
17 opportunity, there was not sufficient notice.

18 Now, there have been some arguments made in the
19 press and apparently in other places that nobody cared,
20 that the customers of this utility don't mind having to
21 pay subsidies to support the operation of someone
22 else's utility services. I would suggest to you that
23 that notion is mistaken. It's a fiction. These people
24 here should be testament that they care. They drove
25 3-1/2, 4 hours in buses. There is some 150 to 200 of

1 They give a list of all the people that called in late,
2 in their view, to ask for intervention, or to ask for
3 reconsideration of this. There are references to
4 Commissioners from Volusia County, several of them,
5 people from Deltona and so forth. So the notion that
6 people don't care about this, and that a lot of people
7 don't care about it is false, we would submit to you.

8 So all we are asking for is a hearing, a fair
9 hearing, a proper notice. And what I would like to do,
10 Mr. Chairman, if it is okay, is introduce the first
11 individual who would like to address you, and that is
12 Mr. Harry Jones, who is a director and past President
13 of COVA, which is the Cypress and Oaks Villages
14 Association. Mr. Jones.

15 MR. HOFFMAN: Mr. Chairman, whatever your pleasure
16 may be, it may be more efficient for the utility to
17 present a very brief response to Mr. Twomey. If he has
18 finished his argument in support of his petition, we
19 obviously have some brief argument in support of our
20 motion to dismiss the petition before we get into the
21 public testimony, whatever your pleasure may be.

22 MR. TWOMEY: Mr. Chairman, if I may, I would
23 object to that and ask you to hear the customers in
24 this case before, and view their testimony as being in
25 support of the petition prior to you hearing arguments

1 from the utility as to why the petition should be
2 dismissed.

3 CHAIRMAN DEASON: We will go ahead and hear the
4 entire petitioners case, and then you will have your
5 opportunity to respond to the entire presentation, Mr.
6 Hoffman.

7 MR. HOFFMAN: Thank you.

8 MR. JONES: Thank you. My name is Harry C. Jones.
9 I live at 3 Shumard, S-H-U-M-A-R-D, Court South,
10 Homosassa, Florida 34446. Phone number, 904-382-1145.
11 I am a resident of Sugarmill Woods, and I have lived
12 there for ten years, and I have been involved in water
13 rate cases almost from the time that I first moved
14 there.

15 I'm going to make a statement, and then I'm going
16 to read two letters following the statement, and I will
17 try to be as brief as possible. Chairman Deason, the
18 first time I met you, we were working on the previous
19 rate case. You had to be recused because you had just
20 come over from the OPC, I believe, and were not in a
21 position to be able to work on a case that you had
22 previously been involved in.

23 Chairman Clark, I think I first met you as this
24 case was developing, and you at that point were a
25 fairly new member of the Commission.

1 two Commissioners decided that the case should be
2 thrown out, and that is what happened in that case.
3 Now, this recent rate case was filed in early '92, had
4 to be revised, came back and was approved by the Staff,
5 and we were notified in late July of 1992 that this
6 case had been filed.

7 We found that we had to go to the library in
8 Crystal River, which is about 20 miles away, to look at
9 the MFRs, which we did, spent a lot of time looking at
10 them. It appeared, the way these were structured, that
11 this was set up as a stand-alone case, because
12 everything was based upon individual utilities and
13 their costs, and so forth, except where there are
14 common costs, like G&A costs. So based upon that, we
15 felt this might be an acceptable approach to us,
16 because this is what we were looking for in the
17 previous case. So we did decide then that we should
18 intervene, because if you don't intervene, you don't
19 get anything except the notice that comes out that says
20 we just gave you a 50 percent increase. And we felt
21 that in order to keep our people aware of what was
22 going on, we needed to intervene and start getting
23 data, which we did.

24 We went to every one of the regional meetings that
25 were held. Commissioner Clark was at two of them,

1 Commissioner Deason was at one, I think Commissioner
2 Easley was at one, and in those meetings there were
3 several things brought up that were germane to what was
4 going on in this particular case. And in most cases,
5 the things that happened in these regional meetings
6 never got into what we could see was going on in the
7 way the case was finally worked out.

8 At one meeting, the tax appraiser of Citrus County
9 was there, and got up and spoke and said, "I know the
10 utility overpaid their taxes for the test year, which
11 was 1991, by some amount, 30 percent, 40 percent, I'm
12 not sure, but I know they did this." So something was
13 supposed to have been done on this. We get into the
14 final hearings, and still nothing had been done. And
15 even after we finished the final hearings, and I filed
16 whatever I'm supposed to file, which is the last thing
17 of a case, and that was brought up, it still was not
18 covered. We had a meeting after that with the utility,
19 and to the best of my knowledge nothing has been done.

20 We discussed in every one of these meetings a
21 variety of issues. In no case was uniform rates
22 discussed as anything other than just an off-the-cuff
23 sort of thing. When we came up with the list of final
24 issues, and there were 120-something, I think it was in
25 one of those issues. At that point we were opposed to

1 previous time, we will just put it aside, and we won't
2 bring it up until after all of the evaluations are over
3 with, and then we will put it into effect.

4 And to the people that have been working on this
5 thing, and it's not just COVA people, it is everybody
6 that has had anything to do with it, it just seems to
7 me like we just wasted a lot of taxpayers money, if you
8 had just gone ahead and done it on March of '92, and
9 forgotten about the whole thing. And it upsets me to
10 the point where I can hardly talk.

11 Now I'm going to read a statement. This statement
12 is by Susan Fox. Susan Fox is the attorney for COVA in
13 this particular thing, so she says, "If the full
14 Commission does not vote to hear this issue, the courts
15 will consider it on appeal. The courts will decide
16 whether the customers were given due process.
17 Specifically, whether the customers were given adequate
18 notice of the statewide uniform rate issue. Whether
19 reversal by two Commissioners of 50 years and more of
20 regulatory and judicial interpretation of Chapter 367
21 Florida Statutes was proper. And whether under these
22 facts, the rates are fair, reasonable, and
23 nondiscriminatory. We urge the full Commission to
24 decide this issue and not send it to the courts. The
25 opinion of our attorney, and I am speaking for myself,

1 had prior to effecting its final decision.
2 Given the impact of the decision on some consumer
3 groups, the Commission may want to consider whether
4 bare minimum compliance with legal requirements would
5 be adequate. The petitioners request for full
6 Commission assignment to this issue is also persuasive.
7 This decision affects the largest water and sewer
8 company in our state. In addition, this decision is
9 likely to affect regulatory policy as it is applied to
10 many other utilities in the state. I am confident that
11 the Commission will carefully consider this matter to a
12 full Commission decision. Thank you for your attention
13 in this concern. I would greatly appreciate your
14 keeping me apprised on this issue. Very truly yours,
15 Karen Thurman."

16 I think maybe you have copies of this, somebody
17 does?

18 CHAIRMAN DEASON: Yes, we do.

19 MR. JONES: That ends my statement.

20 MR. TWOMEY: Thank you, Mr. Jones. Mr. Chairman,
21 Commissioners, the next speaker is Mr. Desjardin, who
22 is the President of COVA, the Cypress and Oaks Villages
23 Association.

24 MR. DESJARDIN: I'm James Desjardin, President of
25 Cypress Village Association, known as COVA, Cypress and

1 Oaks Villages Association, known as COVA. The property
2 owners association of 1,171 homeowners in Sugarmill
3 Woods, Citrus County, Florida. I have come to this
4 hearing accompanied by many other ratepayers who join
5 us in appealing to the full Commission to reconsider a
6 decision to establish uniform rates for water and
7 wastewater services throughout the Southern States
8 Utilities Systems. We have taken the step because the
9 decision has produced a result that's both unfair and
10 unjust. It's unfair and unjust not only to the members
11 of COVA, it's unfair and unjust not only to all the
12 homeowners in Sugarmill Woods, it's unfair and unjust
13 to the majority of households served by Southern States
14 Utilities. To cite but one example, the decision
15 authorizes SSU to charge rates far higher than they
16 would be on a stand-alone basis to 76 percent of the
17 water customers and to 59 percent of the wastewater
18 customers. Full and accurate information about the
19 implications of the statewide uniform rate decision was
20 not available to consumers until after the November
21 1992 public hearings on the matter.

22 It was only after the February 1993 Staff
23 recommendations for statewide uniform rates that we had
24 an opportunity to analyze and to understand the
25 consequences and to appreciate the depth of unfairness

1 reprehensible and clouds the integrity of the debate
2 when the SSU information machine poisons the well of
3 fact by such inaccurate, misleading and ultimately
4 silly statements as the following: I quote, it is only
5 those fairly affluent and highly vocal customers in
6 Sugarmill Woods who will not see an immediate financial
7 benefit, end quote. If this is true, why are we joined
8 today by representatives of other communities, and by
9 the governments of both Citrus and Hernando Counties?
10 The fact is that many of the residents of Sugarmill
11 Woods are confronting all the financial problems of
12 people on fixed retirement incomes, and of people whose
13 property values are declining by such forms of double
14 payment as imposed when the uniform rate plan is added
15 to a high level of CIAC. But regardless of their
16 financial situation and problems, the Sugarmill Woods
17 people are only a small portion of the group of 74,204
18 SSU water customers, and 25,062 wastewater customers,
19 the overwhelming majority of whom are being charged
20 excessive rates at a time when they can least afford
21 it.

22 The hard facts are that statewide uniform rates
23 will produce an average charge for Sugarmill Woods
24 residents of \$754 a year, and that is an increase of
25 approximately \$300 or 67 percent over the stand-alone

1 rates. Using the uniform rate scale, SSU will realize
2 a return of investment in the water system serving
3 Sugarmill Woods of 57.22 percent. Similar results are
4 obtained in each of the ten water systems and 11
5 wastewater systems that will pay out the excessive
6 rates which subsidize other operations of the utility.

7 Evidence shows that these other operations of SSU
8 include the expansion of its empire by purchasing badly
9 managed troubled utilities and pouring our money into
10 their improvement, those other operations into which
11 our funds go include such examples of gross inequity as
12 the Burnt Store facility in South Florida, whose
13 expensive reverse osmosis process will receive an
14 annual subsidy of \$204,000. The South Forty Industrial
15 Park in Marion County, to be subsidized at a level of
16 \$3,471 a year for each of its customers, and a
17 half-dozen other utilities where the subsidy will be
18 more than \$1,000 annually for each and every customer.
19 The people who are served by such subsidized systems as
20 I have cited have not asked for our charity. There is
21 nothing in the American concept of public utilities
22 that says that they are vehicles for the transfer of
23 charitable contributions from some areas of the
24 commonwealth to others. But that is one result
25 generated by the uniform rate scale. The other, of

1 point out that just less than a week ago we decided
2 that it would be important to attend this hearing, even
3 though we realized it was the last week in August and
4 not a very good time to get people to engage in this
5 type of enterprise. Well, the fact that in that short
6 period we have had 127 people who were willing to make
7 the trip here, and I have a petition here signed by all
8 of them certifying their concern about the problem, and
9 we have 41 additional letters from people who could not
10 make the trip today. But this is only a small sampling
11 of the response in our community, and from what I have
12 been able to learn from other communities, there is a
13 similar response everywhere else. So I think it would
14 be most important for the Commission to realize that
15 there are a large number of citizens whose rights are
16 considered to be endangered here, and who are seeking
17 justice. Thank you.

18 MR. TWOMEY: Thank you, Mr. Acton. Mr. Chairman,
19 Commissioners, the next speaker is Mr. Frank Bartley.
20 Mr. Bartley owns and operates a congregate living
21 facility in Citrus County for the elderly. Mr.
22 Bartley.

23 MR. BARTLEY: Good afternoon, Mr. Chairman,
24 Commissioners. My name is Frank Bartley, and I own and
25 operate Sugarmill Manor, an adult congregate living

1 facility in Homosassa, Florida. I have tried
2 diligently to keep costs down while trying to give the
3 best quality of care to our residents. Most of my
4 residents are in their 70s, 80s, and 90s. While some
5 have managed to put away savings for their sunset
6 years, many depend on their children for support.
7 These same children are our ages, 40s, 50s, and 60s.
8 Many of these same people are retired or semi-retired
9 and have limited income. The point of the story is
10 that statewide rates will raise my water and sewer bill
11 considerably, to the tune of about \$2,800 a year. The
12 unfair part of this is that I have to raise my rental
13 rates. If I have to raise them, it will benefit
14 someone else in some other county, and I think this is
15 unfair. Why should my retirees help subsidize an
16 industrial park or some other utility that has half the
17 investment we do in your system? In my opinion, it
18 should be a stand-alone rate, that way we all pay our
19 fair share. In closing, I implore the Commission to
20 reconsider your Staff's recommendation. Sometimes the
21 easiest way out is not the best or fairest for all.
22 Thank you.

