



JACK SHREVE
PUBLIC COUNSEL

STATE OF FLORIDA
OFFICE OF THE PUBLIC COUNSEL

c/o The Florida Legislature
111 West Madison Street
Room 812
Tallahassee, Florida 32399-1400
904-488-9330

ORIGINAL
FILE COPY

September 14, 1995

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' Third Motion to Dismiss.

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

Sincerely,

Harold McLean
Associate Public Counsel

- ACK
 - AFA 3
 - APP
 - CAF
 - CMU
 - CTR
 - EAG
 - LEG 1
 - LIN 5
 - CFD
 - RCH
 - SEC 1
 - WFS
 - OTH
- HM:bsr
Enclosures

RECEIVED & FILED

FPSC-BUREAU OF RECORDS

DOCUMENT NUMBER - DATE

09079 SEP 14 1995

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: September 14, 1995

CITIZENS' THIRD MOTION TO DISMISS

The Citizens of the State of Florida, by and through JACK SHREVE, Public Counsel, (Citizens) move the Florida Public Service Commission (commission) to dismiss the above-referenced filing because the Citizens have no notice of and have no means to discover whether and/or to what extent their interests are affected by this filing. As grounds for this motion, the Citizens say:

1. This case was initiated by Southern States Utilities, Inc. on April 26, 1995, when it requested approval of a test year from the commission.
2. Despite the passage of four and one half months since that time, customers of this utility have not been correctly noticed and cannot ascertain whether and/or to what extent their interests are affected. Indeed, the notice provided before the company misleads

customers because it fails to inform customers the extent to which their rates may be raised.

3. Even if SSU's view that the official date is established in this case as August 2nd, 1995, each and every allegation concerning the lack of notice voiced in the instant motion is still accurate.

4. The lack of SSU's compliance with commission rules 25-22.0407 is set forth in the Citizens' Second Motion to Dismiss, filed September 8, 1995. The September motion addresses the customers' obligation to guess whether their rates are to be established with Hernando, Hillsborough, and Polk counties in or out of the filing. This motion addresses the additional confusion occasioned by SSU's filing for a uniform rate design where the commission has itself recently receded from uniform rates, if not for the future, certainly for the past. The notice provided by the company sets forth two possible rates, and the one thing we know now is that neither of the rates is accurate.

5. Rule 25-22.0407(4)(c)1 requires SSU to include with its filing a summary of the MFRs showing a comparison of the present and proposed rates and charges; neither the present nor proposed rates are known. As of this date, there is simply no one in the entire scenario who can say whether and/or to what extent any customer's interests are to be affected by this docket, if at all.

6. There is no customer of this utility who can make a rational decision as to what position to take with respect to this case because no customer knows and no customer has the means to ascertain the extent of relief sought. There is no customer of this utility who can know what his or her present rate is; there is no customer who can know what his or her rate might become. Consequently there is no customer who can know or ascertain to what extent SSU's filing affects his or her interests, if at all.

7. Aside from commission rules on the subject, fundamental due process demands that notice be given to any citizen whose interests are to be affected by government action.

8. Customers' meaningful point of entry into the administrative process similarly demands that they be furnished with adequate notice apprising each of them whether and to what extent their interests may be affected.

9. Despite this lack of notice, this case is proceeding to conclusion.

10. Service hearings are scheduled and are taking place as soon as September 14, all while customers have deficient notice.

11. Since the notices and rate case synopsis furnished to the customers thus far do not incorporate the commission's September

12, 1995, each of the notices is demonstrably incorrect.

12. The notice which has been provided to the customers actually misleads them, in that the rates identified in their notice and rate case synopsis--both present and proposed--are incorrect.

WHEREFORE, the Citizens move the commission to dismiss this case because customers have not been provided accurate notice such that each can determine whether and to what extent his or her interests are affected and because the notice provided thus far incorrectly identifies both present and proposed rates.

Respectfully submitted,

JACK SIREVE
PUBLIC COUNSEL

Harold McLean
Associate Public Counsel

Office of Public Counsel
c/o 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 14th day of September, 1995.

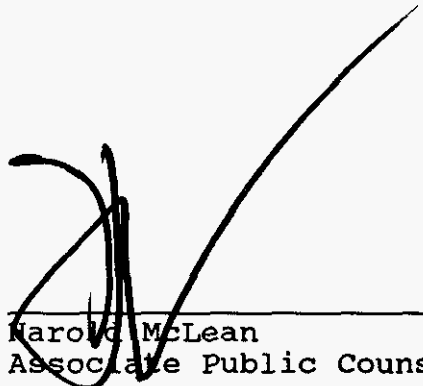
*Ken Hoffman, Esq.
William B. Willingham, Esq.
Rutledge, Ecenia, Underwood,
Purnell & Hoffman, P.A.
P.O. Box 551
Tallahassee, FL 32302-0551

Brian Armstrong, Esq.
Matthew Feil, Esq.
Southern States Utilities
General Offices
1000 Color Place
Apopka, FL 32703

Kjell W. Petersen
Director
Marco Island Civic Association
P.O. Box 712
Marco Island, FL 33969

*Lila Jaber, Esq.
Division of Legal Services
Fla. Public Service Commission
2540 Shumard Oak Blvd.
Tallahassee, FL 32399

Michael B. Twomey, Esq.
P. O. Box 5256
Tallahassee, Florida
32314-5256



Harold McLean
Associate Public Counsel