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REPLY TO:

June 12, 1992

Mr. Steve Tribble, Director
Division of Records and Reporting
Florida Public Service Commission
101 East Gaines Street
Tallahassee, Florida 32399-0850

HAND DELIVERY

URGENT
FILE COPY

Re: FPSC Docket No. 920199-WS

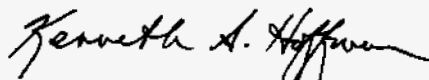
Dear Mr. Tribble:

Enclosed herewith for filing in the above-referenced docket are the original and fifteen copies of Southern States' Response to Public Counsel's Motion to Permit Additional Interrogatories.

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 yours,



Kenneth A. Hoffman

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KAH/rl
Enclosures

cc: Brian P. Armstrong, Esq.

RECEIVED & FILED
EPSC BUREAU


DOCUMENT NUMBER-DATE

06158 JUN 12 1992

FPSC-RECORDS/REPORTING

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application of Southern)
States Utilities, Inc. and Deltona)
Utilities, Inc. for Increased)
Water and Wastewater Rates)

DOCKET NO. 920199-WS
Filed: June 12, 1992

**SOUTHERN STATES' RESPONSE TO PUBLIC COUNSEL'S
MOTION TO PERMIT ADDITIONAL INTERROGATORIES**

SOUTHERN STATES UTILITIES, INC. and DELTONA UTILITIES, INC., hereinafter referred to collectively as "Southern States", by and through their undersigned counsel, and pursuant to Rule 25-22.037(2), Florida Administrative Code, hereby files the following Response to the Office of Public Counsel's ("Public Counsel") Motion to Permit Additional Interrogatories:

1. On June 10, 1992, Southern States filed a Motion for Protective Order Striking Citizens' First, Second and Third Sets of Interrogatories and First and Second Requests for Production of Documents. A copy of the Motion for Protective Order is attached hereto as Exhibit "A". As specifically set forth in paragraphs 6, 7, 8 and 10 of the Motion for Protective Order, incorporated herein by reference, the Public Counsel should be prohibited from commencing the discovery process prior to acceptance of Southern States' Application for Rate Increase ("Application") and Minimum Filing Requirements ("MFRs").

2. As of this date, the Commission has not accepted Southern States' Application and MFRs. Southern States' responses to alleged deficiencies in its Application and MFRs are to be submitted to the Commission on or before June 17, 1992. See paragraphs 1 and 2 of Exhibit "A".

DOCUMENT NUMBER-DATE
06158 JUN 12 1992
FPSC-RECORDS/REPORTING

3. The Commission should strike Public Counsel's Motion to Permit Additional Interrogatories or, at minimum, defer decision on the Motion until the Commission has accepted Southern States' Application and MFRs.

4. As itemized in paragraph 4 of the Motion for Protective Order (Exhibit "A"), Public Counsel has served approximately 663 interrogatories, including subparts, and document production requests on Southern States. Southern States recognizes that following acceptance of the Application and MFRs, the Citizens should be permitted to serve interrogatories which exceed thirty including subparts. However, the Commission should establish a cap on the number of interrogatories, including subparts, and document production requests which may be served on Southern States. Southern States suggests that the Commission establish a cap of 200 interrogatories, including subparts, and 100 document production requests.

Respectfully submitted this 24 day of June, 1992.

MESSER, VICKERS, CAPARELLO, MADSEN,
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KENNETH A. HOFFMAN, ESQ.

and

BRIAN P. ARMSTRONG, ESQ.
Southern States Utilities, Inc.
1000 Color Place
Apopka, FL 32703
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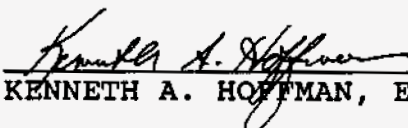
Attorneys for Applicants,
Southern States Utilities, Inc.
and Deltona Utilities, Inc.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of Southern States' Response to Public Counsel's Motion to Permit Additional Interrogatories has been served by hand delivery (*) and/or United States Mail on June 12, 1992 to the following parties of record:

Matthew Feil, Esq.*
Division of Legal Services
Fla. Public Service Commission
101 E. Gaines Street
Tallahassee, FL 32301

Harold McLean, Esq.
Office of Public Counsel
Rm. 812, Claude Pepper Bldg.
111 West Madison Street
Tallahassee, FL 32399-1400



KENNETH A. HOFFMAN, ESQ.