23 MR. TWOMEY: Thank you, Mr. Bartley. Mr.
24 Chairman, the next speaker is Chairman Gary Bartell,
25 who is the Chairman of the Citrus County Board of

1 until the final hearing before a partial panel of this
2 Commission that we learned that it was the intent of
3 the Public Service Commission's Staff, and perhaps the
4 utility to depart from the rate increase which had been
5 applied for to resort to statewide uniform rates, which
6 have no basis in law, and which result in an unfair tax
7 against certain citizens of Citrus County. By way of
8 example, citizens living in Sugarmill Woods development
9 will be paying off half a million dollars in increased
10 utility rates purely for the purpose of subsidizing the
11 rates of utility customers located in other areas of
12 the state remote from Citrus County. There is no
13 interconnection or other common element which would
14 cause the rates of Sugarmill Woods Utility to be linked
15 to that other utility, another utility. As a member of
16 the governing body of the county, I am well aware that
17 it is necessary to tax one citizen more in order to
18 benefit other citizens who are less fortunate, but such
19 is the power and obligation of government in providing
20 the necessary services to the people. It is not the
21 power nor the responsibility of the Public Service
22 Commission to tax people of one county in order to
23 provide artificial lower water and sewer rates in
24 another. Fees levied by utilities for connection and
25 operation and maintenance are just that; fees for

1 providing the service which must relate by necessity to
2 the cost of providing such service. It is, therefore,
3 impermissible to levy a fee which has no relation to
4 the cost of the utility service being provided merely
5 to subsidize utility customers in another remote
6 location of the State of Florida. It should also be
7 noted that until a final order of the Public Service
8 Commission was entered, myself, as well as my fellow
9 Commissioners, and the citizens of Citrus County were
10 unaware that they may become the victim of an illegal
11 tax in order to subsidize utility rates in other
12 counties. To the extent that we did not receive notice
13 and were not able to participate fully in the public
14 hearing process, as well as be able to prepare
15 adequately to address this issue before the Public
16 Service Commission itself. Citrus County and it's
17 citizens have been denied due process of law as
18 required by both the United States and the Florida
19 Constitution. I believe it is imperative that the
20 Public Service Commission reconsider its decision with
21 respect to statewide rates and rescind its decision
22 with respect to this case in order that the rates
23 ordered by the Commission with respect to Southern
24 States Utility be fair and consistent with state law.
25 Such findings should be made with all parties having

1 full knowledge of the rates proposed and the
2 methodology to be utilized in their calculation. It is
3 the belief of the Citrus County Commission that this
4 process has been so tainted with respect to the
5 application filed by Southern States Utility that a new
6 hearing is mandated, particularly when coupled with the
7 improper distribution of propoganda by Southern States
8 Utility, which attempts to pit one customer of one
9 utility within the county against another. The serious
10 questions that have been raised by Senator Ginny
11 Brown-Waite with respect to an employee of the Public
12 Service Commission shifting employment in midstream to
13 Southern States Utility. Without a new hearing, the
14 confidence of the public in this institution will
15 certainly be impaired. Thank you very much.

16 MR. TWOMEY: Thank you, Commissioner Bartell. Mr.
17 Chairman, Commissioners, the next speaker is Mr. Harry
18 Bandemer, also from Citrus County. Mr. Bandemer.

19 MS. BEDELL: Mr. Chairman, could we get them to
20 spell their names for us? I'm not sure the court
21 reporter, and I know I'm not being able to get all the
22 names.

23 MR. BANDEMER: My name is Harry Bandemer,
24 B-A-N-D-E-M-E-R. I reside at 5 Asters Court in
25 Sugarmill Woods. I have been a resident of Sugarmill

1 for almost 11 years now. I served on the Citrus County
2 Planning Commission for a number of years, and also on
3 the Code Enforcement Board. I'm a retired certified
4 public accountant of the State of Maryland, by way of a
5 little background. I have a great deal of confidence
6 in bud Hanson and Harry Jones, and while I haven't been
7 deeply involved in analyzing the move to the statewide
8 rate, I do share a lot of the concerns that have been
9 expressed by these signs, and coming up on the bus a
10 number of topics were discussed. One of them, for
11 example, indicates growth should pay for itself. And
12 as you know, the Comprehensive Plan of Citrus County
13 has an infrastructure element which is divided between
14 sanitary sewer and potable water. The county is
15 responsible for seeing that we can meet the water
16 resource requirements, and we know that it's going to
17 be more expensive as we get more and more people, more
18 and more development. And while I'm not all that
19 knowledgeable with respect to all the facts and the
20 figures which add up to the concerns being expressed by
21 these folks, and which I share, I am concerned with the
22 fact that while we have impact fees that are dedicated
23 for roads, and parks, and recreation, and emergency
24 medical service, police protection, et cetera, and some
25 of those are on a district basis within the county and

1 others are for universal application, we don't have a
2 schedule of impact fees as such for water and sewer
3 services. However, there are monies being collected on
4 the front end for future requirements, or for capital
5 improvements, and one of my concerns, or my main
6 concern is that with statewide rates, the monies that
7 are raised by residents of Citrus County are going to
8 be diluted because they will be applied throughout the
9 state. And I believe that is unfair, and I believe
10 that if we do have uniform state-wide rates that it's
11 incumbent upon the Southern States Utilities to
12 separately account for those monies, because our Board
13 of County Commissioners and our County Attorney, Mr.
14 Haige, have spent many, many, many hours trying to keep
15 our budget under control. Dollars are hard to come by.
16 The County can't divorce itself from meeting whatever
17 requirements the state imposes on the County to meet
18 the quality of water requirements and sewage
19 requirements in the future, and so we have to be
20 assured that the monies that we pay in at the front end
21 are separately accounted for and available for the
22 County, if not Sugarmill Woods itself. And I don't see
23 that in this structure that has been set up of
24 statewide uniform rates, and I don't think the Public
25 Service Commission can divorce itself from the Growth

1 introduce Mr. Larry Haige to my right, who is the
2 County Attorney for Citrus County. The next speaker is
3 Mr. Gordon Colvin. Mr. Colvin is the President of the
4 Spring Hill Civic Association.

5 MR. COLVIN: Chairman Deason and fellow
6 Commissioners, my name is Gordon Colvin, that's
7 C-O-L-V-I-N, and I'm the President of the Spring Hill
8 Civic Association. Our association with 1,500 members
9 is the unofficial spokesman at times for more than
10 40,000 or more residents of Spring Hill on matters
11 which affect our community. Residents of Spring Hill
12 do not think that the statewide uniform rates for water
13 and sewer service granted to Southern States Utilities
14 by the Public Service Commission are fair and just. We
15 feel that they are discriminatory in some respects, and
16 I will tell you briefly why we feel that way. Using
17 figures available for 1991 for 123 water and sewer
18 systems owned and operated by SSU and regulated by PSC,
19 of the 123, 21 water and sewer systems in 15
20 communities are subsidizing revenue requirements of the
21 other 102 systems in various parts of Florida. This
22 occurs because with statewide rates, these 15
23 communities are paying more than would be required by
24 stand-alone revenue requirements, plus a maximum profit
25 allowed to SSU. Spring Hill happens to be one of the

1 15 communities that would be paying subsidies and
2 Spring Hill has the largest number of customers. We
3 would pay approximately 1,800,000 out of a total
4 subsidy of \$4 million. That is more than 46 percent of
5 the total subsidy paid by the 15 communities. Somehow
6 that seems unreasonable.

7 Another point. It has been said that the
8 statewide system of fixing rates is applied to
9 electrical and telephone systems, and that it can
10 therefore be applied to water and sewer systems. This
11 is not a fair comparison. The company that generates
12 and distributes electrical power builds a central power
13 plant, which because of its costs, is financed
14 differently. The various areas served are
15 interconnected by a distribution system. On the other
16 hand, water systems in various communities may have
17 different geological conditions and water quality to
18 contend with. The various developers may have
19 installed different types of treatment plants to suit
20 the local conditions. The size of the community and
21 the ratio of water users to sewer users are just a few
22 of the variables that help to determine the initial
23 capital outlay and operating costs in each community.
24 There is not the same kind of interconnection between
25 communities as with power distribution. Please be fair

14 ... saying -- and I'm going to
15 you. The right of the people to elect i
16 Service Commission has been taken away.
17 away by the legislature. The legislature
18 three names to the Governor, the Governor
19 choice of three names. If he does not take
20 those three names, it goes back to the legis
21 the legislature will appoint one of those th
22 They took that power away from the Florida ci
23 several years ago. We used to have an elected
24 Service Commission.
25 The full board did not hear this case, and
case is historic in nature, statewide rates. It
assigned to three Commissioners, one of which was

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2 may have -
3 it's not democracy as ..
4 should do the right thing and recone.
5 without any hesitation whatsoever, because it's ..
6 right thing to do. This board should and could be
7 elected by the people.

8
9 Mr. Chairman, back in July -- well, back a year or
10 so ago when I first met with the Public Service
11 Commission, I made a promise that if the Public Service
12 Commission did not do the right thing, I would attempt
13 to do the right thing. And that promise was that I
14 would start a drive to put this Public Service
15 Commission back in the hands of the electorate. I have
16 taken that first step. My Board of County
17 Commissioners by Resolution 9382 asks for just that.
18 We have forwarded to the Florida Association of
19 Counties and the Florida League of Cities for their
20 endorsement to put a mandate on the ballot to put your
21 job back in the hands of the electorate. I'm willing
22 to make good that promise and carry it all the way.
23 I'm willing to go county-to-county and get the
24 necessary signatures to put this on the ballot. And I
25 think just with the 127, or the 200 people that are

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1 letter that Commissioner Richardson will read to you to
2 put into the record.

3 Terry, I sit where you sit, in the middle chair.
4 I know what aptitude is, I know what attitude is. I
5 know what perception is. And perception is,
6 unfortunately, the most misguiding force that we have
7 as elected or appointed officials. We are always
8 worried about perception. Well, when perception is so
9 strong you cannot avoid addressing it head on. The
10 perception is that the Public Service Commission is
11 bought and paid for, and I don't mean that as a bribe,
12 either. I'm saying -- and I'm going to clarify it for
13 you. The right of the people to elect its Public
14 Service Commission has been taken away. It was taken
15 away by the legislature. The legislature now presents
16 three names to the Governor, the Governor has his
17 choice of three names. If he does not take one of
18 those three names, it goes back to the legislature, and
19 the legislature will appoint one of those three names.
20 They took that power away from the Florida citizens
21 several years ago. We used to have an elected Public
22 Service Commission.

23 The full board did not hear this case, and this
24 case is historic in nature, statewide rates. It was
25 assigned to three Commissioners, one of which was not

1 here today, I could start that drive off with no
2 problem.

3 Ladies and gentlemen, I am not threatening you, I
4 am making a promise to you that the right thing will be
5 done for the constituents, especially for Hernando
6 County. It's fortunate that we have other counties
7 that we can lean on in this one, because we are all
8 affected. The fact that it was reported to me that you
9 have received no letters of adverse effect to any of
10 these people is hogwash. There is 200 of them here
11 today to tell you just that. They have taken the time
12 out their lives to drive to Tallahassee and to appear
13 before you. This is not a junket for them, they could
14 be doing other things. Most of these people could be
15 playing golf today, and that is exactly where they
16 would like to be. But they came up here to show their
17 support to their elected officials and those that are
18 trying to get the right thing done. Mr. Chairman, with
19 your permission, with your permission, Mike, I would
20 like to introduce Commissioner John Richardson from
21 Hernando County, along with Dick Radacky, our own
22 Utilities Manager.

23 MR. RICHARDSON: Good afternoon --

24 COMMISSIONER LAUREDO: May I interrupt you?

25 MR. RICHARDSON: Certainly.

1 COMMISSIONER LAUREDO: Because I feel compelled to
2 -- this was going just fine for me until just a few
3 minutes ago. I have to admit to you that I was shocked
4 by the statement from the Chairman of the County
5 Commission, an elected official, having myself been
6 formally an elected official, and his characterization
7 of this Commission as being paid and bought. And I
8 hope that I misinterpreted the spirit, if not the
9 letter of what you said, Mr. Chairman, because I, for
10 one, take very seriously my integrity, and I'm not
11 going to allow you or anybody else to question it in a
12 public forum, particularly when I haven't even been
13 involved in this case.

