BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application for rate increase and increase in service availability charges by Southern States Utilities, Inc. for Orange-Osceola Utilities, Inc. in Osceola County and in Bradford, Brevard, Charlotte, Citrus, Clay, Collier, Duval, Highlands, Lake, Lee, Marion, Martin, Nassau, Orange, Osceola, Pasco, Putnam, Seminole, St. Johns, St. Lucie, Volusia, and Washington Counties.	DOCKET NO. 950495-WS ORDER NO. PSC-97-0613-FOF-WS ISSUED: May 29, 1997

The following Commissioners participated in the disposition of this matter:

JULIA L. JOHNSON, Chairman
SUSAN F. CLARK
J. TERRY DEASON
JOE GARCIA
DIANE K. KIESLING

ORDER ON MOTIONS FOR RECONSIDERATION

BY THE COMMISSION:

BACKGROUND

Southern States Utilities, Inc. (SSU or utility) is a Class A utility, which provides water and wastewater service to 152 service areas in 25 counties. While SSU has recently changed its name to Florida Water Services Corporation, for the purpose of consistency, we shall refer to the utility as SSU in this Order.

On June 28, 1995, SSU filed an application for approval of uniform interim and final water and wastewater rate increases for 141 service areas in 22 counties, pursuant to Sections 367.081 and 367.082, Florida Statutes, respectively. The utility also requested a uniform increase in service availability charges, approval of an allowance for funds used during construction (AFUDC)

and an allowance for funds prudently invested (AFPI). August 2, 1995, was established as the official date of filing.

This Commission held 24 customer service hearings throughout the state during the pendency of this rate proceeding, and a ten-day technical hearing from April 29 through May 10, 1996. We also held an additional day of hearing on May 31, 1996, to consider rate case expense.

By Order No. PSC-96-1320-FOF-WS, issued October 30, 1996, (Final Order) we set forth our final determination as to SSU's rates and charges, and all other matters raised during the proceedings. On November 1, 1996, SSU filed a notice of appeal of the Final Order to the First District Court of Appeal (the Court).

SSU'S MOTION FOR RECONSIDERATION

On December 3, 1996, SSU filed a motion requesting a stay of the refund of interim rates and a portion of the AFPI charges pending appeal, and a release or modification of the bond securing interim refunds. By Order No. PSC-97-0099-FOF-WS (Stay Order), issued January 27, 1997, we granted SSU's request to stay the refund of interim rates, but denied SSU's request to stay a portion of the AFPI charges approved by the Final Order. On February 11, 1997, SSU filed a motion for reconsideration of the Stay Order, accompanied by a request for oral argument.

SSU's Request for Oral Argument

According to Rule 25-22.058(1), Florida Administrative Code, a party requesting oral argument must state its request in a separate document which accompanies the relevant motion. Additionally, the request must "state with particularity why oral argument would aid the Commission in comprehending and evaluating the issues before it." The granting of oral argument on a motion for reconsideration is solely at our discretion. Rule 25-22.060(1)(f), Florida Administrative Code.

In its February 11, 1997, request, the utility contended that oral argument would aid this Commission in understanding its motion for reconsideration, especially given the complexity of the primary and alternative requests for relief related to the stay of the AFPI charges. SSU's AFPI charges and the proposals for stay imposed by SSU were complex: the review of the motion for reconsideration and the stay request involved extensive examination of numerous schedules, orders, and calculations. Upon consideration, we granted SSU's request, and heard oral argument on the matter.

Standard for Reconsideration

The standard for determining whether reconsideration is appropriate is set forth in Diamond Cab Company of Miami v. King, 146 So. 2d 889 (Fla. 1962). In Diamond Cab, the Court held that the purpose of a petition for reconsideration is to bring to an agency's attention a point of fact or law which was overlooked or which the agency failed to consider when it rendered its order. In Stewart Bonded Warehouse v. Bevis, 294 So. 2d 315 (Fla. 1974), the Court held that a petition for reconsideration should be based upon specific factual matters set forth in the record and susceptible to review. See also Pingree v. Quaintance, 394 So. 2d 161 (Fla. 1st DCA 1981). We have applied this standard in our reconsideration of the matters in this Order.

Reconsideration of the Stay Order

SSU's motion for reconsideration focuses on the portion of the Stay Order related to AFPI charges. An AFPI charge allows a utility to recover its prudent investment in its facilities. The charge escalates monthly, and is assessed at the time that a new customer connects. The Final Order established AFPI charges for SSU's facilities which were below 100 percent used and useful. However, we denied the utility's request to retain previous AFPI charges for those facilities where the old charges were higher than the newly calculated schedule. Instead, the Final Order reset the charges.