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application of Southern)
States Utilities, Inc. and Deltona)
Utilities, Inc. for Increased)
Water and Wastewater Rates)

DOCKET NO. 920199-WS
Filed: June 10, 1992

**SOUTHERN STATES' MOTION FOR PROTECTIVE ORDER
STRIKING CITIZENS' FIRST, SECOND AND THIRD SETS
OF INTERROGATORIES AND FIRST AND SECOND REQUESTS
FOR PRODUCTION OF DOCUMENTS**

SOUTHERN STATES UTILITIES, INC. and DELTONA UTILITIES, INC., hereinafter referred to collectively as "Southern States", by and through their undersigned counsel, and pursuant to Rules 1.280(c), Florida Rules of Civil Procedure, and 25-22.034, Florida Administrative Code, request the Prehearing Officer to enter a protective order striking the Citizens' First, Second and Third Sets of Interrogatories and the Citizens' First and Second Requests for Production of Documents served on Southern States and ordering the Citizens to postpone further discovery as more specifically set forth below. In support of its request, Southern States states as follows:

1. On May 11, 1992, Southern States filed an Application for a Rate Increase ("Application") with the Commission in the above-captioned proceeding.

2. By letters dated May 21 and 29, 1992, the Director of the Division of Water and Wastewater, as agent for the Commission, advised Southern States that the Application had been received, reviewed and determined by Staff to be deficient. These letters combined identified a total of 10 alleged deficiencies in Southern States' filing. Southern States was given until June 17, 1992 to

correct these deficiencies and was further advised that the deficiencies must be corrected before Southern States' Application would be deemed filed.¹ Copies of these deficiency letters are appended hereto as Appendix "A". Therefore, Southern States' filing has not yet even been accepted by the Commission.

3. By letter dated April 1, 1992, the Commission approved Southern States' request to submit pre-filed direct testimony thirty (30) days after the Minimum Filing Requirements ("MFRs") are accepted. Since the MFRs have not yet been accepted, Southern States' pre-filed testimony in support thereof also has not yet been filed.

4. Although the Commission has not yet accepted Southern States' Application and MFRs, the Office of the Public Counsel ("Public Counsel") has bombarded Southern States with an exorbitant number of discovery requests, often of dubious relevance, served over a ten day period. Specifically, the following table sets out the number of discovery requests served by Public Counsel and the dates when responses allegedly are due:

¹By letter dated June 4, 1992, Charles H. Hill, Director of the Commission's Water and Wastewater, notified Southern States that Item No. 1 of the original May 21, 1992 deficiency letter had been withdrawn.

<u>DOCUMENT</u>	<u>DATE OF SERVICE</u>	<u>RESPONSE DUE DATE</u>	<u>NUMBERED ITEMS</u>	<u>NUMBERED ITEMS W/SUBPARTS</u>
Citizens' First Set of Interrogatories	May 26, 1992	June 30, 1992	168	367
Citizens' Second Set of Interrogatories	June 2, 1992	July 7, 1992	35	104
Citizens' Third Set of Interrogatories	June 5, 1992	July 10, 1992	21	69
Citizens' First Request for Production	May 26, 1992	June 30, 1992	68	83
Citizens' Second Request for Production	June 2, 1992	July 7, 1992	<u>46</u>	<u>46</u>
		TOTAL	<u>338</u>	<u>663</u>

5. On June 2, 1992, Public Counsel filed a Motion requesting permission to propound and serve more than thirty interrogatories (including sub-parts) on Southern States.

6. Parties to Commission proceedings "may obtain discovery through the means and in the manner provided in Rules 1.280 through 1.400, Florida Rules of Civil Procedure." Rule 25-22.034, Fla. Admin. Code. Under Rule 1.280(c), Florida Rules of Civil Procedure, a party may seek a protective order requiring that discovery not be had or take place only on specified terms or conditions.

7. Generally, in a civil action, interrogatories and requests for production may not be served on any party prior to commencement of the action. See Rules 1.340(a) and 1.350(a),

Florida Rules of Civil Procedure. A civil action commences with service of process and the initial pleading.