14 MR. MOSCA: Mr. Lauredo, let me assure you that
15 you have misinterpreted my point. My point was
16 perception and that the appearance that this case has
17 been given the notoriety that the Commission is bought
18 and paid for. I said that to illustrate how strong
19 this issue is, and it should be considered that way. I
20 am not, nor am I insinuating that any Commissioner,
21 either past or present, has been bought and paid for
22 with methods of a bribe, so eliminate that from the
23 statement or your thoughts, and you have the gist of
24 what I was trying to get across, sir. And if it takes
25 an apology, Mr. Lauredo, I will do that to you, also.

1 separate system should be considered a stand-alone
2 system in which operations, maintenance, and
3 administration costs are paid by the customers of that
4 system. I object to the residents of Spring Hill
5 subdivision in Hernando County having to subsidize
6 other systems throughout the state. As you can see,
7 there are many discrepancies that must be addressed by
8 the full Commission. Again, I sincerely urge that you
9 reconsider the SSU rate approval and to right this
10 injustice not only to Hernando County, but all the
11 impacted residents of the State of Florida. Sincerely
12 yours, Commissioner June Ester, Vice-Chairman of the
13 Hernando County Board of County Commissioners."

14 I believe Mr. Radacky is giving a copy to your
15 Clerk there.

16 I sincerely appreciate you allowing me to speak
17 before you today and take this time from your busy
18 schedules. It concerns the customers of SSU as well as
19 the Hernando County government. You have heard
20 primarily from individuals concerned with the rate
21 increase. I am going to speak to you from a bulk rate
22 issue, inasmuch as Hernando County is the only customer
23 that SSU has that is a bulk rate customer.

24 Hernando County provides water and wastewater
25 services to 13,281 customers and 10,556 sewer customers

1 through 14 separate wastewater systems through an
2 incorporated area of Hernando County. On March 25th,
3 1987, Hernando County entered into a bulk wastewater
4 treatment agreement with Deltona Utilities to provide
5 500,000 gallons of wastewater capacity at its Spring
6 Hill Wastewater Treatment Plant for resale by Hernando
7 County to developers and customers within Hernando
8 County's service area. On March 3rd, 1990, Hernando
9 County amended the bulk service capacity treatment
10 agreement with SSU to add an additional 500,000 gallons
11 of treatment. And, in fact, I was the individual,
12 along with our utilities director, who negotiated that
13 agreement. This agreement amendment provides one
14 million gallons per day of wastewater treatment
15 services, which is the equivalent to 5,000 homes. This
16 is one-half of the capacity of SSU's Spring Hill
17 Wastewater Treatment Plant. Hernando County was very
18 pleased with formulating this private/public sector
19 agreement as SSU's connection fees were somewhat lower
20 than Hernando County's connection fee, and the
21 treatment and disposal costs were comparable to
22 Hernando County's wastewater costs. The initial
23 operation and maintenance rate for Deltona was \$2.15
24 per thousand gallons, and has increased over the years
25 to \$2.31 per thousand gallons. Hernando County charges

1 operating/maintenance budget, and on its customers.
2 After Mr. Radacky's presentation, I would like to close
3 with a couple of comments from the water and sewer
4 district. Thank you.

5 MS. BEDELL: Mr. Chairman, if Mr. Radacky is going
6 to be discussing the material that he passed out to you
7 all, those of us at the table would like to see it,
8 also.

9 CHAIRMAN DEASON: Are there any extra copies that
10 can be shared with Staff?

11 MR. RADACKY: Yes, we do.

12 For the record, my name is Richard Radacky, I am
13 the Hernando County Utilities Director. My last name
14 is spelled R-A-D-A-C-K-Y. My address is 202 East
15 Jefferson Street, Brooksville, Florida 32601. I have
16 handed out a couple of tables that I would like to talk
17 from and point out a few things. I will be very brief,
18 but I think there are some things that really need to
19 be brought out here. And if you will look at the table
20 that has the very large numbers on, the first one is
21 that the rate that we were paying prior to this rate
22 increase under the bulk wastewater agreement, and I
23 want to emphasize that the Hernando County water and
24 sewer district is the only bulk wastewater customer of
25 Southern States Utilities in Florida. The prior rate

1 was \$2.31 per thousand. The application that was filed
2 before the Public Service Commission proposed a rate of
3 \$1.93 per thousand, which was roughly a 38 cent
4 reduction. The interim rate that was approved by the
5 Florida Public Service Commission was \$3.57 a thousand,
6 and the final accepted was \$4.09 per thousand. That
7 represents a 77 percent increase in that rate.

8 The one thing I would point out is the second part
9 of this graph shows you a facilities availability
10 charge. Under the prior rate there was no facilities
11 availability rate, there was none proposed by SSU in
12 its application, there was none approved by the Public
13 Service Commission in its interim rates. However, on
14 the final approval, the Florida Public Service
15 Commission did approve a facilities availability
16 charge. That is very similar to a base rate, and that
17 facilities availability charge for just 300,000 gallons
18 of that one million that Commissioner Richardson
19 mentioned to you runs us about \$31,706 per year, and
20 that is just for a third of that one million gallon
21 capacity.

22 The 4.09 per thousand gallons, in my opinion, is
23 way out of line for a utility. We operate utilities
24 within Hernando County. We have 14 separate utilities.
25 And of those utilities, we charge \$2.25 per thousand,

1 that is an additional \$21. So we are talking about a
2 total increase of \$151.08. As Commissioner Richardson
3 mentioned to you, we are desirous of getting additional
4 capacity from SSU. We believe in a private/public
5 partnership. However, those rates must be affordable.
6 And if we can't afford those rates, that probably we
7 can't afford to increase our rates to the extent that
8 we can break-even with SSU's service.

9 One of the real things that bothers me as a
10 utilities manager of a county utility is that SSU,
11 through the bulk wastewater rate, we are paying the
12 same rate that they would charge their general use
13 customers, their commercial customers, \$4.09 per
14 thousand. But SSU doesn't have to operate that
15 wastewater collection system, nor do they have to pay
16 that electricity to those pump stations, nor do they
17 have to individually bill those customers. So you can
18 see that if you roll in billing costs, maintenance
19 costs, and operations cost, that that bulk rate should
20 be substantially below that \$4.09 per thousand.

21 It's my understanding that your Staff recommended
22 that you reject the County's request for a rehearing on
23 the bulk wastewater rate. We think that is wrong. We
24 think you need to go back and at least revisit that
25 bulk wastewater rate, because we just can't forward to

1 continue to receive their service with that much of an
2 increase. And the strange thing of it is not only did
3 SSU propose a lower rate, but they enjoined us to come
4 back before the Commission and to request that
5 rehearing, so where we could have that rate revisited
6 and possibly reduced. And I would like to mention that
7 with the bulk wastewater rate as opposed to the other
8 rate, that it's nowhere near as political, because
9 Hernando County is the only bulk wastewater customer of
10 SSU in the State of Florida. So I would urge you to,
11 from a County standpoint, to revisit the bulk
12 wastewater rate, and certainly with these people that
13 have traveled this distance to come see you, it sounds
14 to me like you ought to revisit the whole issue. With
15 that, I will be happy to answer any questions that you
16 may have.

17 COMMISSIONER LAUREDO: I have a question. First
18 of all, Staff, have you had a chance to see the
19 outline, or can you before the end of the day tell us
20 if those numbers are an accurate reflection?

21 MR. WILLIS: They appear to be accurate to me,
22 Commissioner Laredo.

23 COMMISSIONER LAUREDO: And this bulk wastewater
24 rate, it's something we are considering independent of
25 this today, or what we are discussing today?

1 procedures that they can come before this Commission to
2 have that considered.

3 MS. BEDELL: We sent them a letter, and I have had
4 phone conversations with them. If they were to file a
5 complaint, it would be a separate proceeding, separate
6 and apart from the rate case. The Company would lose
7 some of the revenues that were built into the rate
8 case, if we were to give Hernando County a bulk
9 wastewater rate, but it would not affect the rate case
10 that is being discussed today.

11 COMMISSIONER LAUREDO: We would have to make up
12 that revenue throughout the rest of the customer base?

13 MS. BEDELL: The Company would have to choose when
14 and whether they wanted to come in for a new rate case.

15 (Audience response)

16 MR. RADACKY: Mr. Chairman --

17 CHAIRMAN DEASON: Excuse me. Mr. Radacky,
18 please --

19 MR. RADACKY: It sounds to me like, Mr. Chairman,
20 that the Staff is trying to pit us against SSU in this
21 particular situation. Mr. Chairman, when we called up,
22 when we found out what the rate was, the 4.09, when we
23 called up the Staff and we asked them about the bulk
24 rate, the Staff said, "What bulk rate? There was no
25 bulk rate in the application." I said, "That's

1 incorrect. You go back and look." They went back and
2 looked and they did find it. Now they have come back
3 and told us that there will be a facilities
4 availability charge, and I think something just is
5 making no sense to me on this, and I think you've got
6 to revisit that rate. You cannot sell bulk wastewater
7 at the same price that you do for your general class
8 customers, it just does not make sense.

9 CHAIRMAN DEASON: Further questions? Thank you.
10 Mr. Richardson, I think you wanted the final word.

11 MR. RICHARDSON: Thank you very much. As Mr.
12 Radacky alluded to, we maintain the lines, we maintain
13 the lift stations, we collect the money from the
14 customers, all SSU does is get a check from us, that is
15 all they do. When this whole issue started, SSU and
16 their staff came to us and said, "We never asked for a
17 bulk rate increase. That was the Public Service
18 Commission Staff. We are happy. We negotiated with
19 you." Mr. Phillips, the President of SSU in Florida,
20 he and I personally set this rate together, we worked
21 on this together. This wasn't Staff, this was the two
22 bosses talking. Now, where we are right now, based on
23 the information presented, Hernando County cannot
24 afford the \$4.09 rate increase, because that \$4.09 is
25 not just SSU customers, that is Hernando County water

1 introduce the next speaker, Mr. Bud Hanson, for a short
2 statement. Mr. Hanson.

3 MR. HANSON: My name is Bud Hanson, 13 Wild Olive
4 Court, Homosassa, COVA. I am the peon that did most of
5 the work on the rate case for COVA, and I guess I have
6 spent well over 1,200 hours on it. And the most
7 frustrating thing about this whole rate case is when
8 the formal hearing took place, neither Southern States
9 Utility, nor its Consultant Cresse, nor the Staff's
10 Consultant Williams specifically proposed uniform
11 rates, and it wasn't until early February when we got
12 the Staff's recommendation did we realize that we were
13 being blindsided on this case, and we just really
14 didn't have an opportunity to react at the Public
15 Service Commission formal hearing. And as Harry Jones
16 said, in a prior rate case we had that type of
17 information. We did not have it in this one. Thank
18 you very much.

19 MR. TWOMEY: Thank you, Mr. Hanson. Mr. Chairman,
20 Commissioners, next I would like introduce
21 Representative Jeff Stavens.

22 MR. STAVENS: Thank you very much, Mike, and Mr.
23 Chairman. Commissioners, I represent the 44th District
24 in the state which is most of Spring Hill, and parts of
25 Spring Hill and Hernando County, and parts of four

1 other counties, and I also represent a whole bunch of
2 angry people. Many of them are here today over here
3 and throughout the room and from Citrus County. These
4 folks, there might be 200, for every person that you
5 see in this room today, there are hundreds more at home
6 who are also very angry about what has happened, and
7 who have come to me as their spokesman, as their
8 representative, basically to implore you to do the
9 right thing today. Keep in mind, and I want to be very
10 brief, because some excellent speakers have come before
11 me and have presented the facts, I am here more to
12 appeal, I think, to your humanity and to the fact that
13 you're Public Service Commissioners, and we need you to
14 look out for the public today, and to do what is right
15 for the consumers.

16 My legislative assistant is here, Mr. Rick Maller,
17 he is 23 years old, and yet he is getting gray hair
18 from literally the overwhelming numbers of people who
19 have come to our office. This has been the number one
20 issue since I was elected. There is nothing that has
21 captivated and upset the people more than this
22 particular issue. And I just really wish that you
23 would change your minds, basically, and do the right
24 thing today, and to vote to have a full hearing. The
25 people need you to do it. Thank you very much.