SSU's stay request proposed two methods for staying the effect of the Final Order. Both methods involved implementing the new AFPI charge for some facilities, but allowing SSU to assess the higher, previous charge for other facilities. The proposal also contemplated switching from the old charge to the new charge for several facilities, when the new charge escalated to a point where it exceeded the old charge.

We rejected SSU's request for a partial stay of the AFPI charges. The Stay Order recognized that several of the charges proposed by the utility were not part of the Final Order, or were not part of the utility's filing. The Stay Order expressed concern over the utility's proposed switch of old and new charges, and the fact that SSU requested some, but not all, of the charges be stayed. We recognized the potential difficulty in backbilling, and ordered the utility to place a customer or developer on notice upon connection that the AFPI charge was subject to appeal, and may ultimately increase or decrease.

SSU's motion for reconsideration was premised upon three grounds: (1) a mistake of fact as to the substance of the stay request; (2) a mistake of law as to the applicable standards; and (3) a mistake of law because the decision on SSU's stay request was inconsistent with past decisions, and therefore an abuse of discretion.

SSU's request for a partial stay was complex: it involved numerous calculations and options for almost 150 facilities. The nature of SSU's proposal could not be fully gleaned from the motion itself: an adequate review of the motion required extensive review, comparison and analysis of the utility's pre-rate case tariffs, its MFRS, used and useful calculations, the Final Order, and the schedules attached to the utility's stay proposal.

For the majority of facilities (99), SSU wished to keep the AFPI charges reflected in Final Order. For the 43 facilities that had prior tariffs, which were higher than those approved in the Final Order, SSU requested that the Final Order charges be stayed and the pre-rate case charges be implemented. Three of those facilities had pre-rate case charges which were greater than the approved AFPI cap established by the Commission in the Final Order, so SSU requested the approved cap charge. Further, in 17 of the 43, SSU requested in its primary request that the charges be switched from the pre-rate case to the Final Order charges when the latter became higher. These 17 facilities were the only differences between SSU's primary and alternative request for stay.

In five other facilities, SSU requested that it be allowed to implement its proposed charges when the Commission erred in not approving AFPI charges when the facilities were determined to be less than 100 percent used and useful and there were no pre-rate case charges tariffed. For two other facilities, SSU requested charges which it stated were its proposed charges, which in fact were not those proposed in its MFRs, with slight differences. There was one facility where SSU submitted charges which it stated were approved by the Final Order, but in fact the AFPI charges reflected were those recommended by our staff. For the Marco Shores wastewater collection facilities, SSU indicated that the rates per the Order were implemented when in fact, the Final Order did not approve any charges. For the Lake Brantley water transmission and distribution facilities, SSU reflected that it had a pre-rate case tariff, but our review indicates it did not. For two of the Valencia Terrace facilities, SSU requested to implement its proposed charges, stating that the Commission failed to set AFPI charges when we determined that the plant was less than 100 percent used and useful. The Final Order reflected that those facilities were, in fact, 100 percent used and useful.

We find it appropriate to reconsider several points of the Stay Order which denied SSU's request for a partial stay. While we do not conclude that the Stay Order was in error, we conclude that, upon reconsideration, the utility may implement its alternate stay proposal. Each aspect of the utility's motion for reconsideration is addressed below.

SSU contended that our Staff's statements in the recommendation and at agenda were in error or irrelevant, and that the Stay Order was therefore premised upon a mistake of fact. SSU first contended that Staff mischaracterized several charges proposed by SSU as being "not in the record." There were several facilities that SSU presumed to be 100 used and useful, and therefore did not include an AFPI charge in its filing. However, SSU requested AFPI charges for all plants found to be less than 100 percent used and useful. We erred in not approving AFPI charges for those facilities and corrected those mistakes in Order No. PSC-97-0374-FOF-WS (Reconsideration Order). The Stay Order, which was issued before our reconsideration of the AFPI charges, stated that several proposed charges were not addressed in the Final Order, or were not part of SSU's initial filing. SSU took issue with this statement, and asserted that the utility "should not now be made to suffer for errors made by the Commission staff or the Commission."

