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August 25, 1992

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

ORIGINAL
FILE COPY

Re: Docket No. 920199-WS

Dear Mr. Tribble:

Enclosed for filing in the above-captioned proceeding on behalf of the Citizens of the State of Florida are the original and 15 copies of Citizens' Response to Motion for Reconsideration of Order No. PSC-92-0819-PCO-WS, Motion to Compel Discovery and Motion for Additional Time to File Testimony.

Please indicate the time and date of receipt on the enclosed duplicate of this letter and return it to our office.

- ACK
- ASA 3
- APP _____
- CFR _____
- COM _____
- CON _____
- ENC Enclosure
- EXP ~~1~~
- FILE 1
- INF _____
- REP _____
- SEC 1
- WAS _____
- OTR _____

Sincerely,

Harold McLean
Associate Public Counsel

RECEIVED & FILED

FPSC-BUREAU OF RECORDS

DOCUMENT NUMBER-DATE

09615 AUG 25 1992

PSC-RECORDS/REPORT...

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Application for rate increase in)
Brevard, Charlotte/Lee, Citrus, Clay,)
Duval, Highlands, Lake, Marion,)
Martin, Nassau, Orange, Osceola,)
Pasco, Putnam, Seminole, Volusia, and)
Washington Counties by SOUTHERN)
STATES UTILITIES, INC.; Collier)
County by MARCO SHORES UTILITIES)
(Deltona); Hernando County by)
SPRING HILL UTILITIES (Deltona);)
and Volusia County by DELTONA)
LAKES UTILITIES (Deltona))

Docket No. 920199-WS

Filed: August 25, 1992

ORIGINAL
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RESPONSE TO MOTION FOR RECONSIDERATION OF
ORDER NO. PSC-92-0819-PCO-WS

MOTION TO COMPEL DISCOVERY

MOTION FOR ADDITIONAL TIME TO FILE TESTIMONY

To: HONORABLE BETTY EASLEY
Commissioner and Prehearing Officer
101 E. Gaines St.
Tallahassee, Florida 32399

Come now the Citizens of the State of Florida, by and through JACK SHREVE,

Public Counsel, (Citizens) and say:

Response to Motion for Reconsideration:

1. The motion for reconsideration of order PSC-92-0819-PCO-WS requests more time for the filing of answers to discovery which were the subject of the order.
2. Interrogatory Nos. 1, 2, 28, 38, 40, 43, 48, 49, 52, 59, 62, 65, 66, 67, 68, 72, 81, 84, 85, 87, 88, 90, 93, 94, 97, 99, 104, 110, 113, 115, 122, 124, 139, 144, 145, 146, 147; and Document Requests 28, 32, 33, 46, 51, and 55 were served on SSU on May 26, 1992, more than three months ago. SSU has had a great deal more than adequate time to prepare answers to this discovery: additional time is not warranted.
3. Interrogatory Nos. 171, 172, 173, 174, 175, 181, 182, 183, 185, 189, 190, 191, and 193; and Document Requests 76, 83, 84, 85, and 87 were served on SSU on June 2, 1992, nearly three months ago. SSU has had a great deal more than adequate time to prepare answers to this discovery: additional time is not warranted.
4. Interrogatory 210, 213, and 214 were served on SSU on June 12, 1992, more than two months ago. SSU has had a great deal more than adequate time to prepare answers to this discovery: additional time is not warranted.
5. A lack of the information sought in the foregoing discovery works an extreme

prejudice on the Citizens; the continuing efforts of SSU to resist discovery has reduced to meaningless the Citizens' point of entry into the administrative process. Without the information sought, the Citizens have been unable to determine to what extent their interests are affected.

6. The joint motion of extension for more time in which to file testimony was occasioned by the SSU's counsel being unavailable during proposed depositions of SSU personnel; the prejudice caused by yet an additional delay in receiving the discovery addressed in order PSC-92-0819-PCO-WS is totally undiminished thereby.
7. SSU's "on-going discovery obligations" is a matter not ignored by the prehearing officer, the Citizens believe, but to the contrary, a matter of which the pre-hearing officer is painfully aware. The recurring defense advanced by SSU, i.e., that they have many commitments, is a situation of their own making: it is SSU and SSU alone which supports the idea of filing one hundred and twenty-seven systems on the same day. Congestion in this case is self-imposed and self-serving. In any case, as the next section of this pleading will show, SSU doesn't honor all of those obligations anyway.

Motion to Compel:

8. The following discovery is overdue having elicited neither objection nor answer from SSU on the one hand; or to which SSU has provided incomplete answers on the other hand:

Interrogatory nos.:

10. Despite the Company's offer to allow the citizens to examine acquisition files in lieu of answering the propounded interrogatory, the Company has failed to provide most of the information in written or any other form.
21. The Company failed to provide data for the years 1989 and 1990.
42. The Company failed to provide the requested information for Bert Phillips, Charles Wood, and Donnie Crandell indicating whether they are paid by Minnesota Power and Light Company. Regardless of who paid these individuals, the Citizens' requested salary information for the officers and administrative personnel of SSU. As such, Southern States should provide the information requested. Moreover, the majority of the salaries of these individuals are paid for by SSU customer through the charges from the Topeka Group.

94. The Company failed to respond to (d) and (f) of this interrogatory.
129. The Company failed to respond to part (c) of this interrogatory.
132. Appendix B referred to in the response has not been provided.

