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November 21, 1995

**ORIGINAL  
FILE COPY**

**HAND DELIVERY**

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

Re: Docket No. **950495-WS**

Dear Ms. Bayo:

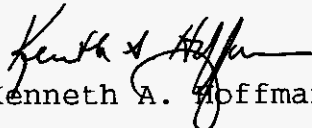
Enclosed herewith for filing in the above-referenced docket on behalf of Southern States Utilities, Inc. ("SSU") are the following documents:

1. Original and fifteen copies of SSU's First Request for Confidential Classification; and
2. A disk in Word Perfect 6.0 containing a copy of the document entitled "Confidential."

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

X-ref 10684-95

KAH/rl  
cc: All Parties of Record  
Trib.3

ACK ✓  
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DOCUMENT NUMBER-DATE  
11718 NOV 21 95  
FPSC-RECORDS/REPORTING

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, Highlands, Hillsborough, Lake, Lee, Marion, Martin, Nassau, Orange, Osceola, Pasco, Polk, Putnam, Seminole, St. Johns, St. Lucie Volusia and Washington Counties.

Docket No. 950495-WS

Filed: November 21, 1995

SSU'S FIRST REQUEST FOR CONFIDENTIAL CLASSIFICATION

Southern States Utilities, Inc. ("SSU"), by and through its undersigned counsel, and pursuant to Rule 25-22.006(4), Florida Administrative Code, hereby files its First Request for Confidential Classification with respect to documents provided in response to the Commission Staff Audit. In support of its First Request for Confidential Classification, SSU states as follows:

1. In response to a request of the Commission Staff auditors, SSU produced documents reflecting Interim 1995 and Projected 1996 Salary and Wage Expenses for SSU's Executive Division. At the time these documents were produced, SSU confirmed its notice of intent to seek confidential classification of these documents. See Audit Disclosure No. 16 of Staff Audit Report issued in the above-captioned docket.

2. SSU requests that the documents attached hereto as Attachment "A", the only documents from the documents referenced in paragraph 1 above which the Staff auditors have not returned to SSU and which have now become part of the Staff Audit Report, be

DOCUMENT NUMBER-DATE

11718 NOV 21 1995 3633 FPSC-RECORDS/REPORTING

classified as "proprietary confidential business information" within the meaning of Section 367.156, Florida Statutes (1993). Attachment "A" is an edited version of the documents on which the information asserted to be confidential has been blocked out by the use of an opaque marker. An unedited version of the document included in Attachment "A" has been submitted to the Division of Records and Reporting on this date under a separate cover and with the information asserted to be confidential highlighted in yellow.

3. Section 367.156(3), Florida Statutes, provides that "proprietary confidential business information" includes information

[W]hich is owned or controlled by the ... company, is intended to be and is treated by the ... company as private in that the disclosure of the information 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.

Included within the Section 367.156(3) definition of "proprietary confidential business information" is the following:

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

4. The salary and wage expense information for SSU's principal key employee, its President, is intended to be and is treated by SSU as proprietary and confidential. For the reasons stated below, the public disclosure of such information would cause harm to the competitive business operations of SSU. The

information has been disclosed only to the Commission Staff pursuant to SSU's notice of intent to request confidential classification and is available to the Office of Public ("OPC") pursuant to a motion for temporary protective order to protect SSU's claim of confidentiality.

5. In Docket No. 920199-WS, the Prehearing Officer denied a similar request for confidential classification filed by SSU; however, in doing so, the Prehearing Officer concluded:

The confidentiality provision of the statute is designed to protect against a competitor's obtaining, through the public disclosure of information, an unfair advantage in a competitive market for goods or services.<sup>1</sup>

SSU maintains that the facts now clearly demonstrate that SSU and its ratepayers stand to suffer a continued adverse impact in competing for and attempting to retain high quality, reasonably compensated employees if this Request for Confidential Classification is denied.

6. As indicated above, SSU does in fact compete with other utilities and businesses on a local, statewide and national level in attempting to attract and retain high quality, reasonably compensated employees in virtually every aspect of SSU's operations. As confirmed by the prefiled direct testimony of SSU witness Dale G. Lock in this proceeding, SSU's employee turnover ratios in 1992, 1993, 1994 (excluding Venice Gardens) and annualized 1995 were 13.2%, 13.5%, 11.54% and (projected) 11.0%,

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<sup>1</sup>Order No. PSC-92-1073-CFO-WS, at 5, issued September 28, 1992 in Docket No. 920199-WS.

respectively. Approximately 65% of the turnovers in 1993 and 1994 were employees who had less than 3 years of service. These percentages are dismal when compared with other utilities such as the Orlando Utilities Commission (4.8% in 1993) and Florida Cities (3.96% in 1993).<sup>2</sup>

7. Ms. Lock's testimony highlights the fact that SSU's wage and salary levels are not competitive in the water and wastewater industry and that SSU has experienced difficulties in recruiting and retaining employees as a result of its salary levels. The public availability of this information will impair SSU's efforts to contract for employee services on favorable terms to the detriment of SSU and its ratepayers. As stated by Ms. Lock, "[h]igh turnover contributes to higher recruitment costs as well as lowered employee productivity and added retraining costs."<sup>3</sup>

8. It is well recognized that the Commission is afforded ample discretion in the interpretation and application of its statutory authority. See, e.g., Florida Public Service Commission v. Bryson, 569 So.2d 1253, 1255 (Fla. 1990). In this case, the salary and wage expense information relates to and affects SSU's competitive interests and the public disclosure of the information will continue to impair SSU's ability to attract and retain quality employees at reasonable compensation levels while minimizing costs associated with recruitment and turnover. See §367.156(3)(e), Fla.