The Stay Order properly reflected that certain AFPI charges were omitted, and would be remedied elsewhere. Our Staff's comments as cited in the transcript refer to that situation. Those comments and the recommendation are advisory, and are supplanted by the findings of the Stay Order. Furthermore, as detailed above, several charges proposed by the utility could not be found in the utility's pre-rate case tariffs, the MFRs, or the Final Order. Therefore, this Commission did not make a mistake of fact as to the characterization of several of the charges as not in the record. However, we find it appropriate to clarify the sentence on page 5 of the Stay Order which states that "[s]everal of the charges identified in the utility's attachment were not addressed in the Final Order, or were not part of SSU's initial filing" to indicate that the charges were those omitted in error.

In the Reconsideration Order, we corrected the omission of AFPI charges for several facilities, and corrected several calculations which used an incorrect regulatory assessment fee percentage. (See order at 19-21, and Schedule No. 10 for each facility). SSU may implement those charges once it provides notice and its tariffs are approved.

As noted in the Stay Order, a stay was not the appropriate mechanism to address errors made in the Final Order (Stay Order at

5-6). We have now corrected those errors and approved those charges in the Reconsideration. In effect, the utility's request for reconsideration as the stay for those facilities is moot, as the charges have in fact been approved by separate order. As of the date of our vote, the utility had not filed its tariff pages for these charges. Other than the charges requested to be implemented for the Valencia Terrace facilities, all other requests dealing with implementing proposed charges have been addressed.

SSU next contended that our Staff, and thereby the Stay Order, mischaracterized the switching from one charge to another as not being in the record, and that the switching could have been extrapolated from facts already in the record. SSU asserted that the switch is necessary in order to insure that no backbilling will occur.

While the charges were either requested by the utility or in the record, the treatment proposed in the stay of "switching" was not. In essence, SSU requested that a stay be imposed upon each particular facility's charge, until the charge under the Final Order would overtake the old charge. Then the utility wished to lift that stay to employ the newly approved charge once it exceeds the previous charge. In the example noted on page 5 of the Stay Order, the utility proposed to stay the Commission's decision and collect the old charge of $120.17 for the Citrus Springs wastewater treatment plant and disposal facilities until August of 1997, when it then wanted to "lift" the stay as to that facility and implement the higher charge. For each system in this situation, the utility proposed lifting the stay at different times, depending upon when the new charge exceeded the prior charge.

The Stay Order recognized the complexity of this proposal, and the fact that the utility proposed to employ two different charge structures for AFPI, dependent upon which charge was highest. The concerns over the unusual treatment of the charges certainly were relevant to our consideration of SSU's proposal. Therefore, reconsideration is not appropriate on this point.

SSU next asserted that the Stay Order was flawed in its misunderstanding of the purpose and effect of a stay, the legality of partitioning an order, and the discretionary standard. Citing Hirsch v. Hirsch, 309 So. 2d 47 (Fla. 3d DCA 1975), SSU argued that a purpose of a stay is to "... restore or preserve the status quo or to stay execution of an order or judgment." Id. at 50. SSU stated that it requested a continuation of AFPI charges in effect for the facilities where the Commission reset the AFPI charge, thereby maintaining the status quo of those facilities. However, taken in their entirety, the two proposals would not maintain

either the situation that existed before the Final Order was issued, nor would it maintain the situation created by the Final Order. It would create a situation wherein the utility would collect the highest charge for each facility. Therefore, while we find it appropriate to permit the utility to implement a partial stay, we did not err in our understanding of the purpose of the stay.

The utility asserts that the Commission made a mistake of law by "failing to recognize its authority to impose conditions for a stay which temporarily sanctions relief different from a judgment, subject to adequate security protections," and that the Stay Order made no finding that SSU's proposed conditions were unlawful. (Motion at 7). We believe that we have made no mistake of law as to understanding our authority or the nature of the utility's request. First, as noted above, our concern was not that the stay request differed from the Final Order, but that it created a new situation not before contemplated. SSU's request was not a "condition" of the stay but rather a substantive treatment of AFPI charges. Moreover, Rule 25-22.061(2), Florida Administrative Code, and Rule 9.310(a), Florida Rules of Appellate Procedure, do not impose a lawful standard upon the conditions of a stay.

SSU next argued that the Stay Order demonstrates a mistake of law by stating that it would be inappropriate to stay only a portion of the AFPI charges. SSU contended that it would be inappropriate to require an appellant to seek a stay of a portion of an order that it did not intend to appeal. Moreover, SSU argued that the APFI charges are severable.