1 MR. TWOMEY: Mr. Chairman, I didn't mean to
2 mislead you a moment ago. There is one gentleman that
3 got off of my list -- I should say didn't get on it,
4 who is a customer that with your permission he would
5 like to make a short statement before Senator
6 Brown-Waite. Thank you. Mr. Lloyd Daniel.

7 MR. DANIEL: Commissioners, thank you very much
8 for allowing me to speak today. If I may, and I don't
9 want to be boresome or take up a lot of time, but I
10 would like to quote from the St. Petersburg Times of
11 Wednesday, June the 9th, 1993. This involved a hearing
12 of June 8th, 1993 where there was a hearing scheduled
13 for GTE, Quincy Telephone, Royal Utilities, Holidays
14 Gardens in Pasco. If I may just quote this one
15 paragraph. It says, "The rare absence of two of the
16 five Commissioners, Tom Beard and Luis Lauredo,
17 paralyzed the Commission for its regularly scheduled
18 semi-monthly meeting." Now, also in this same article
19 it says that PSC rules require affirmative votes from
20 at least three Commissioners to approve a request by a
21 utility. Now, I did some -- the first thing that hit
22 me in the face was that this utility of Spring Hill,
23 SSU, there was only two Commissioners that ruled on
24 this. So I made a lot of telephone calls, and I did
25 some investigation, and I would like to at least

1 enumerate that, and if at anytime that I make a mistake
2 or quote something that is not correct, I would invite
3 the Commissioners to correct me on it.

4 But in this -- and the thing that I was asking
5 about was why was it the two Commissioners that ruled
6 on the SSU. So it was just last night that I really
7 got an answer to this. And when I was up here last
8 year for the hearing, it was in November of last year,
9 we picked up some of your brochures. And in this it
10 has evidently, you're certainly incorrect in what they
11 did, because evidently you have one rule for procedures
12 for water and wastewater utilities, then you have
13 another rule for telephone company and utilities. So
14 I'm not saying that you violated any of your rules, but
15 what I'm saying is that it seems to me like it's just
16 as important to rule on a water and utility to have the
17 full Commission hear this, as it is for the telephone
18 and for the other type utilities. So I'm asking you to
19 rescind this and have a public hearing of the full
20 Commission to hear this case. Also in here, in the
21 brochure you state fairness. And that is all we are,
22 in the Spring Hill and with Citrus County we are asking
23 for fairness. I know that the Staff recommended that,
24 and the Commission went along with it, as far as this
25 rate increase. In fact, I was reading in several

1 articles in the paper to where the Commission rarely
2 overrules the Staff. Maybe never. But if that is the
3 case, I wonder why we need Commissioners.

4 please don't take that as anything other than
5 respectful, because I'm sincerely asking a question. I
6 know in Hernando County, our Commissioners, and I know
7 this is different, how I can't explain it, but at least
8 our County Commissioners overrule the Staff in many
9 occasions, quite frequently they do. And this is no
10 disrespect of the Staff, either, because I feel like
11 that the Commissioners certainly need the Staff. But I
12 think that in some cases it is appropriate for the
13 Commissioners to overrule the Staff.

14 I know that, and I didn't want to mention this,
15 but I'm going to, that as far as the rate increases,
16 because so many of them, of the previous speakers have
17 mentioned that, but there is a 60 percent, as far as me
18 personally, there is a 60 percent, thereabout increase
19 for a meter because we have a one-inch meter, that is a
20 basic bill, and pretty much the same percentage of
21 increase for the water rates. And we can afford it, I
22 don't know how much longer that we can afford it, but
23 my concern is for those people that can't afford it. I
24 think they are going to have to make -- some people are
25 going to have to make a decision, particularly the

1 people that are hit with the sewer increases, we happen
2 not to be on the sewer, but they are probably going to
3 have to make a choice whether they wash an extra load
4 of clothes a week, or even taking a bath. I think that
5 it is that serious. And all I'm asking is that the
6 Commission reconsider their ruling on this, and have it
7 heard before the five Commissioners, and I would like
8 to see some more credibility. And I thank you very
9 much for hearing me.

10 MR. TWOMEY: Thank you, Mr. Daniel. Mr. Chairman,
11 Commissioners, the next speaker, and I think the last
12 speaker, unless I have managed to miss someone is
13 Senator Ginny Brown-Waite.

14 SENATOR BROWN-WAITE: Commissioners, thank you
15 very much for entertaining and being so patient with
16 all of these speakers today. My name is Ginny
17 Brown-Waite. That's B-R-O-W-N hyphen W-A-I-T-E. I'm a
18 state senator, and I reside at 11290 Orange Wood Court
19 in Spring Hill. Today I would like to approach you as
20 a state senator and a representative victim of the
21 unfathomable utility rate increases authorized by the
22 Public Service Commission for SSU. There are several
23 elements in this case which puzzle many, and I would
24 like to share some with you today. The whole concept
25 of statewide utility rates is simply illogical for

1 systems such as this. Statewide rates work for
2 electric and phone systems that are interconnected
3 throughout the state, but that is not the case here.
4 Southern States owns stand-alone systems that are not
5 interconnected to other systems across the state. It
6 is simply unfair to ask the residents, many of whom are
7 here today, of Hernando, Citrus and other counties to
8 pay for problem systems in other areas such as
9 Pensacola or Miami. Stand-alone rates ensure that
10 ratepayers are only paying for operating the systems
11 that they themselves have benefit from. While I was a
12 Hernando County Commissioner serving with many of the
13 people who came before you, we had what were called
14 municipal service benefit units. They are a form of a
15 taxation for the use or a service that's provided to a
16 specific group of people. The people who use it pay
17 for it. That's why these people are here today, the
18 fact that they are going to be paying for someone
19 else's system.

20 In earlier rate cases, SSU had been denied
21 statewide rates when they requested them. In this
22 case, they have been granted statewide rates, but they
23 didn't request them. What is an even greater mystery
24 is why the Staff of the Public Service Commission
25 suggested these rates for SSU. There is no

1 Wastewater Division expressly and quite emphatically
2 indicated in a memorandum to Staff that they should not
3 relate their true opinions on what the Commission is
4 now hearing as a statewide rate case general
5 authorization. Another employee who worked on this
6 case later on went to join the utility that he was part
7 of the regulating. Yet another is seeking an
8 appointment to fill the vacant chair that's right
9 there. All of these may very well be circumstantial,
10 they may be not related, and it could very well be that
11 there is no relationship to the ultimate recommendation
12 that three of the seated Commissioners, not the fourth
13 Commissioner, Commissioner Johnson, I know you're new,
14 had to deal with. Hernando County's bulk wastewater
15 agreement with SSU will more than double, from a little
16 more than \$2.00 per thousand gallons to 4.09, plus a
17 newly imposed base-facility charge of somewhere around
18 \$32,000. Annualized, that is over a quarter of a
19 million dollars that was not anticipated.

20 Those not utilizing the bulk rates are individual
21 homeowners, the majority of whom are out here today,
22 who paid substantial initial hook-up fees of several
23 hundred dollars to Deltona, or the subsequent companies
24 that owned the water and wastewater treatment plant.
25 Spring Hill is not Knobb Hill, they are not wealthy

1 people, Commissioners. These are people who will be
2 impacted by the rate case. It's not a question of
3 stealing from the rich and assisting the poor. These
4 people are charitable people, they are just simply not
5 wealthy. The calculated difference of overcharge is
6 approximately \$196 a person a year, that means 1.8
7 million a year is being charged to SSU customers to
8 benefit primarily the someone else's who did not pay
9 substantial hook-up fees and did not pay consistently
10 appropriate rates. The bulk rate and additional
11 charges mean over \$2 million additional will be paid by
12 Hernando County residents to benefit other less
13 well-maintained, non-connected systems.

14 Hernando County residents are fair people who are
15 willing to pay their fair share of the former Deltona
16 water and sewer plant. Please do not ask them to pay
17 for someone else's utility costs. What I'm requesting
18 today is not a special favor. I do not want to use
19 political power to coerce this Commission into granting
20 an exception to the citizens of my district. I am
21 merely asking for fair and equitable treatment. It has
22 been proven that there are always two sides to every
23 story. Southern States Utilities obviously has been
24 allowed to tell their story, clearly uniform rates will
25 be beneficial to their company's profitability. The

1 Please restore the public's faith in their
2 government and in the Public Service Commission by
3 granting a rehearing so that the true majority of the
4 Commission can decide this very vital issue on behalf
5 of Citrus and Hernando County. Thank you very much.

6 CHAIRMAN DEASON: Just a moment, please. Senator,
7 if you could retake your seat. I want to express my
8 appreciation to you for coming today. For the efforts
9 that you have put into this case on behalf of your
10 constituents, I think you are to be commended for that.
11 But you mentioned a couple of things that I think
12 really need to be clarified for the record, and I
13 understand that these matters cause concern, and they
14 should be addressed, and I feel compelled to address
15 them briefly.

16 One is that you mentioned an accusation that there
17 had been meals purchased by a representative of
18 Southern States for the benefit of a Staff person.
19 That causes the Commission great concern, it caused me
20 great concern. I asked the internal auditor of this
21 agency to review that entire situation. I believe that
22 review and the memorandums that were a result of that
23 investigation were shared with you. The indication was
24 that all best information that we could gain, and I am
25 saying all that we could gain during that process

1 indicated that that did not happen. I cannot sit here
2 today and tell you that it did or did not, the only
3 thing I call tell you is that it was investigated, and
4 the best information that we could gather indicated
5 that it did not happen, but I know it does raise a
6 concern, and I also share that concern that you have
7 expressed.

8 You mentioned a memo that was sent by the Director
9 of the Water and Wastewater Division to certain Staff
10 personnel. That memo also was troublesome, but that
11 was an entirely different docket, not in this case at
12 all, it was in a proposed rate -- not a proposed rate
13 proceeding, but a proposed rule proceeding. It
14 concerned a proposed rule, a rule that had not even
15 been adopted yet, so it had absolutely no affect
16 whatsoever on this case that's before us today. But I
17 also agree with you that that is something that brought
18 some concern to the Commission, and I think something
19 that has been dealt with.

20 You also indicated that there was a situation
21 where an employee of the Commission sought and took
22 employment with Southern States Utilities. That is
23 certainly an area of concern, and it is factually
24 correct that that did happen. But I think the record
25 needs to be clear that that matter was fully

1 those people out there a good comfort level. It
2 doesn't give them a comfort level that everything was
3 on the up and up, and that they are not just bearing
4 the brunt of a quick and dirty rate case. And I think
5 that's why over 200 people cared enough to come up here
6 today, to come up here to let you know that it's a
7 series of events that took place, that does not give
8 them a high comfort level about the proceedings that
9 they are going to have to pay for. And I spoke with
10 the Executive Director, Mr. Talbott, about perhaps
11 tightening up on some of the rules and regulations
12 relating to Staff, and, indeed, I was very glad to see
13 that when the Staff person who applied for the vacancy,
14 he was immediately taken off of anything that had to do
15 with ratemaking cases. I think that's really good, I
16 think that is important. But circumstantial evidence
17 sometimes become reality, and the reality is that
18 probably from day one this case wasn't properly heard
19 by the correct number of Commissioners that would make
20 it what would be considered a fair case. A fair case
21 that takes into consideration the subsidizing effect
22 that's taking place here, and it is the subsidization
23 factor that the majority of these people are concerned
24 about. You know, you often hear about Larry and
25 Lorraine Lunchbucket. We have retirees out here who

1 can't even go out and get another job. I don't think
2 they should be in the position of getting another job
3 to pay increased rates. They are willing to pay their
4 fair share. Kind of like the United Way, they are just
5 asking for a fair shot.

6 CHAIRMAN DEASON: Thank you.

7 COMMISSIONER CLARK: Mr. Chairman, I just wanted
8 to say I appreciated your looking into those
9 allegations of impropriety, and I also wanted to say I
10 appreciate the Attorney General also looking into them
11 quickly to determine if there was any impropriety. But
12 I would like to ask the senator, I understand how the
13 coincidence of events certainly causes some concern.
14 Now that you have had an opportunity to have a response
15 from us and from the Attorney General on these issues,
16 do you feel that there was any impropriety in those
17 specific instances you have mentioned? Have we
18 satisfied you with respect to these things that we have
19 acted correctly?

