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September 22, 1995



Ms. Blanca S. Bayo, Director
Division of Records and Reporting
Florida Public Service Commission
2540 Shumard Oak Boulevard
Betty Easley Conference Center
Room 110
Tallahassee, Florida 32399-0850

HAND DELIVERY

Re: Docket No. 950495-WS

Dear Ms. Bayo:

Enclosed herewith for filing in the above-referenced docket on behalf of Southern States Utilities, Inc. are the following documents:

1. Original and fifteen copies of Southern States Utilities, Inc.'s Objection to Interrogatory 157 from the Office of Public Counsel's Fifth Set of Interrogatories and Motion for Protective Order;
2. Original and fifteen copies of SSU's Response to Office of Public Counsel's Motion to Cap SSU's Maximum Interim and Final Rates to the Rates Requested by SSU; and
2. A diskette in Word Perfect 6.0 containing a copy of the document entitled "Resp."

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,

Kenneth A. Hoffman

KAH/rl
cc: All Parties of Record
Object to Inter 157

DOCUMENT NUMBER-DATE

09431 SEP 22 1995

FPSC-RECORDS/REPORTING

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FPSC-BUREAU OF RECORDS

Response OPC
DOCUMENT NUMBER-DATE

09432 SEP 22 1995

FPSC-RECORDS/REPORTING

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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application by Southern)
States Utilities, Inc. for rate)
increase and increase in service)
availability charges for Orange-)
Osceola Utilities, Inc. in)
Osceola County, and in Bradford,)
Brevard, Charlotte, Citrus, Clay,)
Collier, Duval, Hernando, High-)
lands, Hillsborough, Lake, Lee,)
Marion, Martin, Nassau, Orange,)
Osceola, Pasco, Polk, Putnam,)
Seminole, St. Johns, St. Lucie)
Volusia and Washington Counties.)
_____)

ORIGINAL
FILE COPY

Docket No. 950495-WS

Filed: September 22, 1995

**SOUTHERN STATES UTILITIES, INC.'S OBJECTION
TO INTERROGATORY 157 FROM THE OFFICE OF PUBLIC
COUNSEL'S FIFTH SET OF INTERROGATORIES AND
MOTION FOR PROTECTIVE ORDER**

Southern States Utilities, Inc. ("SSU"), by and through its undersigned counsel, hereby files its Objection to Interrogatory No. 157 propounded by the Office of Public Counsel ("OPC") and requests entry of a Protective Order determining that SSU is not required to respond to said interrogatory. In support of its Response and Motion for Protective Order, SSU states as follows:

1. On September 12, 1995, OPC served SSU with OPC's Fifth Set of Interrogatories. Interrogatory No. 157 within the aforesaid fifth set, states as follows:

Income tax, consolidated. For each affiliated company participating in the consolidated tax return with the company, state the amount of estimated net income or loss for 1995 and 1996.

2. As a preliminary matter, SSU notes that Interrogatory No. 157 is somewhat unclear. SSU cannot determine whether the

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interrogatory requests book income or loss, tax income or loss or both. This suggestion for clarification notwithstanding, SSU objects to Interrogatory No. 157 to the extent it requests information regarding corporations other than SSU for several reasons, particularly: (1) SSU does not have possession, custody or control over the projected income figures of every corporation OPC references in Interrogatory No. 157, (2) the request solicits information not relevant to this case and not reasonably calculated to lead to the discovery of admissible evidence, and (3) when weighed against OPC's interests in discovering information which might be relevant, the interests of the referenced corporations other than SSU in maintaining the privacy of their business efforts should be protected.

3. Rather than engage in protracted discussion of the grounds supporting each of the foregoing objections, SSU refers the Commission to the authorities and arguments made in SSU's August 29, 1995 Objections to OPC's First Set of Interrogatories and Document Requests and Motion for Protective Order, which are incorporated herein by reference. Briefly explained, the basis for SSU's objections to the instant interrogatory appear below.

4. OPC has made no showing that SSU and each and every of the affiliate companies referenced in the interrogatory acted as "as one" in filing the present rate proceeding. Such a showing is a necessary prerequisite to OPC's obtaining information in the possession of such other companies through discovery requests served on SSU. Medivision of East Broward County, Inc. v.

Department of Health and Rehabilitative Services, 488 So.2d 886 (Fla. 1st DCA 1986), Michelin Tire Corp. v. Roose, 531 So.2d 361 (Fla. 4th DCA 1988). Neither an affiliate's voluntarily production of information nor its voluntarily production of a witness serves to waive or impair this objection. Taking OPC's assumption to its logical extreme, OPC could obtain discovery from any person with whom SSU does business - any vendor, any consultant -- by serving discovery on SSU. In accordance with the cases referred to herein, such a concept is not recognized in the law of discovery.

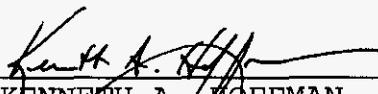
5. Interrogatory No. 157 requests information outside the permissible scope of discovery. On its face, this interrogatory requests information pertaining to SSU and companies other than SSU. Under the authority cited by SSU in its August 29, 1995, objections and motion, particularly CalderBank v. Cazares, 435 So.2d 377 (Fla. 5th DCA 1993), Krypton Broadcasting v. MGM-Pathe Communications, Co., 629 So.2d 852 (Fla. 1st DCA 1994), and Cooper v. Fulton, 117 So.2d 33 (Fla. 3rd DCA 1960), the information requested does not have a readily apparent causal connection to the issues in this case. OPC should be required to show how the information sought bears a reasonably logical connection to information which will be admissible and then refine its discovery requests accordingly.

6. Interrogatory No. 157 is needlessly intrusive even if a fraction of the information sought is considered relevant. The Commission should balance OPC's need for discovery and the possible probative value of this discovery against the privacy interests of

the persons or entities from whom that discovery is sought. See e.g. Pyszka, Kessler et al. v. Mullen, 602 So.2d 955 (Fla. 3rd DCA 1991). When weighed against OPC's interests in discovering information which "might" be relevant in this proceeding, the affiliates' interests in maintaining the privacy of their business endeavors should be protected and the discovery not allowed. Ernst & Ernst v. Reedus, 260 So.2d 258 (Fla. 3rd DCA 1972).

WHEREFORE, SSU respectfully requests that an Order be entered determining that SSU is not required to respond to OPC Interrogatory No. 157.

Respectfully submitted,


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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing Southern States Utilities, Inc.'s Objection to Interrogatory 157 from the Office of Public Counsel's Fifth Set of Interrogatories and Motion for Protective Order was furnished by U. S. Mail to the following this 22nd day of September, 1995:

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