We recognized in the Stay Order that while we had stayed portions of an order relating to a particular subject, SSU's request was unique in that SSU wished to stay only part of a particular category of charges. (Order at 5) As stated above, this Commission was concerned with imposing a stay as to some but not all of the elements of a particular category of charge. For example, if a utility were to request a stay as to some but not all of its residential rates, the stayed charges would adversely impact the revenue requirement of the remaining charges. However, we recognize on reconsideration that, unlike rates and other charges, the AFPI charges for each facility are severable, and may be stayed without impacting those AFPI charges that are implemented.

SSU next argued that we improperly applied the standard of discretion in reviewing SSU's motion for a partial stay. SSU cited the Stay Order at page 4, wherein we noted that while the Commission may consider the factors listed in Rule 25-22.061(2), Florida Administrative Code, it is not required to impose a stay.

Citing All Florida Surety Co. v. Coker, 79 So. 2d 762, 765 (Fla. 1955), Thomas Jefferson Inc. v. Hotel Employees Union, Local 255, 81 So. 2d 731, 733 (Fla. 1955), and Canakaris v. Canakaris, 382 So. 2d 1197 (Fla. 1980), SSU states that a stay order will be reversed if arbitrary or unreasonable.

The cited language of the order does not indicate a predisposition to deny the motion. The language reiterates the standard of review of a stay motion, and also distinguishes the discretionary nature of a stay under Rule 25-22.061(2), Florida Administrative Code, as opposed to the mandatory stay of subsection (1) of that rule. As to the contention that we erred by not considering the factors, the Stay Order identified the points made by the utility at pages 3-4, and addressed the concern about potential backbilling by requiring the utility to notice its customers as they hook-up to the system.

The utility contended that our decision was inconsistent with rulings in other dockets, and with decisions made in the Stay Order. SSU argued that the Commission severed the interim refund of Lehigh and Marco Island from the refund of the Enterprise facility, but did not recognize the severability of AFPI charges. It also contended that the order increased the potential refund liability of interim rates, but did not permit SSU to implement a plan to insulate itself from potential AFPI backbilling.

The Commission's decisions on those issues stand on their own merits, and can be distinguished from the decision on AFPI rates. Moreover, we have reconsidered our Stay Order and permitted the utility to implement its alternate stay proposal, by, in part, recognizing that the AFPI charges are severable, and that the utility may implement its proposal to collect charges which reduce its potential for backbilling.

Given the fact that several facilities have now been addressed by the Reconsideration Order, and upon further review of the utility's proposal, the utility is hereby permitted to implement its alternate proposal to stay a portion of the AFPI charges approved by the Final Order. The request to stay those charges which have been corrected by Order No. PSC-97-0374-FOF-WS are denied as moot. The request to implement the AFPI charges for the Valencia Terrace water transmission and distribution facilities and wastewater collection facilities is denied, as these facilities had no prior AFPI tariff and the Final Order did not establish non-used and useful plant for these facilities. While we hereby permit the utility to implement its alternate proposal, for the reasons stated above, we will not reconsider our denial of the primary proposal.

Pursuant to Rule 25-30.475(2), Florida Administrative Code, the AFPI charges implemented pursuant to this Order shall be effective for service rendered or connections made on or after the stamped approval date of the tariffs, provided the customers have received notice. Our Staff is given administrative authority to approve the tariff sheets, upon verification that the tariffs are consistent with this Order, and that the proposed customer notice is adequate.

It is impossible to put a utility in the position while on appeal of charging the maximum charge possible, so that backbilling is never an issue. This Commission's rules on stay, and the legal concept of a stay, do not contemplate creating a situation of "minimum exposure", but rather, permit a utility to request that the Commission not implement its order. We initially reviewed the motion for partial stay with this in mind. While a stay should not be employed to permit a utility to collect its maximum potential rates, the utility has demonstrated in this case, the severability of the AFPI charges, and the propriety of its proposal in order to prevent unnecessary backbilling.

Appropriate Security for AFPI Charges

Because we have approved a partial stay for the pre-rate case AFPI charges that are higher than those approved in the Final Order, appropriate protection must be provided while the Final Order is on appeal. The excess of the previously authorized charges shall be collected subject to refund with interest. Since the AFPI charges increase each month and the number of customers connecting onto any given facility cannot be estimated, the amount of any potential refund in this case cannot be accurately calculated. Therefore, a bond or corporate undertaking is not appropriate. Instead, the utility shall deposit in the escrow account each month the difference in revenue between the pre-rate case tariffs and the charges approved in the Final Order.