8. Southern States believes that the "action" herein is "commenced" upon a satisfaction of the Minimum Filing Requirements ("MFRs") and the establishment of an Official Date of Filing. Certainly the various rate-making time clocks for processing and eventual disposition of the Application by the Commission do not begin until the MFRs are satisfied. See, e.g., Sections 367.081(6), 367.082(2), and 367.082(3), Florida Statutes; In re: Petition for Rate Increase in Pasco County by UTILITIES, INC. OF FLORIDA, 92 FPSC 2:872, 873 (application rejected due to deficient MFRs whereupon application was resubmitted and official filing date was established upon acceptance of new MFRs). Southern States' belief that a formal proceeding is not commenced until the MFRs are accepted is supported by the Commission's order in Application of Intercoastal Utilities, Inc. for Increased Rates in St. Johns County, Docket No. 890602-WS, Order No. 22245 (issued November 29, 1989), in which the Commission relinquished jurisdiction over a rate filing where the Commission merely had approved a test year request letter but the utility had not presented MFRs acceptable to the Commission so as to constitute an official filing. Accordingly, Public Counsel should be prohibited from serving discovery requests prior to acceptance of Southern States' Application and MFRs.

9. Currently, Southern States' in-house regulatory personnel are absorbed in the preparation of the prefiled direct testimony of a number of witnesses in this proceeding as well as striving to

provide responses to the Commission's deficiency letters in a timely fashion. In addition, Southern States' time and attention has been distracted from these efforts by other attempts by Public Counsel to delay acceptance of Southern States' filing. Under these circumstances, Southern States does not have, nor should it be required to have, the resources to also respond to the inordinate number of discovery requests propounded by Public Counsel at this time.

10. Moreover, no deadline has been established for acceptance of Southern States' Application and MFRs following submission of the deficiency responses by June 17, 1992. To require Southern States to expend its resources at this time on Public Counsel's discovery requests where there is no certainty as to if and when (see Utilities, Inc. of Florida, supra) Southern States' Application will be accepted, constitutes an unreasonable and excessive burden on Southern States.

11. Finally, Rule 1.340(a), Florida Rules of Civil Procedure, provides in pertinent part:

Interrogatories may be served on the plaintiff after commencement of the action and on any other party with or after service of the process and initial pleading upon that party. The interrogatories shall not exceed 30, including all subparts, unless the court permits a larger number on motion and notice for good cause. [Emphasis added.]

12. The Citizens' First, Second and Third Sets of Interrogatories are per se invalid and should be stricken because they were served prior to providing notice and obtaining the Commission's permission to serve more than 30 interrogatories

including all subparts.

13. Due to the ongoing efforts and activities of Southern States described in paragraph 9 above, Southern States has not had sufficient time to analyze the substance of all of the Citizens' interrogatories and requests for production of documents. Substantive objections to the Citizens' interrogatories and requests for production of documents, including but not limited to the burdensome and oppressive nature of the discovery based on its inordinate volume and often dubious relevance, are not addressed in this Motion, are not waived by Southern States, and are preserved to be addressed at a later date, when the initiation of discovery is appropriate and authorized.

WHEREFORE, for the foregoing reasons, Southern States requests the Prehearing Officer to enter a protective order:

(1) striking the Citizens' First, Second and Third Sets of Interrogatories;

(2) striking the Citizens' First and Second Sets of Requests for Production of Documents;

(3) directing Public Counsel to refrain from further service of interrogatories on Southern States until (a) Southern States' Application and MFRs have been accepted by the Commission and an official date of filing is established, or (b) the Commission expressly permits Public Counsel to serve interrogatories which exceed a total of 30 including all subparts, whichever occurs last;

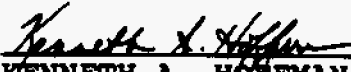
(4) directing Public Counsel to refrain from further service of requests for production of documents until Southern States' Application and MFRs have been accepted by the Commission and an

official date of filing is established; and,

(5) granting Southern States such other relief as the Prehearing Officer may deem appropriate.

Respectfully submitted this 10th day of June, 1992.

