

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Joint Petition of Citrus ) DOCKET NO. 930647-WS  
County, Hernando, County, ) ORDER NO. PSC-93-1422-FOF-WS  
Cypress and Oaks Villages ) ISSUED: September 30, 1993  
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. )

The following Commissioners participated in the disposition of this matter:

J. TERRY DEASON, Chairman  
SUSAN F. CLARK  
JULIA L. JOHNSON  
LUIS J. LAUREDO

ORDER DISMISSING JOINT PETITION

BY THE COMMISSION:

By Order No. PSC-93-0423-FOF-WS, issued March 22, 1993, this Commission set uniform, statewide rates for 127 water and wastewater systems of Southern States Utilities, Inc. (SSU) in Docket 920199-WS. Motions for reconsideration were filed by several parties, including the Office of Public Counsel, Citrus County, and Cypress and Oak Villages Association (COVA). Reconsideration was denied by Commission votes on July 20, and August 3, 1993. There remains one pending motion for reconsideration to be heard at the September 28, 1993, Agenda Conference.

On July 2, 1992, a Joint Petition for Full Commission Hearing for the Purpose of Setting System by System, Stand Alone Water and Wastewater Rates for Certain Systems Operated by SSU was filed by

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FLORIDA PUBLIC SERVICE COMMISSION

Citrus County, Hernando County, COVA, Spring Hill Civic Association (Spring Hill), and Senator Ginny Brown-Waite (Petitioners). This Docket was opened to address the Joint Petition. In the Joint Petition, the Petitioners alleged that a case of such statewide impact as the SSU rate case should have been heard by the full Commission. The Petitioners also alleged that the statewide, uniform rates authorized by the Commission would require some customers of SSU to unlawfully subsidize expenses of systems which are not physically connected; that the Commission is without legal authority to set statewide rates; that there was inadequate notice that uniform rates would be set; and finally, that the decision to set uniform statewide rates was not supported by competent, substantial evidence.

On July 22, 1993, SSU timely filed a Motion to Dismiss the Joint Petition. In the Motion to Dismiss, SSU argued that similar issues to those raised by Petitioners had been filed and denied in the SSU rate case docket; that the Joint Petition failed to meet the minimum requirements of Rule 25-22.036(7), Florida Administrative Code; that the Joint Petition is a thinly disguised request for reconsideration of Order No. PSC-93-0423-FOF-WS; and that a petition for the full Commission assignment to the SSU rate case had been filed, considered and denied in Docket No. 920199-WS. The utility also alleged that the Joint Petition failed to meet the requirements of Rule 25-22.036 (6), Florida Administrative Code.

On August 16, 1993, the Petitioners filed a Response to SSU's Motion to Dismiss and a Request for an Investigation. The filing date of SSU's Motion to Dismiss was July 22, 1993. Pursuant to Rule 25-22.037(2), Florida Administrative Code, a response to the motion was due within 7 days of service, plus 5 days for mailing. The Petitioners' Response was filed 25 days after the Motion to Dismiss was filed. We find that Petitioners' Response to the Motion to Dismiss was filed late. Neither an explanation for the untimeliness of the response, nor a request for an extension of time was included in the filing. Based on the untimeliness alone, we find that the Response need not be considered by the Commission. Therefore, we find it appropriate to strike the Petitioners' Response to SSU's Motion to Dismiss as untimely. Petitioners' Request for Investigation, filed with the Response will be addressed in a forthcoming recommendation in Docket No. 930648-WS.

All of the issues raised by the Petitioners as error in this docket were raised on reconsideration and rejected in Docket No. 920199-WS. The Joint Petition is based on the Petitioners' view

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that the rates set in Order No. PSC-93-0423-FOF-WS are not fair just and reasonable as to them and the other customers they represent. We find that Order No. PSC-93-0423-FOF-WS explains thoroughly the basis for the fairness, justness and reasonableness of those rates. Petitioners have presented no new evidence or raised no new arguments. Rule 25-22.060(1)(a), Florida Administrative Code, prohibits seeking reconsideration of an order which disposes of a motion for reconsideration. We find that the Joint Petition is an inappropriate pleading seeking nothing more than reconsideration of Order No. PSC-93-0423-FOF-WS. Accordingly, the Joint Petition is dismissed.

However, we find it appropriate to initiate on our own motion an investigation by the full Commission to explore whether setting uniform, statewide rates for SSU is appropriate public policy. To that end, Docket No. 920880 has been opened. The investigation will include a review of statewide rates as well as the rate design for the bulk wastewater customers.

Based on the foregoing, it is, therefore,

ORDERED by the Florida Public Service Commission that the Motion to Dismiss filed by Southern States Utilities, Inc. is hereby granted. It is further

ORDERED that the Joint Petition is hereby dismissed. It is further

ORDERED that an investigation to explore whether setting uniform, statewide rates for SSU is appropriate public policy shall be initiated.

By ORDER of the Florida Public Service Commission this 30th day of September, 1993.

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STEVE TRIBBLE, Director  
Division of Records and Reporting

( S E A L )

CB

by: Kay Flynn  
Chief, Bureau of Records

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.59(4), Florida Statutes, to notify parties of any administrative hearing or judicial review of Commission orders that is available under Sections 120.57 or 120.68, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing or judicial review will be granted or result in the relief sought.

Any party adversely affected by the Commission's final action in this matter may request: 1) reconsideration of the decision by filing a motion for reconsideration with the Director, Division of Records and Reporting within fifteen (15) days of the issuance of this order in the form prescribed by Rule 25-22.060, Florida Administrative Code; or 2) judicial review by the Florida Supreme Court in the case of an electric, gas or telephone utility or the First District Court of Appeal in the case of a water or sewer utility by filing a notice of appeal with the Director, Division of Records and Reporting and filing a copy of the notice of appeal and the filing fee with the appropriate court. This filing must be completed within thirty (30) days after the issuance of this order, pursuant to Rule 9.110, Florida Rules of Civil Procedure. The notice of appeal must be in the form specified in Rule 9.900 (a), Florida Rules of Appellate Procedure.