Pursuant to Rule 25-30.360(6), Florida Administrative Code, the utility shall provide a report by the 20th day of each month indicating in detail the total amount of AFPI collected from the pre-rate case charges, the additional revenue collected through the pre-rate case charges, all on a monthly and total basis. The escrow agreement shall be established between the utility and an independent financial institution pursuant to a written escrow agreement. The Commission shall be a party to the written escrow agreement and a signatory to the escrow account. The written escrow agreement shall state the following: that the account is established at the direction of this Commission for the purpose set forth above; that withdrawals of funds can only occur with the

prior approval of the Commission; that the account shall be interest bearing; that the Director of Records and Reporting must be signatory to the escrow agreement; that all information concerning the escrow account be available from the institution to the Commission or its representative at all times; and that pursuant to Cosentino v. Elson, 263 So. 2d 253 (Fla. 3d. DCA 1972), escrow accounts are not subject to garnishments.

If a refund to the customers or developers is required, all interest earned by the escrow account shall be distributed to the customers and undertaken in accordance with Rule 25-30.360, Florida Administrative Code. If a refund to the customers is not required, the interest earned by the escrow account shall revert to the utility. In no instance shall maintenance and administrative costs associated with any refund be borne by the customers. The costs are the responsibility of, and shall be borne by, the utility.

OPC'S MOTION FOR RECONSIDERATION

On January 9, 1997, the Office of Public Counsel (OPC) filed a motion requesting that the prehearing officer establish a schedule for filing motions for reconsideration. On February 19, 1997, the prehearing officer issued Order No. PSC-97-0190-PCO-WS (Schedule Order), denying OPC's request to establish a schedule.

In addition to filing a request to establish a schedule for the filing of reconsideration motions, on January 15, 1997, OPC filed a motion for reconsideration of the Final Order. By Order No. PSC-97-0374-FOF-WS (Reconsideration Order), issued April 7, 1997, we denied OPC's motion because it was untimely filed.

On March 3, 1997, OPC filed a motion requesting that the full Commission reconsider the prehearing officer's denial of OPC's request for a schedule, accompanied by a request for oral argument on its motion. SSU filed responses to both motions.

OPC's Request for Oral Argument

A request for oral argument must be made in a separate document which accompanies the relevant motion and must demonstrate why oral argument would assist the Commission in its decision. Oral argument on a motion for reconsideration is granted at our discretion. Rules 25-22.058(1) and 25-22.060(1)(f), Florida Administrative Code. OPC contends that its motion deals with an issue never before decided by the Commission, and that oral argument will assist in addressing this issue.

In its March 17, 1997, response, SSU opposed OPC's request for oral argument. SSU contended that OPC did not demonstrate that oral argument would aid this Commission. SSU disagreed with OPC's contention that its motion addressed issues never decided by the Commission, and pointed to recent decisions on untimely reconsideration petitions: City of Hollywood v. Public Employee Relations Commission, 432 So. 2d 79 (Fla. 4th DCA 1983) and Citizens of the State of Florida v. North Fort Myers Utility, Inc. and the Public Service Commission (Fla. 1st DCA, Case No. 95-1439) (November 16, 1995, order dismissing appeal).

We do not agree with SSU's contention that there was nothing new about the law on the issue of the filing for reconsideration after a notice of appeal. While the cases cited above were relevant to the situation, and were relied upon in our decision, the situation presented was one of first impression before the Commission. Nevertheless, we fully addressed this issue and ruled upon the timeliness of OPC's motion for reconsideration of the Final Order in Order No. PSC-97-0374-FOF-WS, issued April 7, 1997. Oral argument would not aid us in our determination on this issue. Additionally, OPC did not request oral argument on its motion for reconsideration of the Final Order. Therefore, we denied OPC's request for oral argument on its motion for reconsideration.

Reconsideration of the Schedule Order

According to Rule 25-22.060(3), Florida Administrative Code, a party must file for reconsideration of an order within 15 days of its issuance. The Final Order was issued on October 30, 1996, and SSU filed a notice of appeal two days later. On November 14, 1996, the group of homeowners associations known as Marco, et al. filed a motion for reconsideration of the final order with the Commission, and a motion with the First District Court of Appeal to remand jurisdiction back to the Commission. SSU filed a cross-motion for reconsideration on November 26, 1996. On December 31, 1996, the Court issued an order amending a prior order to indicate that the appeal was abated pending our disposition of all motions or cross-motions for reconsideration. The Court stated that the determination of the timeliness or propriety of any motion should be made by this Commission.

