

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 22, 1995

CITIZENS' FIFTH MOTION TO COMPEL AND FIFTH MOTION TO POSTPONE DATE FOR FILING INTERVENOR TESTIMONY

The Citizens of Florida ("Citizens"), by and through Jack Shreve, Public Counsel, move the Commission to compel Southern States Utilities, Inc. ("SSU") to provide copies of all tax returns and workpapers described in this pleading.

1. The Citizens served our first request for production of documents on Southern States Utilities, Inc., on July 18, 1995. Responses were due on August 22, 1995.

2. Request No. 71 in the first set of requests for production of documents asked SSU to provide a copy of all federal income tax returns for Minnesota Power & Light for each of the years 1992, 1993, and 1994, including a complete copy of any and all schedules, workpapers, and consolidating schedules.

3. In response to this request for production of documents, SSU allowed the Citizens to inspect the Minnesota Power & Light

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1994 and 1993 consolidated return, the Minnesota Power & Light 1993 and 1994 eliminations index and workpapers, and the SSU 1993 and 1994 stand alone tax return workpapers provided to Minnesota Power & Light. These documents were produced for inspection at Apopka on Tuesday, September 19, 1995 and September 20, 1995. However, SSU refused to allow the Citizens to make copies of these documents.

4. The Commission has adopted Rule of Civil Procedure 1.350 concerning the production of documents. This rule allows parties to both inspect and copy documents. Notwithstanding this right to copy documents that are produced for inspection, SSU has unilaterally prohibited the copying of documents produced.

5. There can be no argument about the relevancy of these documents. SSU has already produced the documents for inspection. The only issue is whether the Citizens may copy documents that are produced for inspection in response to requests for production of documents.


6. SSU's unilateral refusal to allow the copying of documents produced for inspection has the effect of obstructing the development of Citizens' case. These documents need to be studied, compared to other documents, and used to help develop the case further. Rule of Civil Procedure 1.350 provides parties the right to copy documents produced for inspection, and SSU may not unilaterally decide otherwise.

7. Discovery is a process where the response to a discovery request is frequently the basis for further discovery focusing more narrowly on an issue. By refusing to allow the Citizens to copy the documents produced, SSU is obstructing the process of building on that discovery and following up on questions raised by those documents. Our ability to prepare for this case is therefore irrevocably delayed. In order to address this irrevocable delay caused by SSU refusing to allow copying of documents, the Citizens request the Commission to postpone, on a day-for-day basis, the filing date for intervenor testimony until SSU provides copies of all of these documents. Intervenor testimony is now tentatively scheduled for November 20, 1995. The day-for-day postponement should be determined using that date as a starting point.

WHEREFORE, the Citizens move the Commission to enter an order requiring SSU to provide copies of all of the documents described in this pleading and to postpone the filing date for intervenor testimony.

Respectfully submitted,

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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 22nd day of September, 1995.

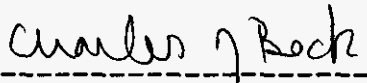
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