20 SENATOR BROWN-WAITE: Commissioner Clark, I
21 believe that the internal audit was sufficient.
22 Without telephone logs to substantiate telephone calls,
23 who talked to who, when, if indeed lunches did take
24 place, those kinds of issues, there are things that we
25 probably will never know. Only the people who were

1 record of meetings and telephone calls. Now many of
2 the meeting are documented, but I understand that there
3 had been a meeting that just the Public Service
4 Commission Staff had with SSU, and that Public Counsel
5 was not invited. Those kinds of things don't -- those
6 kinds of things are troublesome.

7 CHAIRMAN DEASON: Senator, I don't know about that
8 meeting, whether it did or did not take place. I can
9 assure you, though, that there is a rule in place now
10 at the Commission that would prohibit any type meeting
11 of that nature taking place without other parties being
12 notified and given an opportunity to participate. I
13 just wanted to share that with you.

14 SENATOR BROWN-WAITE: Thank you, Commissioner.
15 And I appreciate all of the time and effort that the
16 Commission has spent on this. I know Commissioner
17 Laredo took time from his very busy schedule, and came
18 up to the district, and he and I talked on a one-to-one
19 basis about not just water and wastewater rates, but
20 certainly some telephone rate proposals, and we had the
21 opportunity just to -- he saw that it's not a wealthy
22 area that is part of my district. We did not get up to
23 Hernando County, I happened to be down in Pasco County
24 that day, but I think the more relationship and the
25 more contact that Commissioners have with both elected

1 the other Commissioners, and they were profoundly
2 changed. A, about the complexity of what we do, about
3 the fact that we do not just represent their interest,
4 that we have a very able office represented by a very
5 able public servant, Jack Shreve, to represent the
6 ratepayers, and in some instances the Attorney General,
7 but our job is even more difficult than that, it's to
8 balance their interest with the long-term interest of
9 making sure, as I say, in my layman's terms, that the
10 lights go on, that the water flows, and that it is
11 clean. And we are not given many easy choices.

12 But the more people are exposed to those choices,
13 the more I think they come around to understanding that
14 our decisions are almost always made on the basis of a
15 fair assessment of objective data. I don't think it
16 does any service to anybody to try to -- although it
17 may be give some people some comfort, because there is
18 always an easy way out to express some sort of
19 conspiracy theory. These are complex issues. This is
20 one of the hardest issues I have had to deal with, and
21 I dreaded this day over the last six or seven months.
22 I was not on this panel, and it is one of those
23 difficult areas that we have to deal with. And I think
24 they will see, if they had been in the rate cases, they
25 would have seen the complexities of the decision we

1 have to make. And they are not really pivotal about
2 whether somebody, inappropriate as it is, and as
3 corrective a measure as we have taken, they have
4 nothing to do with a lunch here or a lunch there, they
5 are really difficult decisions to make.

6 And I happen to be from the school of life that
7 you can disagree without being disagreeable. And that
8 if you assume, as I do, that most people operate in
9 good faith, certainly the people I serve with this
10 Commission I think have the public good at heart, and
11 they don't -- that we can move to the higher plane of
12 arguing the merits of the case, which on itself is
13 sufficient without having to get into any of the other,
14 relevant as they be, to another agenda. But I would
15 only use this opportunity, as I did when I had the
16 pleasure of visiting you and Representative Stavens,
17 who is also here, and just today as you were coming up
18 we had another case, which by the way three regular
19 citizens, senior citizens, all of them, showed up by
20 themselves, and they did an extraordinary job of
21 presenting their case without anybody's help, and were
22 able to, I think, get some changing of minds on this
23 Commission. But every time I have a chance, and I will
24 have to use this opportunity, again, I plead with you
25 member of the legislature to face up to the fact that

1 this state is the middle of a very serious water
2 crisis, and it's manifested in your district probably
3 more than in any others, that there is some
4 legislators, Representative Safley comes to mind in the
5 House, who has been trying to bring this to a forum.
6 We are handed, as I said this morning, the worst end of
7 the stick. Everybody make these regulations, whether
8 environmental or otherwise, but the buck stops here, we
9 are the ones that have to put the dollars and cents to
10 it, and we are the ones that have to face the angry
11 people, because all of these things have a cost. And
12 we have not -- I feel frustrated that we don't have a
13 statewide look at it. And I would only hope that -- I
14 always think that out of every difficult and
15 controversial situation something good should come out
16 of, notwithstanding what decision we make today, and I
17 hope that the way you handled this crisis very ably
18 would raise your consciousness that we need to look at
19 this water and sewer problem in the state. It's just
20 unbelievable the cases we have to face. Utility
21 operators will walk away from systems. We have to
22 indirectly attract reputable companies to run them,
23 because literally the citizens would not have service
24 the next day. And a lot of times to make that happen
25 we have to raise rates to the economics, because a lot

1 of the people who ran the utilities before ran them to
2 set lots. Once they sold the lots of all their
3 subdevelopment, they picked up and left, and they left
4 a lot of unhappy people. And we are the ones who get
5 the brunt of the anger. Which is all right, you know,
6 we can take the heat, and that is our job definition,
7 we work for you, the legislature, and for the people
8 through you. I would just hope that this would give
9 you the impetus to be a leader in this movement to try
10 to bring this to the forum.

11 SENATOR BROWN-WAITE: Commissioner, let me assure
12 you that next to the Public Service Commission the
13 water issue is nearest and dearest to my heart. You
14 and I have discussed this issue. And you mentioned a
15 question of information, and going out to inform
16 people. See, I think that's, Commissioner, what these
17 people are saying today. They were misinformed. I
18 attended one of the meetings. Nowheres did I see a
19 statewide rate handout, we never received any in the
20 mail. People went to the rate hearing to find out
21 about the rate, but it's kind of like the person who
22 goes and budgets for a Geo, and they go down to the
23 local dealer, and the dealer says, "That will be \$200 a
24 month." And the person says, "Well, I don't like the
25 payments that high, but I'm going to buy it." And then

1 narrow legal notice that you file on the Page 34 of a
2 paper. That if you had something that was so important
3 that you would -- notice to you and me perhaps means
4 something different than what the Petitioner means,
5 that means you wanted to have a more open discussion
6 about it, is that your -- am I paraphrasing your
7 position fairly?

8 CHAIRMAN DEASON: Commissioner, the notice that I
9 and all the other ratepayers got in the mail was that
10 which was requested by the utility. The rate which was
11 imposed by the Commission as a result of the advice of
12 their Staff was not that which we had been informed
13 about. It wasn't presented at the public hearings, we
14 had no information about it until it was too late,
15 until the \$400 Geo payment arrived, or we heard that we
16 were going to be paying for somebody else's. That is
17 the issue here, Commissioner.

18 COMMISSIONER LAUREDO: So you would have liked to
19 have had more open layman's discussion about this
20 policy --

21 SENATOR BROWN-WAITE: Commissioner, there needed
22 to be more actual information given to people. They
23 were not -- what was imposed on them was not what had
24 been presented to them at the public hearings, and as a
25 result of the mailings, et cetera. But, additionally,

1 Commissioner, I think what you need to look at is these
2 are fairly well maintained rates. These people have
3 been paying all along for the rates. Now, because they
4 have been paying for a well-maintained system, now they
5 are going to be subsidizing less well-maintained
6 systems. And those people who live in the less
7 well-maintained systems have gotten away without paying
8 their fair share. That's Issue Number 1.

9 It was heard by less than a majority of the
10 Commission sure doesn't set too well. That added to --
11 with all of the other, the other variances to this
12 case, plus I find it very difficult to understand why
13 after imposing the statewide rate increase for SSU, why
14 Staff is now coming up with proposals to have this
15 authorization. See, I'm not certain that you had the
16 authorization to begin with, and neither is the State
17 Attorney's office, simply not certain that that
18 flexibility existed in the law to go to the statewide
19 rate.

20 So when you add all of these things together in
21 this unholy mix that you have here, ultimately it's a
22 question of equity and fairness. And I don't think
23 that the people were properly treated in this rate
24 case. You know, after you impose a specific form of
25 rate, you don't then go back and say, "Well, let's

1 sufficient. It shouldn't be sufficient out of a sense
2 of fair play to these people that if you are going to
3 require them to subsidize other people's rates and so
4 forth that you ought to spell it out in clear
5 unambiguous language, in written notice, and give
6 everybody a chance to appear and take their best shot
7 at defending themselves against the misappropriation or
8 appropriation of their property rights. That's due
9 them under the contribution of this state and of the
10 United States. So, again, we are saying there is not
11 anything close to legal notice, and that all we want
12 here is not to argue the merits of this case,
13 Commissioner Laredo, which are concedely difficult,
14 but concentrate on the fact that there was inadequate
15 notice, and give us notice, let us have a fair hearing
16 at it, and go at it in the ring.

17 CHAIRMAN DEASON: Thank you, Mr. Twomey. Mr.
18 Hoffman.

19 COMMISSIONER JOHNSON: Mr. Chairman, before we
20 start with the utility, I have a couple of questions
21 for Staff along the line of some of the comments the
22 Attorney General's Office is making. At the time of
23 the notice and at the time of the public hearings did
24 we, in fact, have any idea that we would be exploring a
25 uniform rate issue, and was that addressed, or was that

1 made a part of any formal discussion, or informal
2 discussion?

3 MS. BEDELL: The first notice that the customers
4 received was a notice from the Company notifying them
5 of what the Company has asked for. That notice didn't
6 have any notice of uniform rates in it. The next
7 notice I believe that the customers received, we won't
8 talk about interim rates, would have been the customer
9 notice, the customer hearing notices, which also had in
10 them the proposed rates of the Company. I do not
11 believe that at the time we prepared those notices we
12 had the issues of the case set. It did not discuss the
13 fact that uniform rates might be set. However, rate
14 structure was something that was at issue from the very
15 beginning, because the Company was not asking for a
16 standard rate structure in their request, and there was
17 the history of the prior docket for those people that
18 were involved with that.

19 COMMISSIONER JOHNSON: When you say the however,
20 I'm interpreting that to mean that you're saying they
21 should have known that it would have been something
22 that was discussed? Because that is just how I'm
23 reading -- whether we agree or disagree, I'm trying to
24 get a better feel for what we thought and put into our
25 notice.

1 COMMISSIONER CLARK: Let me ask a question. What
2 were the rates the utility asked for in this case?
3 They were not stand-alone rates, were they, or they
4 were stand-alone but they had additives, didn't they?

5 MR. WILLIS: Commissioner, the rates that this
6 utility asked for actually had subsidizations built
7 into it. The utility asked for basically a rate cap
8 where a maximum bill would be achieved at 10,000
9 gallons consumption. Any deficiencies as far as
10 revenue requirements, per the utility's request, was to
11 be made up from all the other systems. And, in fact,
12 they asked for, I think it was approximately a million
13 dollar subsidy for the wastewater customers from the
14 water customers as part of their request. So it wasn't
15 your normal rate structure they asked for, it was a
16 rate structure filled with subsidization.

17 COMMISSIONER CLARK: They were not stand-alone
18 rates?

19 MR. WILLIS: They absolutely were not stand-alone
20 except for those rates that came under the actual cap.
21 But then after they calculated the rate subsidies
22 necessary, the stand-alone rates were added to make up
23 for the subsidy.

24 COMMISSIONER CLARK: And when we argued about, or
25 when the interim rates came before us, the Staff

1 position? My recollection is we heard from a County
2 Commissioner that said if you're going to do uniform,
3 just do it countywide don't do it statewide. That we
4 did have testimony from him on that point, is that
5 right?

6 MR. WILLIS: I can't recall which county
7 commissioner that was, or which county, actually, to
8 tell you the truth. I would have to go back --

9 COMMISSIONER CLARK: It was down in Ocala, I
10 think.

11 MR. WILLIS: If it was in Ocala, that was a
12 mixture of the Marion County customers and the Citrus
13 County customers.

14 COMMISSIONER CLARK: But the point Mr. Twomey is
15 making is he felt, I guess, that the notice that was
16 sent out should have said statewide rates may result,
17 that is the gist of what Mr. Twomey and the citizens
18 are arguing in this case.

