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REPLY TO: **Tallahassee**

September 2, 1992

**HAND DELIVERY**

Mr. Steve Tribble, Director  
Division of Records and Reporting  
Florida Public Service Commission  
101 East Gaines Street  
Tallahassee, Florida 32399-0850

Re: FPSC Docket No. 920199-WS

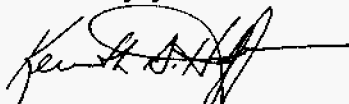
Dear Mr. Tribble:

Enclosed herewith for filing in the above-referenced docket are the original and fifteen copies of Southern States' Request for Confidential Classification and Motion for Protective Order. Enclosed also are envelopes marked "Confidential" which contain the confidential documents (all portions are confidential) referenced in the Request for Confidential Classification and Motion for Protective Order.

Please acknowledge receipt of these documents by stamping the extra copy of this letter "filed" and returning the same to me.

Thank you for your assistance with this filing.

Sincerely yours,

  
Kenneth A. Hoffman

KAH/amb  
Enclosures  
cc: Parties of Record

RECEIVED & FILED



DOCUMENT NUMBER-DATE  
09999 SEP -2 1992  
FPSC-RECORDS/REPORTING

9

**BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**

In re: Application of Southern )  
States Utilities, Inc. and Deltona )  
Utilities, Inc. for Increased )  
Water and Wastewater Rates in )  
Citrus, Nassau, Seminole, Osceola, )  
Duval, Putnam, Charlotte, Lee, )  
Lake, Orange, Marion, Volusia, )  
Martin, Clay, Brevard, Highlands, )  
Collier, Pasco, Hernando, and )  
Washington Counties. )

Docket No. 920199-WS  
Filed: September 2, 1992

**SOUTHERN STATES' REQUEST FOR  
CONFIDENTIAL CLASSIFICATION AND MOTION FOR PROTECTIVE ORDER**

TO: HONORABLE BETTY EASLEY  
Prehearing Officer and Commissioner  
Florida Public Service Commission  
101 East Gaines Street  
Tallahassee, Florida 32399-0850

SOUTHERN STATES, INC. and DELTONA UTILITIES, INC. (hereinafter referred to collectively as "Southern States"), by and through its undersigned counsel, and pursuant to Rule 25-22.006, Florida Administrative Code, requests confidential classification and a protective order regarding specific responses and documents provided to the Florida Public Service Commission Staff ("Staff") and the OFFICE OF PUBLIC COUNSEL ("Public Counsel") in response to specific interrogatories and requests for production of documents served by Public Counsel, all of which are specifically described below. In support of its request, Southern States states as follows:

1. On August 13, 1992, Southern States filed a Notice of Intent to Request Confidential Classification. On the same date, Southern States filed an Amended Motion for Temporary Protective Order for Confidential Information. Both the Notice of Intent to

Request Confidential Classification and the Amended Motion for Temporary Protective Order for Confidential Information were directed to written responses and documents in response to the following:

**Public Counsel's First Set of Interrogatories**

Appendix 6-A to Interrogatory No. 6.

Response to Interrogatory No. 42 and Appendices 42-A and 42-B.

Response to Interrogatory No. 132 and Appendix 132-A.

**Public Counsel's Third Set of Interrogatories**

Appendix 206-C to Interrogatory No. 206.

**Public Counsel's First Set of Requests for Production of Documents**

Response to Request No. 28 and Appendices 28-A and 28-B.

Response to Request No. 41 and Appendices 41-A through 41-J.

Response to Request No. 53 and Appendices 53-A through 53-C.

2. The specific interrogatories and document requests are appended to Southern States' Amended Motion for Temporary Protective Order for Confidential Information, a copy of which is attached hereto as Exhibit "A". Southern States' Motion for Temporary Protective Order for Confidential Information was necessary in that the documents produced to Public Counsel and Staff were of a confidential proprietary nature. Southern States' request for temporary protection is still pending.

3. The information sought by Public Counsel and provided by

Southern States pertains to salaries, benefits, state and federal income tax returns and related documents and information, and FICA wage base information. The specific grounds supporting a determination that such information and documents constitute proprietary confidential business information under Section 367.156(3), Florida Statutes are set forth in Southern States' Amended Motion for Temporary Protective Order for Confidential Information and are incorporated herein by reference.

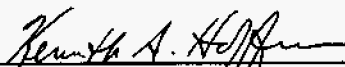
4. The material for which confidential classification is sought is intended to be and is treated by Southern States as private and would not otherwise be disclosed except pursuant to an agreement to maintain its confidential status.

5. Because the documents covered by this request are voluminous and are considered by Southern States to be proprietary and confidential in their entirety, Southern States has not attached highlighted and redacted copies of such documents. Instead, Southern States has marked all of these documents as "Confidential" and has appended one set of the documents to this request in envelopes marked "Confidential". A copy of these documents with no portions redacted have previously been provided to Public Counsel and Staff.

