846

STATE OF FLORIDA

OFFICE OF THE PUBLIC COUNSEL

c/o The Florida Legislature
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JACK SHREVE
PUBLIC COUNSEL

ORIGINAL
FILE COPY

October 9, 1995

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FPSC-RECORDS/REPORTING

Blanca S. Bayo, Director
Division of Records and Reporting
Florida Public Service Commission
2540 Shumard Oak Blvd.
Tallahassee, FL 32399-0850

Re: Docket No. 950495-WS

Dear Ms. Bayo:

Enclosed for filing in the above-referenced docket are the original and 15 copies of Citizens' Motion for Reconsideration By the Full Commission.

Please indicate the time and date of receipt on the enclosed duplicate of this letter and return it to our office.

Sincerely,

Charles J. Beck
Deputy Public Counsel

CJB:bsr
Enclosures

DOCUMENT NUMBER-DATE
09948 OCT-9 95
FPSC-RECORDS/REPORTING

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application for a rate increase for Orange-Osceola Utilities, Inc. in Osceola County, and in Bradford, Brevard, Charlotte, Citrus, Clay, Collier, Duval, Highlands, Lake, Lee, Marion, Martin, Nassau, Orange, Osceola, Pasco, Putnam, Seminole, St. Johns, St. Lucie, Volusia, and Washington Counties by Southern States Utilities, Inc.	Docket No. 950495-WS Filed: October 9, 1995

CITIZENS' MOTION FOR RECONSIDERATION BY THE FULL COMMISSION

The Citizens of Florida, by and through Jack Shreve, Public Counsel, move the Florida Public Service Commission to reconsider the order establishing procedure (order PSC-95-1208-PCO-WS) issued by the prehearing officer on September 29, 1995.

SERVICE HEARINGS AND NOTICE TO CUSTOMERS

The order establishes a series of fourteen service hearings, including those already held in Sunny Hills on September 14, 1995; Kissimmee on September 19, 1995; Jacksonville on September 20, 1995; New Port Richey on October 3, 1995; and Temple Terrace on October 3, 1995. The remaining nine are set for other locations on various dates beginning Wednesday, October 11, 1995.

The order ignores the deficiencies of the notice already provided to customers by Southern States and ignores the representations made by Commissioners at various service hearings that new customer service hearings would be held. At a minimum, the Commission should require the company to send new notices to customers and set all service hearings anew after customers are provided adequate notice about the rates they may face as a result of this case.

Customers do not know the extent of their exposure to higher rates in this case because Southern States failed to disclose a known court decision about uniform rates to its customers in its notices. The First District Court of Appeal reversed the Commission's uniform rate decision on April 6, 1995. Southern States filed this case more than two and a half months later, yet the filing and notices provided to customers don't give the slightest hint that there will be an issue in this case about uniform rates. The issue affects the substantial interests of customers because it could lead to rate increases for certain customers far exceeding the uniform rate increase proposed by the company.

Southern States could have filed its case requesting uniform rates while at the same time providing adequate information about system-by-system revenue requirements and rates on a stand-alone basis. This would have properly responded to the decision of the

First District Court of Appeal and provided necessary information to customers. Instead, it chose not to provide that stand-alone revenue requirement and rate information, even though it knew about the reversal of the uniform rate decision by the First District Court of Appeal two and a half months earlier.

Southern States could have told customers that their rates could go as high as the higher of uniform or stand-alone rates at the end of this case, but it chose not to provide that information to customers. In fact, even the MFR's don't contain stand-alone revenue requirement or rate information for the so-called "uniform" systems, so any customer going to the trouble of traveling to the county library and reviewing the MFR's still won't know that information about their system. All of that information was available to Southern States when it filed this case, and it chose not to provide it.

As a result, the notices provided to customers are highly misleading. They lull customers into the belief that their rates in this case can't go higher than the uniform rates proposed by the company.

As an example, exhibit 2 for identification, the notice provided to the customers located in Sunny Hills when SSU filed this case, is appended to this motion. It will be quite a shock to these customers when they discover their modified stand-alone rates

approved by the Commission a few weeks ago are considerably higher than the final rates proposed by SSU, as set forth in this notice. It would be an even greater shock if they were to learn that their rates could go still higher as a result of this case. But no notice provided by SSU or the Commission provides this information.[1]

The purpose of the notice requirement contained in the Administrative Procedures Act is to give citizens fair notice of what is facing them -- something to which they are entitled in all of their dealings with government. Totura v. Department of State, 553 So.2d 272, 274 (Fla. 1st D.C.A. 1989); Guerra v. State, Dept. of Labor & Employment, 427 So.2d 1098, 1011 n. 4 (Fla. 3d D.C.A. 1983). The notice provided by Southern States is the antithesis of this directive: not only does the notice provide inadequate information to customers, but it affirmatively misleads customers about the extent of their exposure to higher rates in this case.