The Schedule Order denied OPC's motion to establish a schedule for the filing of reconsideration motions. The order cited the City of Hollywood and Citizens v. North Fort Myers Utility decisions, which held that the time schedules for seeking reconsideration cannot be extended by an agency. The order also noted that the full Commission would rule on all motions and cross motion.

OPC's motion for reconsideration of the Schedule Order asserts that the order erroneously concluded that parties must file for reconsideration when an order has been appealed and the Commission has no jurisdiction. OPC stated that the time limits set forth in Rule 25-22.060(3), Florida Administrative Code, should be construed to only apply when we have jurisdiction to take up such a motion. OPC argued that the Schedule Order erroneously concludes otherwise, and effectively precludes a party from filing for reconsideration after an appeal.

In its March 17, 1997, response, SSU stated its agreement with the prehearing officer's order, and contended that OPC did not provide a basis for reconsideration. SSU argued that OPC's motion did not point out a mistake of fact or law, but instead reargued its original motion, and attempted to raise new points.

The subject matter of OPC's instant motion, the merits of the prehearing officer's denial of its request to establish a schedule, has been fully considered in our denial of OPC's motion for reconsideration of the Final Order. In the Reconsideration Order, we concluded that an agency cannot extend the time period for reconsideration motions. We stated that a party could not thwart another's right to file for reconsideration by quickly filing for an appeal, because a litigant may petition an appellate court to relinquish jurisdiction to allow the post-hearing motion to be addressed. We noted that Marco et al. did exactly that in this case. Given the appellate decisions regarding post-hearing filing, and the absence of any authority indicating that the time period can be tolled, OPC's motion for reconsideration was denied as untimely (Reconsideration Order at 23-5).

These findings of the Reconsideration Order affirm the ruling made by the prehearing officer in the Schedule Order and render the instant motion for reconsideration moot. The Commission has already fully addressed the issue, and to allow further argument on a separate, but similar motion, would be inappropriate. In addition, while it raised disagreement with the order's interpretation of decisional and statutory law, OPC did not demonstrate that a mistake of fact or law was made in the Schedule Order. Therefore, OPC's motion for reconsideration of the Schedule Order is denied as moot.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that the Motion for Reconsideration filed by Southern States Utilities,

Inc., is granted in part and denied in part, as set forth in the body of this Order. It is further

ORDERED that the sentence on page 5 of Order No. PSC-97-0099-FOF-WS which states that "[s]everal of the charges identified in the utility's attachment were not addressed in the Final Order, or were not part of SSU's initial filing" is clarified to indicate that the charges were those omitted in error. It is further

ORDERED that Southern States Utilities, Inc., may implement its alternate proposal for a partial stay of the Commission's decision regarding APFI charges in Order No. PSC-96-1320-FOF-WS. It is further

ORDERED that, pursuant to Rule 25-30.475(2), Florida Administrative Code, the allowance for funds prudently invested charges implemented pursuant to this Order shall be effective for service rendered or connections made on or after the stamped approval date of the tariffs, provided the customers have received notice. It is further

ORDERED that our Staff is given administrative authority to approve the tariff sheets, upon verification that the tariffs are consistent with this Order, and that the proposed customer notice is adequate. It is further

ORDERED that the excess of the previously authorized allowance for funds prudently invested charges shall be collected subject to refund with interest and deposited in an escrow account each month, pursuant to the conditions set forth in this Order. It is further

ORDERED that, pursuant to Rule 25-30.360(6), Florida Administrative Code, Southern States Utilities, Inc., shall provide a report by the 20th day of each month indicating in detail the total amount of allowance for funds prudently invested charges collected from the pre-rate case charges, the additional revenue collected through the pre-rate case charges, on a monthly and total basis. It is further

ORDERED that the Motion for Reconsideration filed by the Office of Public Counsel is denied.

By ORDER of the Florida Public Service Commission, this 29th day of May, 1997.

BLANCA S. BAYÓ, Director
Division of Records and Reporting

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NOTICE OF JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), 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 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 wastewater utility by filing a notice of appeal with the Director, Division of Records and Reporting, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, 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 Appellate Procedure. The notice of appeal must be in the form specified in Rule 9.900(a), Florida Rules of Appellate Procedure.