6. Upon conclusion of this proceeding, Southern States requests that the confidential information and documents described above be returned to Southern States.

WHEREFORE, Southern States requests that the Commission enter an order declaring that the information and documents described herein constitute proprietary and confidential business information under Section 367.156(3), Florida Statutes, and that any use of such confidential information at the final hearing be in accordance with the procedures set forth in Order No. PSC-92-0638-PCO-WS (Order Establishing Procedure).

Respectfully submitted,

  
KENNETH A. HOFFMAN, ESQUIRE  
FLOYD R. SELF, ESQUIRE  
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and

BRIAN P. ARMSTRONG, ESQUIRE  
Southern States Utilities, Inc.  
1000 Color Place  
Apopka, Florida 32703  
(407) 880-0058

Attorneys for Applicants  
Southern States Utilities, Inc.  
and Deltona Utilities, Inc.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing Southern States' Request for Confidential Classification and Motion for Protective Order was furnished by hand delivery (\*) or by U.S. Mail, this 2nd day of September 1992, to the following:

Harold McLean, Esq.\*  
Office of Public Counsel  
111 West Madison Street  
Room 812  
Tallahassee, Florida 32399-1400

Mr. Harry C. Jones  
Cypress and Oak Villages  
Association  
91 Cypress Boulevard West  
Homosassa, Florida 32646

Matthew Feil, Esq.\*  
Catherine Bedell, Esq.\*  
Florida Public Service Commission  
Division of Legal Services  
101 East Gaines Street  
Room 226  
Tallahassee, Florida 32399-0850

By:   
KENNETH A. HOFFMAN, ESQ.

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application of Southern )  
States Utilities, Inc. and Deltona )  
Utilities, Inc. for Increased )  
Water and Wastewater Rates in )  
Citrus, Nassau, Seminole, Osceola, )  
Duval, Putnam, Charlotte, Lee, )  
Lake, Orange, Marion, Volusia, )  
Martin, Clay, Brevard, Highlands, )  
Collier, Pasco, Hernando, and )  
Washington Counties. )

Docket No. 920199-WS  
Filed: August 13, 1992

**SOUTHERN STATES' AMENDED MOTION FOR  
TEMPORARY PROTECTIVE ORDER  
FOR CONFIDENTIAL INFORMATION**

TO: HONORABLE BETTY EASLEY  
Commissioner and Prehearing Officer  
Florida Public Service Commission  
101 East Gaines Street  
Tallahassee, Florida 32399

SOUTHERN STATES UTILITIES, INC. and DELTONA UTILITIES, INC. (hereinafter referred to collectively as "Southern States"), by and through undersigned counsel and pursuant to Rule 1.280(c), Florida Rules of Civil Procedure and Rules 25-22.006(5) and 25-22.034, Florida Administrative Code, hereby files its Amended Motion for Temporary Protective Order granting exemption of specific information and documents responsive to the OFFICE OF PUBLIC COUNSEL'S ("Public Counsel") First and Third Sets of Interrogatories and First Set of Requests for Production of Documents from Section 119.07(1), Florida Statutes. In support of its Motion for Temporary Protective Order, Southern States states as follows:

1. In Interrogatory Nos. 6(e), 42 and 132 in its First Set of Interrogatories, Interrogatory No. 206(j) and (k) in its Third Set of Interrogatories, and Document Request Nos. 28, 29, 30, 41

and 53 in its First Set of Requests for Production of Documents, Public Counsel requests Southern States to provide specific information and documents pertaining to salaries, benefits, state and federal income tax returns and related documents and information, and FICA wage base information. The specific information and documents requested by Public Counsel are set forth below:

**Public Counsel's First Set of Interrogatories**

(6) Identify all expenses associated with acquisitions and mergers incurred during each year for the years 1987, 1988, 1989, 1990, and 1991, and year to date, 1992; and for these years:

e. identify which, if any, officers of the company received any remuneration for activity related to acquisitions and mergers, and if so, the dollar amount.

(42) Please provide the following information for the test year and two preceding years:

a. a list of the company's officers and their salaries.

b. a list of salaries for administrative and general.

c. a list of the expenses charged to Account 921.15, Miscellaneous Office Expense Supplies.

d. a list of expenses and the associated justification for amounts charged to Travel and Entertainment, Officers.

e. a list of expenses and justification for amounts charged to Travel and Entertainment - Other.

(132) Public Relations:

a. Provide the name and title of all management employees (including those employed by subsidiaries or affiliates, including parent companies) who engage in public relations on behalf of the company.



b. State the salary and associated benefits amounts for each employee listed in response to (a) for the year 1991.

c. To the extent not indicated on each voucher, indicate in what account the travel and entertainment expenses are booked, and what allocation factor is used to allocate the costs to the various systems and companies.

d. To the extent not evident on the voucher, explain all codes used to charge expenses to different accounts, systems, and companies.