19 MR. WILLIS: I believe that is the gist of what he
20 is saying. But I would like to make a point. I know
21 that many people apparently, from the conversation I
22 have heard here, believe that Staff had their mind made
23 up from the very beginning to go with statewide uniform
24 rates, and that basically is not true. I can tell you
25 from being the bureau chief in charge of the Staff that

1 Commission talked about, and we have had to deal with
2 this issue a lot in the last four months, which is the
3 issue of perception. And sometimes, you know, I not
4 being from Tallahassee, and not being a utility person,
5 even I as a Commissioner have a hard time. We tend to
6 take for granted that what we are doing everybody else
7 outside of this beltway understands it. And what I
8 hear a lot of citizens saying is if you're going to do
9 something -- and I know I have discussed this with you
10 privately -- whatever its merits, you should call it by
11 its name. When you give that notice you should say,
12 "Hey, we are thinking about a possibility of doing a
13 statewide rate." And then let everybody come in and
14 argue, and then we will make a decision, and then I
15 think your support base will be stronger. I think that
16 is the critical issue I hear, besides the very narrow
17 legal arguments that I hear the consumers saying, you
18 know, we didn't -- for example, your answer to
19 Commissioner Johnson is the appropriate answer, but
20 it's not the real answer to the folks who don't know
21 what we are talking about. Well, it was listed on the
22 issue list. What the hell is the issue sheet? And I
23 think that's where I have a difficulty, I think that
24 they have -- there certainly is a compelling argument
25 that can certainly take some of my sympathy in that

1 line. And I know we are going to fight it on a very
2 narrow sense, but I think the people are saying
3 something broader. And I haven't heard anything,
4 certainly, that you acted improperly, or that you
5 prejudged it. I certainly don't think you should have
6 that view, and I certainly think you did an excellent
7 job.

8 Let me ask you a critical question, hopefully it
9 has a yes or no answer. We did not on water and sewer
10 ever have systemwide rates before?

11 MS. BEDELL: Statewide?

12 COMMISSIONER LAUREDO: We have had countywide
13 rates before, but we have never had systemwide.

14 MR. WILLIS: Commissioner, yes, we have. We have
15 had systemwide rates before. Jacksonville Suburban and
16 Duval County has systemwide rates between the three
17 counties it operates in. We have had many utilities
18 such as Sunshine Utilities, and I can run down the
19 list.

20 COMMISSIONER LAUREDO: Okay, then let we just
21 quote you. It probably is an incomplete sentence, but
22 on Page 5 of your recommendation it says, "This
23 Commission," and I quote, "has previously approved
24 countywide uniform rates for water and wastewater
25 utilities, and routinely approves statewide rates in

1 other industries such as telephone, gas and electric."

2 I took my conclusion from that sentence, maybe I
3 didn't read it correctly.

4 MR. WILLIS: I think the way that was written was
5 to indicate that Southern States is a much larger
6 utility as far as the systems that they operate around
7 the state. They are in many, many more counties than
8 these other utility companies, and I think that is
9 probably where that comment was coming from.

10 COMMISSIONER LAUREDO: But we have approved other
11 rates that cross county boundaries?

12 MR. WILLIS: Yes, we have.

13 COMMISSIONER CLARK: Jacksonville Suburban is an
14 example. They serve several counties, three counties.

15 MR. WILLIS: Nassau, Duval and St. Johns.

16 COMMISSIONER CLARK: They are noncontiguous
17 systems, is that correct?

18 MR. WILLIS: That is correct.

19 COMMISSIONER CLARK: So it is the same as Southern
20 States?

21 MR. WILLIS: Yes. I believe they have about 32
22 systems in total.

23 COMMISSIONER CLARK: They have always had
24 utility-wide rates, have they not?

25 MR. WILLIS: Yes.

1 MR. WILLIS: Well, I think the issue -- not
2 statewide rates, but the issue of whether this should
3 come before the full Commission was heard at two
4 different times. The utility requested in the very
5 front of the case when they asked for test year
6 approval that it be heard by the full Commission. And
7 at that point the then Commissioner, Chairman Beard,
8 reviewed the Commissioner's calendar and decided that
9 could not be done without the case taking well over a
10 year to accomplish. Later on in the case, and I'm not
11 sure exactly what date, the Office of Public Counsel
12 filed a motion to have the same thing done, and the
13 Commission at that point denied that motion also, based
14 on the same problem.

15 COMMISSIONER CLARK: We simply could not find the
16 time to try this case in the eighth month --

17 MR. WILLIS: It could not be accommodated on the
18 Commissioners calendar because of the heavy case load
19 that we had at that time.

20 (Audience response.)

21 CHAIRMAN DEASON: Please. Thank you.

22 COMMISSIONER CLARK: My only reason in providing
23 this information is that Commissioner Johnson was not
24 there, and I want her to understand that at the time
25 this came up, her predecessor was on the Commission,

1 and we thoroughly debated the possibilities we had
2 before us for hearing this by the full Commission. And
3 I know the Senator knows that we are constrained by the
4 statute to hear these cases within a certain amount of
5 time, and it is an eight-month period. I recall
6 adjourning the agenda conference and the Chairman, and
7 I think Mr. Shreve, went down to look at the calendar
8 to see if we could find any dates. We simply could not
9 find a date. So we went ahead with the three-member
10 panel. And the fact of the matter is you had somebody
11 up for appointment, and the Governor selected our new
12 Commissioner, and we found ourselves with a two-member
13 panel. And we followed in that case, and with respect
14 to the motions, the requirements and did our best to
15 hear them by as many people as we could hear them by.
16 But, you know, circumstances intervened and reduced it
17 down to two, but I think it's clear that we followed
18 the legal requirements, and not only the legal
19 requirements, I think it was good public policy to move
20 forward as we did.

21 CHAIRMAN DEASON: So the record is clear, I
22 certainly understand the policy considerations and the
23 desire to have a case of this magnitude heard by five
24 Commissioners. I think that would be everyone's
25 desire. I just want the customers of this utility to

1 irrevocably, but it goes into effect.

2 (Audience response.)

3 CHAIRMAN DEASON: Please, give the Commissioner
4 the courtesy to at least make a statement without being
5 interrupted. I'm sorry, are you finished?

6 COMMISSIONER LAUREDO: No.

7 MS. JAEHING: I propose you reconvene, you have
8 heard how unhappy we are with your final statements,
9 and reconvene and within eight months come up with a
10 new set that we can -- and then advise us of it so that
11 we can make a decision as to how fair it is.

12 CHAIRMAN DEASON: Ma'am, could I have your name
13 please, for the record?

14 MS. JAEHING: Helen J-A-E-H-I-N-G, it's pronounced
15 Jeahing, at 4 Catalpa, C-A-T-A-L-P-A, Court in
16 Homosassa, 34446.

17 CHAIRMAN DEASON: Thank you, ma'am.

18 COMMISSIONER LAUREDO: Staff, let me ask you
19 briefly. My quick calculations of the people
20 represented here, if one assumes that everybody in
21 Citrus and Hernando County, the systems therein comes
22 to about 329,000 bills or 36 percent of the total bills
23 of this entire rate case, is that --

24 MR. WILLIS: That sounds right.

25 COMMISSIONER LAUREDO: There is no way -- I know I

1 leave the revenue requirement alone, this company is
2 entitled to get the revenue you find it's entitled to.
3 Theoretically, irrespective of the rate design and rate
4 structure, they will get that revenue, they don't
5 really have a horse in this race. All we are talking
6 about, Commissioner Lauredo, is the rate structure
7 thing which is mostly theoretical, some testimony,
8 legal arguments.

9 COMMISSIONER CLARK: Well, what you would have is
10 you would have the revenue requirement, and then you
11 would -- the request is to redesign the rates.

12 MS. SUMMERLIN: Commissioners, could I just make
13 one comment. I think if you read the recommendation,
14 the Staff has basically taken the view that what we are
15 dealing with here is a petition for reconsideration,
16 even though it has been termed to be a request to open
17 a new docket and a new proceeding. What is actually
18 being done here is a very difficult discussion of all
19 the merits of this case, and the record that was
20 created in the case. You have already considered,
21 reconsidered the decision, and those persons who wished
22 to appeal that order have that opportunity.

23 COMMISSIONER LAUREDO: How do you interpret Mr.
24 Twomey's comments or clarification, which I found
25 helpful, that they are not arguing this petition, the

1 merits of the case as it relates to revenue, but just
2 to rate design?

3 MS. SUMMERLIN: Commissioner, I think that the
4 rate design was an issue in this proceeding, in the
5 prehearing order there was a very specific --

6 COMMISSIONER LAUREDO: And you can't segregate
7 that issue and leave the revenue aside?

8 MS. SUMMERLIN: If it is your decision to --

9 COMMISSIONER CLARK: I think that bolsters your
10 argument that this is purely a reconsideration. They
11 are asking to look at one aspect of this case, this
12 isn't a totally new position, it undermines the
13 validity of the statement that this is a new petition.

14 MS. SUMMERLIN: Yes. Commissioners, I think that
15 at the beginning of a rate case it's impossible to
16 expect that every possible issue that may come out of
17 that rate case is going to be able to be described in
18 detail so that everybody that looks at it would know
19 exactly what was going to be the outcome. I think that
20 if the Staff had any clue that that was going to be a
21 major issue at the very beginning, the Staff would have
22 wanted to see that made an issue at the beginning
23 notice, the first one that the Staff had anything to do
24 with. But the reality of the situation is when the
25 Company comes in to get a rate increase, they ask for a

1 appropriate. But in this case we did specifically have
2 an issue, and there were representatives that you have
3 heard from today that were involved at that stage of
4 the game that recognized that one of the issues in this
5 case was what kind of rate structure should be
6 implemented, and what my point is is that we have now
7 got a complete record, the Commission has already
8 reconsidered its decision on just the points that have
9 been raised.

10 COMMISSIONER LAUREDO: Well, let me just make
11 sure. I want to make sure I understand. When you say
12 the Commission, you mean the two panel members.

13 MS. SUMMERLIN: The legally constituted panel of
14 the Commission who made this decision.

15 COMMISSIONER LAUREDO: What I'm saying, let's make
16 sure we understand how we define terms. Do we, or do
17 we not have the power, if we make the decision, to
18 segregate on our own motion and reconsider one of all
19 of the issues in the rate case?

20 MS. SUMMERLIN: I think that if it is the
21 Commission's decision today to do that --

22 COMMISSIONER CLARK: Wait a minute, wait, wait. I
23 don't think you are answering his question. Does he
24 have the power as a member not sitting on that panel to
25 make that decision on reconsideration? Maybe Mr.

1 Pruitt can help. Is that what your question was?

2 COMMISSIONER LAUREDO: It is my question, because
3 I'm struggling to find a common sense solution to a
4 problem, because I have mixed feelings about both
5 arguments.

6 MS. SUMMERLIN: One principle is that only
7 Commissioners who participated in the decision can
8 raise the decision for reconsideration. But if you
9 wished to reach a result that would -- I don't know
10 that you could segregate one decision from that
11 decision without reopening that case. I don't think
12 that you can do that.

13 CHAIRMAN DEASON: Commissioners, let me suggest
14 that we are in the process now of basically
15 deliberating the issues. We have not heard from a very
16 key party, and we do try to give due process to
17 everyone. Mr. Hoffman has been waiting patiently. Mr.
18 Hoffman, if you could give us your presentation, and
19 then we will continue our deliberations.

20 MR. HOFFMAN: Thank you, Mr. Chairman, I'm going
21 to be very brief. My name is Ken Hoffman, with me is
22 Floyd Self, we are with the Messer Vickers firm here in
23 Tallahassee, we are representing Southern States
24 Utilities. We have been discussing the Commission's
25 decision, which was confirmed on reconsideration, to

1 establish uniform statewide rates for the 127 Southern
2 States water and wastewater systems which were at issue
3 in Docket No. 920199, which is the consolidated docket.
4 But what we are really here on today is a second motion
5 for reconsideration.

6 In other words, I agree with Ms. Summerlin, and
7 the second motion for reconsideration is prohibited by
8 your rules. The joint petition asks you to reverse
9 your decision to establish uniform statewide rates, and
10 to, instead, establish rates on a stand-alone basis.
11 Now there are two joint petitioners who are also
12 parties in Docket Number 920199, that is COVA and
13 Citrus County. They made the same arguments that you
14 have heard today and the same requests in their
15 post-hearing briefs. Every legal argument that you
16 have heard today was set forth in one form or another
17 in the post-hearing briefs of COVA and Citrus County.
18 You, the Commission, the legally constituted
19 Commission, rejected those arguments and you entered
20 your final order establishing uniform statewide rates.
21 Then COVA and Citrus County did what they are perfectly
22 legally entitled to do, they filed motions for
23 reconsideration, and they brought back the same
24 arguments, the alleged lack of legal notice, the lack
25 of competent substantial evidence supporting their rate

1 structure. All the things you have heard about today
2 were brought back in those motions for reconsideration.
3 The Commission, again, rejected those arguments in
4 disposing of the motions for reconsideration and
5 confirmed the uniform statewide rates.

