

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

ORIGINAL  
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In Re: Application of SAILFISH )  
POINT UTILITY CORPORATION for a )  
rate increase in Martin County )

Docket No. 900816-WS  
Filed: June 25, 1991

MOTION TO COMPEL

The Citizens of the State of Florida ("Citizens"), by and through their undersigned attorney, move this Commission to enter an order requiring Sailfish Point Utility Corporation ("SPUC" or "utility") to permit the Office of Public Counsel to inspect at Mobil Land Development of Florida Corporation's offices in Palm Beach Gardens, Florida, the relevant worksheets, general ledgers, underlying journal entries, subsidiary journals, general journal and any other relevant information which detail the numbers that make up the cost of goods sold for Sailfish Point, Inc., during the years 1980-1984. The Citizens also move this Commission to enter an order requiring SPUC to provide the requested pages of memoranda and notes numbered 16, 17, 18 and 19 in Citizens' Third Request for Production of Documents, without the material being

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deleted that relates to Sailfish Point. Further, the Citizens ~~also~~ move this Commission to require SPUC to return to the Office of Public Counsel the notes it took while examining the documents at the Dallas Accounting office. In support of this motion the Citizens state the following:

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1. In their First and Second Requests for Production of Documents the Citizens requested to inspect, and copy, if necessary, the following:

A. Copies of the tax workpapers that have been generated by the Dallas Accounting Center that have been used in the consolidated tax return for Mobil Corporation as it relates to the following:

(1) Sailfish Point, Inc., from commencement of construction at Sailfish Point through 1984.

(2) Sailfish Point Utility Corporation from date of incorporation through 1990.

B. Copies of relevant Schedule M adjustments from the Mobil Corporation consolidated tax return as it relates to the following:

(1) Sailfish Point, Inc., from commencement of construction at Sailfish Point through 1984.

(2) Sailfish Point Utility Corporation from date of incorporation through 1990.

C. Copies of the relevant portions of Mobil Corporation's consolidated tax returns beginning with the year construction was commenced at Sailfish Point through 1990, as it related to the following:

(1) Sailfish Point, Inc., from commencement of construction at Sailfish Point through 1982.

(2) Sailfish Point Utility Corporation from date of incorporation through 1990.

2. While the Citizens conducted our inspection of documents at Mobil Land Development of Florida Corporation offices on April 1-3, 1991, we repeatedly requested the documents responsive to the above items A through C. Each time we were told that they were working on assembling the material for our review. Prior to concluding our inspection at Palm Beach Gardens we were furnished very limited information in response to items A through C.

3. During the months of April and May, 1991 our office received various documents attempting to detail the tax treatment given to the construction of utility assets at Sailfish Point. As a result of our review of these documents we determined that we needed to review Mobil's consolidated tax returns for the years 1979-1989 and the separate return files and related workpapers for SPUC and Sailfish Point, Inc., ("SPI").

4. The scope of our review of these files at the Dallas Accounting office was for the expressed purpose of attempting to verify the final tax treatment given to the construction of utility plant in service at Sailfish Point. (See end of first paragraph of page 2 of the June 12, 1991 letter discussing the June 13, 1991 inspection of documents in Dallas).

5. While reviewing the separate return files for SPUC and SPI the Citizens discovered and reviewed memoranda and notes numbered 16, 17, 18 and 19. These documents caused the Citizens to desire to see the supporting calculations of what made up the

cost of goods sold numbers used by SPI during the 1980 through 1984 tax years. The Dallas Accounting personnel said that the documentation was not in Dallas but at Mobil Land Development of Florida Corporation's office in Palm Beach Gardens, Florida.

6. Even though the hearing was upon us our office arranged for an accountant to go to Mobil's offices in Palm Beach Gardens to verify the cost of goods sold numbers for SPI for the years 1980 through 1984 prior to the hearing. This accountant estimated that he might be able to accomplish this task within about 4 hours time. SPUC declined our request to review these documents at Mobil's Palm Beach Gardens office.

7. The memoranda and notes numbered 16-19 discuss proposed tax treatment to be given the construction of utility plant in service at Sailfish Point. These documents were located in the separate return files for SPUC and SPI and were well within the scope of review agreed to in the June 12, 1991 letter. Any suggestion that any of these documents are privileged attorney/client or accountant/client communications are without merit because if any such privilege ever existed such privilege was waived when they were furnished for our review.

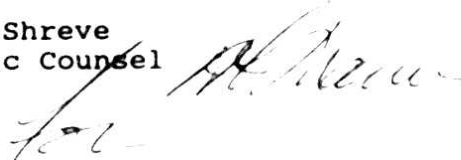
8. When we left our notes in Dallas we were told they would be reviewed to assure that no proprietary business information or material not relevant to this proceeding was included. Assuming no such information was included in the notes we could expect to have them returned. Even if the utility desired confidential treatment of any information, that matter

could be brought before the Commission. The Citizens believe our notes have been wrongly denied us and we request the Commission to require their return.

WHEREFORE, the Citizens respectfully request the Commission to compel SPUC to permit the Citizens to inspect the beforementioned documents in order to verify the numbers that make up the cost of goods sold for SPI for the years 1980 through 1984, to compel SPUC to supply copies of the memoranda and notes numbered 16-19 without the material being deleted that relates to Sailfish Point, and to compel the return of the notes taken by the Office of Public Counsel while examining the documents at the Dallas Accounting center.

Respectfully submitted,

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Attorneys for the Citizens  
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CERTIFICATE OF SERVICE  
DOCKET NO. 900816-WS

I HEREBY CERTIFY that a correct copy of the foregoing has been furnished by U.S. Mail or \*hand-delivery or \*\*facsimile to the following parties this 25th day of June, 1991.

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