Requests for Production of Documents

1. Unsatisfactory response: The Company stated that a disk would be provided at completion of all interrogatories. The Company should be required to provide a diskette of response to all interrogatories at the completion of each set of discovery, not all discovery in the docket.
2. Company did not provide all diskettes created in the process of filing or revising the current rate increase request. The Company provided diskettes for its MFR A and B Schedules, F Schedules and some E Schedules. Citizens' believe there are numerous other diskettes for not only the Company's MFRs, but other work papers created in support of the MFRs. For example, the Company did not provide

diskettes for its C or D Schedules, its allocation Schedules, and its Summary Schedules. Likewise, the Company did not provide any diskettes containing workpapers for its proforma adjustments. It is almost inconceivable that such workpapers would not exist. Citizens' seek as originally requested all diskettes created in the process of filing or revising the current rate request.

6. There are several aspects of this Document Request with which the Company has not complied.
 - a) Despite repeated requests from Citizens' to review the Company's vendor files the Company has refused to comply with Citizens' request.
 - b) On-site Audit Requests 6 and 11, which should have been produced through this Document Request, were not provided. The Company claimed that the information requested for 1992 was not relevant as the request for rate relief is not based on 1992 data. The Company should be required to produce the information requested in Citizens' Audit Requests 6 and 11.
 - c) In on-site Audit Request 22, Citizen's requested journal entry information concerning the sale of St. Augustine Shores. Company refused to provide the requested information

claiming that the information is not relevant. The Citizens' believe that any documents or information concerning the sale of any property of the Company is relevant to this proceeding; or is reasonably calculated to lead to relevant information. Accordingly, the Company should be required to produce the information requested in Audit Request 22.

d) In on-site Audit Request 23, Citizens' requested copies of journal entry information from microfiche. The Company only provided the information requested to the extent that the entire file was not contained on microfiche. Citizens' require the copies of the journal entry information for all items identified, not just for those that were incomplete.

14. Company failed to provide budgeted data for 1992 even though it did not object to this Document Request in its objections of July 2, 1992.

18. Company failed to provide budgeted data for 1992 and 1993 even though it did not object to this Document Request in its objections of July 2, 1992.

28. The Company failed to provide the historical data requested.

30. Company refused to provide requested copies of income tax information dealing with the St. Augustine Shores sale, claiming that the information is not relevant. The Citizens' believe that any documents or information concerning the sale of any property of the Company is relevant to this proceeding and the Company should be required to produce the documents requested at the on-site audit. The Company has also refused to provide copies of other tax information requested at the on site Audit, apparently alleging that the material is confidential. Citizens' have agreed to the terms of the Company claim of confidentiality and hence copies of the material should be provided.
45. Despite repeated requests from Citizens' to review all of the Company's workpapers on-site the Company has failed to produce all of the requested documents.
46. Despite repeated requests from Citizens' to review all of the Company's workpapers on-site the Company has failed to produce all of the requested documents.
90. Appendix A referenced in response to Document Request 90 was missing.

273. The Appendix referenced in response to Interrogatory 273 was missing.

Motion for Additional Time in Which to File Testimony:

9. The delay in obtaining discovery from SSU has crippled the Citizens' case before the Commission. Less than a month before the Citizens' testimony is due, the utility is still asking for relief from, among many others, the very first interrogatory filed by the Citizens. It is impossible for the Citizens to base deposition of witnesses on information which was sought but not received in interrogatories and Document Requests. It is impossible for the Citizens to assemble evidence which weighs upon the issues in this case when much relevant evidence is successfully obscured from the Citizens' view by SSU.

10. Although much of the delay in complying with discovery has been the fault of SSU not all of it has been. Despite the time allotted to discovery being of the essence, Order NO. PSC-92-0819-PCO-WS which issued on August 14, 1992, resolved issues which were ripe for decision as early as June 13, 1992¹.

¹ The order was delayed in part by the terms of an agreement which is partially set forth in order PSC-92-0638-PCO-WS, the order establishing procedure, issued on July 7, 1992. The agreement, however, was not honored by SSU.

11. The Citizens' discovery is sadly incomplete through no fault of their own. There has been no delay in filing discovery: the delay has been incurred in obtaining answers. Despite the voluminous objection to discovery, SSU has prevailed only on rare occasion.²

12. The Citizens' discovery is yet in its early stages owing to continuing resistance from the utility which is articulated principally in the absence of answers and, secondarily, in SSU's filing unsuccessful motions: the Citizens cannot fashion a case in the time which remains.

13. The Citizens recognize that a delay of the time for filing testimony may well dictate a delay in the hearing which is now scheduled to begin on November 6, 1992, and the Citizens recognize that SSU may have the right to impose requested rates before a the hearing could be rescheduled. However, the interim rates awarded by the commission on August 18, 1992, comprise 87% of the applicant's requested rates; there is no material prejudice to any party in a delay.

WHEREFORE, The Citizens respectfully request that the prehearing officer determine the time at which the earliest overdue discovery was due and enter an order postponing the time for the filing of intervening testimony by the same number of days;

² Clerical errors (duplicative numbering) accounting for the vast majority of the successful objections.

and enter an order compelling answers to the discovery which are yet outstanding.

Respectfully submitted,



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Associate Public Counsel

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Attorney for the Citizens
of the State of Florida

**CERTIFICATE OF SERVICE
DOCKET NO. 920199-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 25th day of August, 1992.

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