MESSER, VICKERS, CAPARELLO, MADSEN,
LEWIS, GOLDMAN & METZ, P.A.
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KENNETH A. HOFFMAN, ESQ.

and

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Southern States Utilities, Inc.
1000 Color Place
Apopka, FL 32703
(407) 880-0058

Attorneys for Applicants,
Southern States Utilities, Inc.
and Deltona Utilities, Inc.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of Southern States' Motion for Protective Order Striking Citizens' First, Second and Third Sets of Interrogatories and First and Second Requests for Production of Documents has been served by hand delivery (*) and/or United States Mail on June 10, 1992 to the following parties of record:

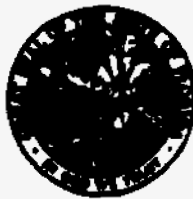
Matthew Feil, Esq.*
Division of Legal Services
Fla. Public Service Commission
101 E. Gaines Street
Tallahassee, FL 32301

Harold McLean, Esq.
Office of Public Counsel
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Tallahassee, FL 32399-1400

By: Kenneth A. Hoff

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Commissioners:
 THOMAS M. BEARD, CHAIRMAN
 BETTY EASLEY
 J. TERRY DEASON
 SUSAN F. CLARK
 LUIS J. LAUREDO



DIVISION OF WATER &
 WASTEWATER
 CHARLES HILL
 DIRECTOR
 (904) 488-8482

Public Service Commission

May 21, 1992

Mr. Kenneth A. Hoffman
 Messer, Vickers, Caparello, Madsen,
 Lewis, Goldman & Metz, P.A.
 P.O. Box 1876
 Tallahassee, Florida 32302-1876

RE: Docket No. 920199-WS, Application of Southern States Utilities, Inc. and
 Deltona Utilities, Inc. for increased water and wastewater rates.

Dear Mr. Hoffman:

We have reviewed the minimum filing requirements filed on behalf of the above mentioned utilities and found them to be deficient. The specific deficiencies are identified below:

1. Volume I, Book 3 of 4, Volume II, Books 1 through 6 of 11 and Volume III, Books 1 through 3 of 6, Schedule B-7. The calculations have been made using Average Equivalent Residential Connections. The minimum filing requirements require the calculations to be made using customers, not Equivalent Residential Connections.
2. Volume II, Book 7 of 11. Schedule D-4 has been omitted for Minnesota Power and Light.
3. Volume II, Book 11 of 11. Schedule F-3 for the Fern Park water system has been omitted from the filing.
4. Volume II, Book 8 of 11 and Volume III, Book 4 of 6. Schedule E-2A for all systems includes proposed miscellaneous service charge revenues in the "present rates" column. The schedules should be corrected to include present miscellaneous service revenues in the "present rates" column and refiled.
5. Volume II, Book 8 of 11:
 - A. Fountains. There is no billing analysis to support the bills and gallons that are identified on Schedule E-2A, page 297.

APPENDIX "A"

FLETCHER BUILDING • 101 EAST GAINES STREET • TALLAHASSEE, FL 32399-0850
 An Affirmative Action/Equal Opportunity Employer

- B. Fountains. Schedule E-2B has been omitted.
 - C. Fountains. Schedule E-3 has been omitted.
 - D. Intercession City. Separate billing analyses must be filed to support the SP and RG classes of service identified on Schedule E-2A, page 309.
 - E. Intercession City. The rates by meter size are not identified by meter size on Schedule E-1A, page 33.
 - F. Marion Oaks Utilities. The rates by meter size for the residential class of service are not identified on Schedule E-1A, page 47.
 - G. Meredith Manor. Separate billing analyses must be filed for the RG and SP Commercial classes as indicated in Schedule E-2A, page 324.
 - H. Palisades Country Club. Schedule E-2A must be supported by a billing analysis. The billing analysis on page 465 of Volume II, Book 10 of 11 does not support Schedule E-2A as required.
 - I. Quail Ridge. Schedule E-2A must be supported by a billing analysis. The billing analysis on page 539 of Volume II, Book 10 of 11 does not support Schedule E-2A as required.
 - J. Zephyr Shores. A billing analysis must be filed to support the separate Commercial class of service for 3 inch and 4 inch meters as well the PF class of service on Schedule E-2A, page 375.
 - K. Zephyr Shores. The billing analysis does not support the bill and gallons listed for the 1 1/2 inch and 2 inch meters on page 374-375 on Schedule E-2A.
6. Volume III, Book 4 of 6:
- A. Palm Terrace. A billing analysis must be filed to support the separate Residential RS2 class of service on Schedule E-2A, page 154.
 - B. South Forty. The billing analysis for residential customers on page 800 of Volume III, Book 5 of 6, does not support Schedule E-2A as required.
7. Volume II, Books 1 through 6 and 8 of 11 and Volume III, Books 1 through

Mr. Kenneth A. Hoffman
May 21, 1992
Page Three

4 of 6. The E-2 schedules for water and wastewater showing total proposed revenues should match Schedules B-1 and B-2 that also lists the total proposed revenues. These schedules do not match. Either revised schedules must be filed or another set of schedules must be provided that reconciles this difference.