Section 120.57(1)(b)2.d. provides that when an agency is to determine the substantial interests of a party in a proceeding,

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[1] The notices of service hearings contain no information at all about any rates, proposed or otherwise. The ten page rate case notice says nothing about the issue of uniform versus stand-alone rates, and the separate pages in the ten page notice giving rate information provide no hint of the issue, either. Within the fine print of the ten page notice there is a standard disclaimer that the Commission is not bound by the company's proposal and can do anything it wants, but this standard disclaimer provides no information about the uniform vs. stand-alone rate issue and provides no information about the effect of the issue on rates.

that party must receive a notice that includes a short and plain statement of the matters asserted by the agency and by all parties of record at the time notice is given. If the agency or any party is unable to state the matters in sufficient detail at the time initial notice is given, the notice may be limited to a statement of the issues involved, and thereafter, a more definite and detailed notice must be given.

Southern States provided no notice about the uniform rate issue to the public, even though it was an issue well known to them that can have a dramatic, adverse effect on the customers of certain systems. The notice provided by Southern States therefore violated the requirement of section 120.57(1)(b)2.d., Florida Statutes (1993).

Southern States relies on the case of City of Plant City v. Mayo, 337 So.2d 966 (Fla. 1976) to justify its notice to customers, but this case provides no such justification. In Plant City the utility proposed that municipal franchise fees be treated as a general expense of the company, consistent with prior practice. During the hearings staff asked questions on cross examination suggesting that franchise fees should be surcharged as separate items on customer bills, and the Commission ultimately decided to treat franchise fees that way. On appeal, Plant City contended that it had no notice about this potential treatment of franchise fees. The Florida Supreme Court held that the standard form of

notice provided by the utility was adequate there.

In contrast to Plant City, in this case Southern States knew about the reversal of the uniform rate case two and a half months before it even filed this rate proceeding. It also knew about the dramatic, adverse effect stand-alone rates would have on the customers of certain systems. This was not some unanticipated matter, as was the case in Plant City. Southern States had the stand-alone rate impact of this case on each system available to it when it filed the case, and it chose to neither file that information nor provide it to customers. It was its choice not to provide information about this issue to its customers, but in doing so it violated section 120.57(1)(b)2.d., Florida Statutes (1993).

At this point, customers have been severely misled about the potential impact this case may have on their rates. At a minimum, the Commission should direct the company to send a new notice to customers and hold service hearings anew at all fourteen locations after customers have been provided adequate notice.[2] The new notice should:

[2] At the few service hearings held so far, there have been numerous, serious complaints about the inadequacy of Southern States' service. All Commissioners should attend the new hearings to learn about these problems first-hand from customers.

(1) Advise customers of each system what their rates would be on a stand-alone basis and on a uniform rate basis if the company should receive its requested revenue increase. The notice should prominently advise customers that their rates could be the higher of stand-alone or uniform rates as a result of this case.

(2) Require SSU to revise its rate case synopsis to provide both uniform rate and stand-alone rate and revenue requirement information for each system.

(3) Advise customers that to the extent there are inconsistencies between the new notice and (a) the MFRs, (b) the company's pre-filed testimony, and (c) the existing rate case synopsis available in each county, the new notice takes precedence.

(4) Advise customers to disregard all prior notices provided by the company.

INTERVENOR TESTIMONY FILING DATE

We filed six motions to delay the filing of intervenor testimony. The Prehearing Officer has not ruled on any of these motions, yet the order on procedure directs the filing of intervenor testimony on November 20, 1995, just as if we had never filed these motions. We object to the implicit denial of our motions by setting a date for intervenor testimony without ruling on our pending motions. The pending motions are as follows:

(1) August 31, 1995: Citizens' first motion to compel and first motion to postpone filing of intervenor testimony.

(2) September 6, 1995: Citizens' response to SSU's motion for protective order; Citizens' first motion to conduct in camera inspection of documents; Citizens' second motion to compel; and Citizens' second motion to postpone date for filing intervenor testimony.

(3) September 8, 1995: Citizens' third motion to compel and third motion to postpone date for filing intervenor testimony.

(4) September 18, 1995: Citizens' fourth motion to compel and fourth motion to postpone date for filing intervenor testimony.