**Public Counsel's Third Set of Interrogatories**

(206) For purposes of this request, please refer to MFR Schedule B-1.

j. Please explain the Company's rationale for making the adjustment "Add Allocation of Labor Adjustment Due to Sale of Deltona Gas."

k. Please provide any workpapers and calculations used to develop this adjustment.

**Public Counsel's First Set of Requests for Production of Documents**

(28) Provide a copy of each bonus and incentive compensation plan in use at the Company and the annual cost to the Company under each such plan for the years 1989, 1990 and 1991 and state the annual budgeted cost expected to be incurred by the Company under each such bonus or incentive plan for the current year and the next three years.

(29) Provide a complete copy of any and all revenue rulings, private letter rulings, tax regulations, court decisions, and IRS correspondence which the company has received since 1/1/89.

(30) Provide a copy of all Federal and state income tax returns for the years 1988, 1989, 1990 and 1991, including a complete copy of any and all consolidating schedules, workpapers and Schedule M.

(41) Taxes, other than income taxes. Provide full supporting documentation, workpapers and correspondence

associated with any and all taxes other than income taxes paid in the years 1989, 1990 and 1991. Also provide full supporting documentation, workpapers and correspondence associated with any refunds of taxes other than income taxes received in the past two years. Indicate which accounts were affected and the associated dollar amounts. Also describe how the Company intends to treat this item for rate case purposes.

(53) Provide workpapers and salary listings supporting the FICA wage base used by the Company to compute FICA expense for 1989, 1990 and 1991.

2. Section 367.156(3) Florida Statutes, defines "proprietary confidential business information" to include information which if disclosed "would cause harm to the ... company's business operations, and has not been disclosed unless disclosed pursuant to a statutory provision, an order of a court or administrative body, or a private agreement that provides that the information will not be released to the public." Under the statute, proprietary business information includes, but is not limited to:

(a) Trade secrets.

(e) Information relating to competitive interests, the disclosure of which would impair the competitive businesses of the provider of the information.

3. Section 688.002(4), Florida Statutes, defines a "trade secret" as information that:

(a) Derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, other persons who can obtain economic value from its disclosure or use, and

(b) Is the subject of efforts that are reasonable under the circumstances to maintain its secrecy.

4. Southern States maintains that the salary, benefits and tax information requested by Public Counsel falls within the scope of a "trade secret" as defined by statute. The information also relates to Southern States' competitive interests such that the public disclosure of such information would cause harm to Southern States' business operations and competitive interests. The water and wastewater industry is a highly competitive industry. Water and wastewater utilities compete for qualified and experienced personnel. Maintaining quality employees at reasonable and justified salary levels is a key ingredient to the provision of quality service at reasonable rates. The salary and benefits information and documents requested by Public Counsel clearly relates to Southern States' competitive interests and the public disclosure of such information may ultimately serve to adversely impact Southern States' ability to retain qualified employees at reasonable salary levels. The various items of tax information and documents requested by Public Counsel also constitute proprietary confidential business information as defined by Section 367.156(3), Florida Statutes as previously recognized by the Commission on a number of occasions. See, e.g., Docket No. 900239-WS, Order No. 23838 issued December 7, 1990.


5. Southern States will provide the above-described information and documents requested by Public Counsel to analysts/employees of Public Counsel working at Southern States' home office in Apopka, Florida, on this date, August 7, 1992.

6. If Public Counsel identifies specific materials that it

intends to use in this proceeding, Southern States will file a formal request for confidential treatment of such materials pursuant to a motion for protective order as required by Rule 25-22.006(5)(a), Florida Administrative Procedure.

WHEREFORE, for the reasons stated above, Southern States requests the Prehearing Officer to enter an order granting this Motion for a Temporary Protective Order and that the information sought by Interrogatory Nos. 6(e), 42, 132 and 206(j) and (k) and the documents sought pursuant to Document Request Nos. 28, 29, 30, 41 and 53 be treated as proprietary and confidential for a period of sixty (60) days, pending Public Counsel's review and identification of those materials that it intends to use in this proceeding.

Respectfully submitted,

  
KENNETH A. HOFFMAN, ESQUIRE  
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(407) 880-0058

Attorneys for Applicants Southern  
States Utilities, Inc. and  
Deltona Utilities, Inc.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing Southern States' Amended Motion for Temporary Protective Order for Confidential Information was furnished by hand delivery, this 13th day of August, 1992, to the following:

Harold McLean, Esq.  
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111 West Madison Street  
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Catherine Bedell, Esq.  
Florida Public Service Commission  
Division of Legal Services  
101 East Gaines Street  
Room 226  
Tallahassee, Florida 32399

By:   
KENNETH A. HOFFMAN, ESQ.