One further problem exists with the filing that is not a true deficiency. Generally, when a utility requests interim rates, the filing will include two extra columns on Schedule E-2 after present rates and revenues that identifies interim rates and revenues. This allows verification of present, interim and final rates using bills and gallons. Volume I, Book 1 of 4, does include schedules that list total interim revenues by system and another set of schedules that list interim rates by system. There is no combination of these elements that also lists bills and gallons. We believe that it is appropriate and necessary for the utility to provide that information with the filing of the deficiencies, either as separate schedules or included into the existing Schedules E-2A for both water and wastewater.

Please be advised that your petition will not be deemed filed until we have received the above mentioned information. This information should be submitted no later than June 10, 1992.

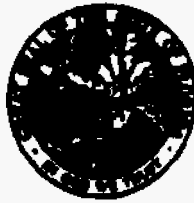
Sincerely,



Charles H. Hill
Director

cc: Division of Records and Reporting
Division of Legal Services (Feil, Bedell, Summerlin)
Division of Water and Wastewater (Willis, Merchant, Crouch, Messer)

Commissioners:
 THOMAS M. BEARD, CHAIRMAN
 BETTY EASLEY
 J. TERRY DEASON
 SUSAN F. CLARK
 LUIS J. LAUREDO



DIVISION OF WATER &
 WASTEWATER
 CHARLES HILL
 DIRECTOR
 (904) 488-8482

Public Service Commission

May 29, 1992

Mr. Kenneth A. Hoffman
 Messer, Vickers, Caparello, Madsen,
 Lewis, Goldman & Metz, P.A.
 P.O. Box 1876
 Tallahassee, Florida 32302-1876

RE: Docket No. 920199-WS, Application of Southern States Utilities, Inc. and Deltona Utilities, Inc. for increased water and wastewater rates. Amended minimum filing requirement deficiency letter.

Dear Mr. Hoffman:

We are with this letter supplementing our deficiency letter dated May 21, 1992. Three deficiencies not reported to you with our previous deficiency letter have been found. The additional deficiencies are identified below:

1. **Schedule B-9, Analysis of test year contractual services.** The company's analysis was based on 2% of required revenues not test year revenues as the MFRs require. The company must also indicate for each system whether the 2% threshold was exceeded. Further, the detail provided in Volume I regarding the benchmark is not satisfactory. The instructions require, for those amounts exceeding 2% of test year revenues, that specific detail by type of service, separated by system and method of allocation must be provided.
2. **Schedule B-10, Analysis of Rate Case Expense.** The company did not provide a breakdown of consultants by individuals assisting in the preparation and processing of this application and the number of hours estimated to complete the case. An hourly rate range per consultant is not acceptable.
3. **Income Tax Expense Schedules C-1, C-2, C-3 and C-5.** These schedules reflect the total company numbers only. These amounts are also required to be reflected on a per system basis and between water and wastewater.

We would also like to bring the following to your attention which we believe may be a typographical error, but is not a deficiency. It concerns Schedule C-9, which lists parent debt information. The footnotes on the bottom do not agree. Page 1 of 2 states that the

Mr. Kenneth A. Hoffman
May 29, 1992
Page Two

information is based on December 31, 1991 actual. Page 2 of 2 states that the information is based on the projected balance as of December 31, 1991.

Please be advised that your petition will not be deemed filed until we have received the above mentioned information. This information along with the information required by our prior letter should be submitted no later than June 17, 1992.

Sincerely,



Charles H. Hill
Director

cc: Division of Records and Reporting
Division of Legal Services (Feil, Bedell, Summerlin)
Division of Water and Wastewater (Willis, Merchant, Crouch, Messer)