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<sup>2</sup>See prefiled direct testimony of Dale G. Lock, CCP, at 14-15.

<sup>3</sup>Id., at 15.

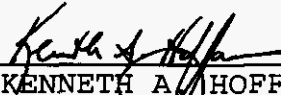
Stat. (1993). SSU is mindful, however, that Section 367.156(3)(f) implies that employee compensation information should not be treated as proprietary and confidential.<sup>4</sup> The information at issue is available to SSU's ratepayers on a confidential need to know basis through OPC. Requiring SSU to make the information publicly available to its competitors in the industry and other businesses will harm SSU and its ratepayers. Accordingly, the Commission should exercise its discretion to resolve the apparent conflict raised by the applicability of Section 367.156(3)(e) to the wage and salary expense information and the implied non-applicability of Section 367.156(3)(f) to such information by determining that the information constitutes "proprietary confidential business information." Such a determination will serve to protect the competitive interests of SSU, maximize the quality of service provided by SSU to its ratepayers, and minimize the costs ultimately borne by SSU's ratepayers associated with the potential loss of SSU's president to competing interests and the associated employee recruitment, education and turnover costs.

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<sup>4</sup>This conclusion is implied but not expressly stated under Section 367.156(3)(f), Florida Statutes. The provision clearly states that employee personnel information unrelated to compensation constitutes proprietary confidential business information. The implication is that employee personnel information related to compensation may not constitute proprietary confidential business information although the statute does not expressly state as such.

WHEREFORE, for the foregoing reasons, SSU respectfully requests that its First Request for Confidential Classification be granted.

Respectfully submitted,

  
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and

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(407) 880-0058

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing SSU's First Request for Confidential Classification was furnished by hand delivery(\*) and/or U. S. Mail to the following on this 21st day of November, 1995:

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KENNETH A. HOFFMAN, ESQ.

Confidential



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AUDIT DISCLOSURE NO. 16

SUBJECT: INTERIM 1995 AND PROJECTED 1996 SALARY & WAGE EXPENSE  
Executive Division

FACTS: The Company's Interim 1995 and Projected 1996 budget for A&G accounts includes an estimated salary expenses of [REDACTED] and [REDACTED] respectively for the new company president to Acc# 601. The Company used an estimated amount because it had not completed the hiring process for the new president at the time of this filing

In July 1995 the hiring process was completed and the new company presidents salary was established at [REDACTED]

The new presidents position includes responsibilities to two non-regulated operations, Heater Utilities and Topeka Group, which are subsidiaries of the parent corporation Minnesota Power.

The Company has established the following allocations of the presidents salary based on historical direct labor hours of past company presidents.

Southern States Utilities, President	70%
Heater Utilities, Chief Executive Officer	15%
Minnesota Power, Executive Vice President and member Board of Directors Topeka Group	15%

The Company will record 100% of the salary expense for the presidents position and then be reimbursed by the non-regulated operations for their respective labor cost based on the percentages listed above.

The new presidents base annual compensation for Interim 1995 and Projected 1996 is [REDACTED] and [REDACTED] respectively after considering the adjustments discussed above.

The Company allocates Employee Pension & Benefits Expense to Acc# 604 as a percentage of total salary expense using the following company determined percentages:

1995 at 24.83% and 1996 at 24.99%

The Company allocates Workman Compensation Expense to Acc# 658 as a percentage of total salary expense using the following company determined percentages:

1995 at 1.79% and 1996 at 1.71%

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DOCUMENTS EXEMPT FROM 119.07 P.S.  
PENDING COMMISSION 25-22,006 RULING

Draft

Audit Disclosure Number 16, continued

OPINION/RECOMMENDATION: The Company's budgeted amounts to A&G Acc# 601 for Interim 1995 and Projected 1996 O&M Salary expenses is overstated by the following amounts:

1995 Per Company Budget estimate	[REDACTED]
1995 Per Company Budget actual	[REDACTED]
Total audit reduction	[REDACTED]
1996 Per Company Budget estimate	[REDACTED]
1996 Per Company Budget actual	[REDACTED]
Total audit reduction	[REDACTED]

The Company's budgeted amounts to A&G Acc# 604 for Interim 1995 and Projected 1996 O&M Employee Pension & Benefits expense is overstated by the following amounts:

Audit Adjustment to 1995 salary times 1995 Pen/Benefit Percentage	[REDACTED] <u>24.83%</u>
Total audit reduction	[REDACTED]
Audit Adjustment to 1996 salary times 1996 Pen/Benefit Percentage	[REDACTED] <u>24.99%</u>
Total audit reduction	[REDACTED]

The Company's budgeted amounts to A&G Acc# 658 for Interim 1995 and Projected 1996 O&M Insurance - Workman Compensation is overstated by the following amounts:

Audit Adjustment to 1995 salary times 1995 Work/Comp Percentage	[REDACTED] <u>1.79%</u>
Total audit reduction	[REDACTED]
Audit Adjustment to 1996 salary times 1996 Work/Comp Percentage	[REDACTED] <u>1.71%</u>
Total audit reduction	[REDACTED]

The Commission should require the Company to reduce Acc#'s 601, 604, and 658 for Salary expense, Employee Pension & Benefits expense, and Workman Compensation expense respectively by the amounts indicated above for Interim 1995 and Projected 1996 O&M expenses.

COMPANY COMMENTS: The Company may respond at a later date.

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