6 Now, COVA and Citrus County are back again with
7 some other individuals and groups, and they are making
8 the same arguments again, but they are not calling it a
9 second motion for reconsideration, and they didn't file
10 the pleading in Docket Number 920199. They called it
11 something different. They called it a joint petition,
12 and they didn't put a docket number on it, but that
13 doesn't change what it is. You heard Mr. Desjardin,
14 Mr. Bartell, Mr. Mosca, Mr. Richardson, Mr. Radacky and
15 Mr. Daniel all ask you to either reconsider or revisit
16 your decision. All this is is a second motion for
17 reconsideration. Your Rule 25-22.060(1)(a) prohibits a
18 second request for reconsideration.

19 Therefore, this joint petition should be denied as
20 a matter of law. I would say to you that you should
21 not establish a precedent which is contrary to your
22 rule and the case law which would allow a party or even
23 a non-party in the case of some of the joint
24 petitioners, a party or a non-party to a Commission
25 proceeding to relitigate the Commission's decision

1 saying is that however this motion is characterized, it
2 is what it is, and that is, in your opinion, a motion
3 for reconsideration. And that according to law and
4 procedure, it is not allowed a second motion for
5 reconsideration, and that under operation of law and
6 procedure we have no alternative but to deny it for
7 those reasons, is that basically your characterization?

8 MR. HOFFMAN: Yes, sir. And I would add, Mr.
9 Chairman, that the remedy for those who were parties to
10 Docket No. 920199 would be a judicial appeal.

11 CHAIRMAN DEASON: Let me ask you a further
12 question. If legally the Commission has to deny the
13 motion because it is a second motion for
14 reconsideration, is the Commission free on its own
15 motion to open an investigation and look at the
16 propriety of a statewide rate for this utility company?

17 MR. HOFFMAN: I would say that the answer to that
18 question, Mr. Chairman, is yes.

19 CHAIRMAN DEASON: Now, if we were to take that
20 action, the appeals, this would conclude the original
21 rate case, and the appeals could go forward at the
22 Supreme Court -- I'm sorry, the District Court of
23 Appeal, is that correct?

24 MR. HOFFMAN: First District Court of Appeal.

25 CHAIRMAN DEASON: Would the fact that there is a

1 pending appeal in any way restrict or prohibit this
2 Commission from opening its own investigation and
3 having that run concurrent with the appeals process?

4 MR. HOFFMAN: I don't know of anything that would
5 prohibit that, Mr. Chairman. If I understand what
6 you're saying, I think that the appropriate legal
7 result with respect to this joint petition is to
8 dismiss it as a matter of law, and if the parties to
9 Docket No. 920199 wish to pursue a judicial appeal of
10 any issue, including these uniform statewide rates in
11 Docket No. 920199, they can. And that would not
12 prohibit this Commission from then opening up some form
13 of generic investigation of uniform statewide rates.

14 CHAIRMAN DEASON: Thank you. Mr. Twomey, let me
15 ask you basically the same questions. I know that you
16 don't agree that this is a second petition for
17 reconsideration.

18 MR. TWOMEY: That's correct.

19 CHAIRMAN DEASON: But let's just assume that the
20 Commission decides that it is, and since that is what
21 it is, we have no alternative but to deny it or to
22 dismiss it.

23 MR. TWOMEY: Yes, sir.

24 CHAIRMAN DEASON: Given that, if the Commission
25 does that, but if it on its own motion decides to open

1 an investigation to look into statewide rates for this
2 company, would that perhaps not be the vehicle you
3 want, but would that perhaps, nevertheless, get you to
4 what you are basically requesting?

5 MR. TWOMEY: Yes, sir, it might. But let me make
6 this observation, please. It sounds as if that would
7 give us the hearing that the joint petitioners desire,
8 with notice and so forth, and certainly there would be
9 notice now. Let me observe, though, that if one were
10 to contort oneself to get this result, because the
11 Commission felt bound, it was the only way you could do
12 it, we would still have to go ahead and appeal the
13 issue. There would be an obvious waste of -- and let
14 me tell you now that it is our intention to seek a stay
15 of the rates, a governmental stay of the rates so that
16 the statewide rates, if we were successful, wouldn't go
17 into effect anyways. But if we were successful the
18 rates would stay the same as they are now, and all
19 parties would, presumably, expend unnecessary time and
20 money in the pursuit of an appeal. But to answer your
21 question, that would get us to where we want to go,
22 yes.

23 CHAIRMAN DEASON: Would it be possible to file the
24 appeal, request your stay and basically ask the courts
25 to stay its proceedings until the Commission has looked

1 at statewide rates on its own motion?

2 MR. TWOMEY: We would be agreeable to that, and I
3 think that is certainly possible, yes, sir.

4 CHAIRMAN DEASON: Ms. Summerlin, I see you shaking
5 your head. What is the problem?

6 MS. SUMMERLIN: Well, I don't know that I can say
7 that that course of action wouldn't be legally correct
8 or possible. I guess my concern is that if the
9 Commission's decision is to stand, it would seem
10 somewhat contrary to open a new docket and look at the
11 same issue right now before an appeal had completed its
12 course. But that's certainly something you can do, if
13 it is your decision.

14 CHAIRMAN DEASON: Well, what I'm hearing is that
15 under operation of law and procedures at this
16 Commission, this motion, while it can be called what it
17 wants to be called, it is, in reality, a second motion
18 for reconsideration, and that it is not contemplated by
19 our rules, and we have no alternative but to deny it.
20 Now, given that situation, if we have no alternative,
21 but at the same time we want to look, the full
22 Commission look at statewide rates for this company,
23 how do we get to that end and still be legal and in
24 agreement with our rules and procedures?

25 MS. SUMMERLIN: I agree with what you just said,

1 I'm not arguing with that at all. I'm just concerned
2 because I think that the decision that was made was the
3 correct decision already. But as far as legally, I
4 think you can do that.

5 COMMISSIONER CLARK: He mentioned that it will go
6 to appeal, and then I do recall the rules provide for
7 an automatic stay for governmental appeal. What rates
8 go into effect then?

9 MS. BEDELL: According to the rule, the utility
10 can request that a bond be posted and they can
11 implement the rates.

12 MR. TWOMEY: Pardon me, but that is not correct
13 with respect to governmental agencies. There is no
14 bond required.

15 COMMISSIONER CLARK: No, I don't think the
16 governmental agency would put up a bond. I think the
17 utility would put up the bond allowing them to charge
18 the rates that were approved, is that what you're
19 saying?

20 MS. BEDELL: Yes, that's what I was saying.

21 CHAIRMAN DEASON: Mr. Hoffman.

22 MR. HOFFMAN: Mr. Chairman, I believe what the
23 rule says is that if a governmental agency files a
24 motion for stay, that the stay is automatically
25 granted. However, the rule then goes on to say that

1 the stay shall automatically be vacated upon the filing
2 of an appropriate security by the utility.

3 COMMISSIONER LAUREDO: Well, it seems to me, Mr.
4 Chairman, that's why I was asking, if I had the power
5 individually to make a motion for reconsideration, and
6 the answer got lost, I didn't get it, but I guess you
7 offer an even better alternative.

8 If you were a Commissioner and you were
9 sufficiently troubled by this that you wanted to have
10 the issue of rate design only looked at generically
11 with proper notice, and all the parties, those that are
12 here and those that are not here heard, and not being a
13 lawyer, I don't know how to do it, you are suggesting
14 the only way, I guess. We have to decline the motion,
15 and on our own motion open a docket to look at the rate
16 design in this case?

17 CHAIRMAN DEASON: Yes. I raised that question.
18 I'm looking for guidance. Perhaps Mr. Pruitt can help
19 us.

20 MR. TWOMEY: Mr. Chairman --

21 CHAIRMAN DEASON: Let me hear from Mr. Pruitt, and
22 then I will give you an opportunity.

23 MR. PRUITT: Mr. Chairman, I don't believe there
24 is any question but you have the authority to institute
25 an investigative type hearing any time the majority of

1 the Commission so desires.

2 CHAIRMAN DEASON: Mr. Twomey.

3 MR. TWOMEY: Thank you, Mr. Chairman. I just
4 wanted to respond to the arguments of Counsel, in
5 response to your questions as well, and that is to the
6 point that one has to view this merely as some type of
7 second petition for reconsideration. I would suggest
8 to you that, one, it's not, and second because it's not
9 you don't have to view it that way. And that on the
10 basis that the Staff and the Company thinks that it
11 should be dismissed on that basis, that you should not.
12 It is --

13 COMMISSIONER LAUREDO: Isn't what we're suggesting
14 the most expedient way to get to the same answer?

15 MR. TWOMEY: Yes, sir, it might be, and I don't
16 want to argue my way out of that. I don't want to
17 snatch a victory away from this thing, but I just
18 wanted to make the point that if you were to, because
19 we have different parties in case, and we are asking
20 for relief from an existing situation, even though it
21 is a short time period, you could, I submit, view it as
22 a separate proceeding entirely and deny the motion to
23 dismiss. Now, frankly I'm not too concerned about the
24 technicalities and the niceties of how we get there if,
25 in fact, you do the investigation and come to the same

1 results in terms of the hearing. But I wanted to make
2 the point that I don't concede that it is a second
3 petition for reconsideration, and that it has to be
4 denied.

5 CHAIRMAN DEASON: Let me kind of share this with
6 you, and I think it may shed some light on where I'm
7 coming from. I think this case was processed according
8 to appropriate procedure. It would have been better if
9 it could have been heard by five Commissioners, but we
10 have tried to explain why that did not happen and what
11 the circumstances were. Nevertheless, it was heard
12 according to procedure, notice was given, I think there
13 probably was sufficient notice. Now, one can question
14 whether it was the absolute desired or optimal notice,
15 but the problem is how do you give notice on the
16 front-end of everything that can be contemplated in a
17 complex rate case of this nature, it's very difficult.
18 I think that the panel of Commissioners that heard it
19 considered all of the evidence, and they made what they
20 considered to be the appropriate decision. There were
21 petitions for reconsideration filed, and those were
22 appropriately considered by the panel, and they were
23 disposed of by the panel. I think that case was
24 handled. Now we have an issue before the full
25 Commission, a question as to whether statewide rates

1 for this company is appropriate public policy. I think
2 that we can go ahead and conclude this rate case, have
3 it ripe for appeal, and at the same time we can open an
4 investigation on our own motion to look at statewide
5 rates. I think that is going to get Mr. Twomey where
6 he wants to go. It may not be the exact vehicle he
7 wants to take for the ride, but I think it may get him
8 to the destination he wants, and the destination is
9 simply a hearing on the question before the full
10 Commission.

11 MR. TWOMEY: Yes, sir.

12 MS. DAVIS: Mr. Chairman, if I might jump in. I
13 don't know if the road that we may be going down is
14 jumping the gun or not, but there are some concerns
15 that I have that I would like to raise. You had a
16 properly constituted panel make a decision.
17 Reconsideration was requested by the parties on these
18 very same issues, and reconsideration was denied. The
19 Commission order that will come out on that
20 reconsideration, if it is appealed to the court, is
21 cloaked with the aura of correctness, unless those who
22 are appealing the order can show that the Commission's
23 decision was not based on competent substantial
24 evidence, or if the Commission's decision was arbitrary
25 and capricious and inconsistent with the law. I think

1 if we proceed with an investigation on those very
2 issues that can be decided by the court, we are saying
3 that our decision was not based on competent
4 substantial evidence.