(5) September 22, 1995: Citizens' fifth motion to compel and fifth motion to postpone date for filing intervenor testimony.

(6) September 22, 1995: Citizens' sixth motion to compel, sixth motion to postpone date for filing intervenor testimony, and motion to impose sanctions.

Each of these motions was served on the utility by hand so that the motion would be ripe for a ruling at the earliest possible time. The Citizens request the Commission to refrain from setting a date for filing intervenor testimony until there are rulings on these motions.

PREDETERMINED LIMITATIONS ON DISCOVERY

The prehearing officer limited us to no more than 500 requests for production of documents and 1000 interrogatories, including subparts. Since this case involves 152 distinct systems, that limitation amounts to the equivalent of less than ten discovery requests per system.

No purpose is served by placing predetermined limitations on the number of discovery requests we may send. The company may always seek a protective order if it feels the discovery is unduly burdensome. Existing Commission policy places the burden of the company's rate case expense on our clients, so the company can not complain of the expense. The Commission should lift this predetermined limitation on our ability to prepare our case and allow discovery to proceed until a party brings an issue about discovery to the prehearing officer.

Respectfully submitted,

JACK SHREVE
Public Counsel

Charles J. Beck
Deputy Public Counsel

Office of Public Counsel
The Florida Legislature
111 West Madison Street,
Room 812
Tallahassee, FL 32399-1400

Attorneys for the Citizens
of the State of Florida

CERTIFICATE OF SERVICE
DOCKET NO. 950495-WS

I HEREBY CERTIFY that a correct copy of the foregoing has been furnished by U.S. Mail or hand-delivery* to the following parties on this 9th day of August, 1995.

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GOVERNMENTAL CONSULTANTS:
PATRICK R. MALOY
AMY J. YOUNG

MEMORANDUM

TO: All parties of record in Docket No. 950495-WS

FROM: Kenneth A. Hoffman, Esq.

DATE: September 22, 1995

RE: Document identified as Late Filed Exhibit 2 at September 14, 1995 Sunny Hills Service Hearing

Enclosed is a copy of the above-referenced document.

SSU
Southern States Utilities

1995 General Rate Case Information

Water For Florida's Future

Southern States Utilities, Inc., 1000 Color Place, Apopka, Fl 32703

June 28, 1995

Dear Customer:

As Florida's largest privately owned water and wastewater utility, Southern States Utilities (SSU) has remained a leader in environmental stewardship while continuing to meet the ever-increasing demand for service. This performance is achieved through advances in treatment, testing, monitoring, and disposal technologies and methods. As a customer, you are the direct beneficiary of our commitment to the environment and excellence in service, yet the cost of providing these services continues to grow. That's what this letter is all about.

Since our last general rate increase, SSU has committed to more than $95 million in plant improvements and expansions. The majority of these projects allow us to achieve governmentally mandated safety, environmental protection and water quality standards. We have reduced administrative and general expenses within our control by managing costs, streamlining operations, and centralizing services. Unfortunately, during the last several years the company's costs of materials, supplies, taxes, and other expenses beyond our control have risen dramatically. SSU must recover these costs if we are to continue to provide quality service.

Accordingly, the company has filed a request with the Florida Public Service Commission for a general rate increase for water and wastewater services. An interim rate increase could be authorized in September, with final rates effective during 1996. Residential rates are as follows:

WATER (Conventional Treatment)
(8,500 gallons per month)

PRESENT BILL	PROPOSED INTERIM INCREASE	INTERIM BILL	PROPOSED FINAL INCREASE (mid-1996)	FINAL BILL
$15.59	$4.81	$20.40	$7.13	$27.53

WASTEWATER
(6,000 gallon cap)

PRESENT BILL	PROPOSED INTERIM INCREASE	INTERIM BILL	PROPOSED FINAL INCREASE (mid-1996)	FINAL BILL
$34.63	$9.66	$44.29	$1.74	$46.03

Customers in certain communities not on uniform rates or requiring advanced reverse osmosis water treatment are expected to see similar increases in their bills beginning in September.

Over the next several months you will receive more information about the rate request. You will also have an opportunity to attend meetings and hearings in your area to voice your opinion. In the meantime, if you have questions we encourage you to call our toll-free number, 1-800-432-4501. If you are a member of a homeowners, civic or social organization, we will gladly arrange for an SSU representative to address your group. We appreciate your business and look forward to an opportunity to further discuss our rate proposal.

Sincerely,

Karla Olson Teasley

Karla Olson Teasley
Vice President, Customer Services

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