5 CHAIRMAN DEASON: I disagree with you.

6 COMMISSIONER CLARK: I understand what your point
7 is you're making, but I think the Chairman has
8 suggested probably a very good solution to a very hard
9 case. I'm the only Commissioner left on the Commission
10 that heard that case, you know, it has been a wonderful
11 afternoon for me. Statewide rates were at issue, from
12 the very beginning I was very aware of it, and I looked
13 long and hard at it, and you can take back to
14 Representative Thurman, she will recall she asked me
15 that when I sought appointment to the Commission. And
16 I told her at that time, it concerns me, statewide
17 rates, but you have to understand that I will be
18 compelled to do what I think the record in the case
19 dictates be done. And I was very candid in my decision
20 that I thought this, in the long-run, was in the best
21 interest of the ratepayers of Southern States
22 Utilities, including the people that are here today.
23 Now, having said that, I think we have processed this
24 case just exactly the way it needs to be processed.
25 But I think what is being pointed out is that a desire

1 to maybe have the whole Commission look at the generic
2 issue of statewide rates for water and wastewater
3 companies. And I think we should let this case go
4 forward and take a very good suggestion by the Chairman
5 that we look into it as on a generic basis so that my
6 fellow Commissioners can have the benefit of what I
7 thought was very substantial evidence that this was the
8 way to go.

9 MS. DAVIS: So you're talking, then, about a
10 generic investigation for all water and wastewater
11 utilities, not just for this one?

12 CHAIRMAN DEASON: I'm talking about just for this
13 company. I'm not talking about a statewide
14 investigation into the generic -- that is what my
15 suggestion was, was for this company. Now, if the
16 other Commissioners desire to look at it beyond that,
17 I'm not necessary opposed to that, but what I want to
18 do is come to as quick a resolution as possible for
19 this company so that these customers know what they are
20 faced with. They may not like the end result, but at
21 least they will know what the result is, they will know
22 that the full Commission heard it, and all of their
23 concerns were heard as well as the concerns of
24 customers in other areas of this state, other customers
25 of this company. And that they may not like the final

1 decision, but hopefully they will be comforted that it
2 got the decision it deserved, and that it was heard by
3 the full Commission, that's what I want to accomplish.
4 Now, I don't necessarily want to have a generic
5 investigation for every utility company in the entire
6 State of Florida. My concern is Southern States, to
7 get this matter resolved for the customers of this
8 company.

9 COMMISSIONER LAUREDO: As a caveat to that, may I
10 just add, didn't we, in fact, turn down under the rule
11 rewrites for water and wastewater the part about
12 statewide rates? Does that ring a bell with you?

13 MS. DAVIS: I think that was removed, yes.

14 COMMISSIONER LAUREDO: So, in essence, we have
15 already a policy that we don't want as a blanket
16 statement, we are not endorsing statewide rates. We
17 would look at them on a case-by-case basis. It will be
18 redundant to have a generic look at it all over again,
19 because in a sense we had it in a rulemaking case, and
20 I think I shared the Chairman -- I like to look at it
21 as it relates to this, and just like he said, not only
22 for the 32 percent of the people who are here, but the
23 other 64, you know, and hear the whole thing all over
24 again. You cannot deny that even within the narrow
25 judicial judgment of a court, these are unusual

1 circumstances, this was an unusual case, there was an
2 unusual turnover of Commissioners during the interim of
3 the making of the decision. So it leaves us in a very
4 peculiar situation, and we are trying to struggle with
5 a way to get to -- giving comfort about being heard,
6 being noticed, being considered, which is clearly the
7 prevailing mood here, that they just felt that they
8 just didn't know what hit them. And if we can
9 accomplish that without breaking any of the many rules
10 we have to operate with, that's what I would like to
11 vote for.

12 MS. DAVIS: My concern is that there have been
13 instances in the past where the case has been
14 concluded, and then new information has come to light
15 and caused the Commission to initiate a new proceeding
16 on its own motion. What has been argued today is not
17 anything new, and that's what gives me pause that we
18 should let the other process complete itself, let the
19 appeal go through. And then if you want to do an
20 investigation of the rate structure issue, that is
21 okay. I'm just concerned that --

22 COMMISSIONER JOHNSON: Does it give you pause
23 because you think we don't have the legal authority to
24 do that, or does it just give you pause because you
25 don't think it is the wise thing to do?

1 MS. DAVIS: The Commission can always open up an
2 investigation any time it wants. But I believe that
3 the process in the rate case should be allowed to run
4 its course. And then if the Commission, after it sees
5 the court's view of the Commission's decision that was
6 based on the record the Commission had before it at
7 that time, if you then wish to do an investigation,
8 fine. I just think it's a little premature.

9 COMMISSIONER LAUREDO: Well, let me just play
10 devil's advocate, then. If I follow your judicial
11 integrity methodology, then I will vote with the
12 petitioners. I will just vote for the petitioner's
13 motion, and I get to the same end, and I am still
14 within some sort of integrity of the process. He made
15 a motion, a joint, whatever it is.

16 In other words, what I think I heard, I sympathize
17 with the Chairman's position, which is what I was
18 trying to explore, is we have sufficient concern, we
19 want to get to Point X. And you are saying the
20 proposed road to Hernando County may be full of
21 trouble. And I say to you if that is the case, then
22 maybe we ought to fall back on just voting for the
23 petitioners, and we get to the same road with more
24 procedural integrity.

25 COMMISSIONER JOHNSON: Let's discuss that, and I

1 sympathize with our attorney, because I'm an attorney,
2 and I know legally I can feel where she is coming from.
3 However, I think that the Chairman's suggestion is a
4 brilliant suggestion. I'm going to give his aide, who
5 is an attorney, all the credit for that.

6 CHAIRMAN DEASON: I want you to know he didn't
7 have any part to do with that.

8 COMMISSIONER LAUREDO: It is because he is not a
9 lawyer that he came up with a brilliant idea.

10 COMMISSIONER JOHNSON: But, Commissioner Lauredo,
11 the issue that you raised, now if we were to grant this
12 petition, then the utility would probably appeal this
13 stating that we didn't have the legal authority to do
14 that. Now, we may not have the legal authority to
15 grant this petition, but we have the legal authority to
16 do what the Chairman has suggested. So, in other
17 words, we avoid more legal procedure and legal walls
18 that we could run into. If the Chairman formed his
19 suggestions in the form of a motion, I would like to
20 second it, because I think that is a way that we can at
21 least address the concerns of all the citizens and give
22 all of the Commissioners the opportunity to further
23 explore the issues.

24 Now, I truly believe that the previous panel did
25 everything in their power and everything under the

1 authority of law to reach the decision that they have
2 reached. But to give all of us an opportunity, both
3 citizens and the Commission the opportunity to
4 thoroughly address and make sure we all understand the
5 issues, I think it would be appropriate at this time,
6 and I would like to second --

7 COMMISSIONER LAUREDO: Well, I will make the
8 motion, the Chairman can't make the motion --

9 CHAIRMAN DEASON: Yes. But let me make one
10 further suggestion. In that motion I think that we
11 need to -- it's not just a question of statewide
12 uniform rates, but we had presentation here today
13 concerning the bulk customer. And I think that should
14 also be considered in the investigation.

15 COMMISSIONER CLARK: You're suggesting that we
16 look at rate design.

17 CHAIRMAN DEASON: I guess rate design in total,
18 which would include statewide uniform rates as well as
19 the rate design for the bulk customer.

20 COMMISSIONER LAUREDO: So I move that we decline
21 the petition and that --

22 COMMISSIONER CLARK: Move Staff.

23 COMMISSIONER LAUREDO: Exactly, move Staff.

24 MR. HOFFMAN: Commissioner, can I throw out a few
25 thoughts before you vote?

1 CHAIRMAN DEASON: Quickly, Mr. Hoffman.

2 MR. HOFFMAN: Thank you. When I initially
3 responded to your question, the way that you stated it
4 I understood it was a generic proceeding, which is what
5 I think Commissioner Clark also stated. But I can't
6 think of anything that would deny you the authority to
7 open up an investigation of one company. Right now we
8 are looking at the possibility of an appeal of the
9 consolidated rate case. An issue in that appeal is
10 likely to be whether statewide rates are an appropriate
11 policy for Southern States. That seems to be part of
12 the title of the docket --

13 CHAIRMAN DEASON: I don't think the Supreme Court
14 makes policy for this state. They interpret law, and
15 they will make a determination as to whether the policy
16 that we set is legal for us to do. Now I'm not an
17 attorney, and correct me, does the Supreme Court set
18 policy, or do we set policy and they just determine
19 whether what we do is legal and is supported by
20 competent substantial evidence?

21 MR. HOFFMAN: Mr. Chairman, I think the Supreme
22 Court would rule on the issue of whether statewide
23 rates was an appropriate policy or legally valid under
24 Chapter 367, if the issue was raised by a party to the
25 appeal.

1 let it go with the appeal, and, quite frankly, let
2 those rates go into effect and move forward with your
3 own investigation to change the rates. I think that is
4 what you were suggesting.

5 (Audience response.)

6 CHAIRMAN DEASON: Please. We are getting to a
7 very critical point here, so let's be quiet and listen
8 so everybody understands what is happening.

9 My suggestion to do the course of action is to
10 make it clear that I believe that the procedures for
11 the case were followed, and that the panel of
12 Commissioners that heard it took the evidence, and they
13 made their decision and that it's time for that case to
14 come to an end and let it be appealed. Now, what I'm
15 suggesting is that the full Commission, I think, has
16 been made tremendously aware today by all the people
17 that have attended this agenda conference and by the
18 presentations that this is a very significant issue.
19 And I think it has raised a concern that we need to
20 review on our own motion the question of the rate
21 structure for this utility company. But we can do that
22 on a going-forward basis, this case will be concluded,
23 and the persons who wish to file an appeal to the DCA
24 can do so, but we will, on our own motion be conducting
25 an investigation. If that impacts the appeal, so be

1 it, I guess that's the court's problem. But we have an
2 obligation to the people of the state to fulfill our
3 responsibility as we see fit, and I think that what we
4 are saying is we feel the responsibility to open an
5 investigation and to look at rate structure for this
6 company on a going-forward basis.

7 MR. HOFFMAN: Mr. Chairman, the way that you have
8 just phrased it resolves the other concern that I would
9 have had that was expressed by Commissioner Clark, and
10 that was whether or not by your own motion you folks
11 were essentially doing a second motion for
12 reconsideration. But I think that the way you phrased
13 it is on a going-forward basis, and not directly
14 related to the numbers, the evidence that was submitted
15 in Docket Number 920199.

16 CHAIRMAN DEASON: What I hear Mr. Twomey say is
17 there is going to an automatic stay, and that stay can
18 be vacated but it has to be with a bond that is posted,
19 and that what the court decides then, if the court
20 agrees with Mr. Twomey and reverses the Commission's
21 decision, all the customers would be made whole. But
22 that is a question before the court. That question is
23 no longer before the Commission, that case is over as
24 far as this Commission is concerned. But we will be
25 looking at our own investigation on a going-forward

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basis, and we may change rates or we may not change rates, but we will look at it, thoroughly look at it and the full Commission will hear it.

MR. TWOMEY: Mr. Chairman, may I say one thing?

COMMISSIONER LAUREDO: Don't. You are going to confuse it. Let's move it. Can I move what you just said? I mean, I'm sorry for interrupting, Mr. Twomey, it's just that it get, after so many hours, and non-lawyers, I think you captured the spirit of what I wanted to move.

CHAIRMAN DEASON: A motion and a second. All in favor say aye. Aye.

COMMISSIONER CLARK: Aye.

COMMISSIONER LAUREDO: Aye.

COMMISSIONER JOHNSON: Aye.

CHAIRMAN DEASON: Any opposed? The motion carries four to zero.

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3 CERTIFICATE OF REPORTER

4 STATE OF FLORIDA)

5 COUNTY OF LEON)

6 I, JANE FAUROT, Court Reporter, do hereby certify
7 that the foregoing proceedings was taken before me at the
8 time and place therein designated; that my shorthand notes
9 were thereafter translated under my supervision; and the
10 foregoing pages numbered 1 through 121 are a true and
11 correct record of the proceedings.12 I FURTHER CERTIFY that I am not a relative,
13 employee, attorney or counsel of any of the parties, nor
14 relative or employee of such attorney or counsel, or
15 financially interested in the foregoing action.16 DATED THIS 8th day of September, 1993.17
18
19 
20 JANE FAUROT
21 100 Salem Court
22 Tallahassee, Florida 32301
23 (904) 878-222124 SWORN TO AND SUBSCRIBED TO BEFORE ME THIS 8th day of
25 ~, 1993, IN THE CITY OF TALLAHASSEE, COUNTY OF LEON,

1 STATE OF FLORIDA, BY THE ABOVE PERSON WHO IS PERSONALLY
2 KNOWN BY ME.

Melanie Y. Bradford
3
4 NOTARY PUBLIC
5 STATE OF FLORIDA

