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Tallahassee
REPLY TO:

September 21, 1992

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

HAND DELIVERY

Re: FPSC Docket No. 920199-WS

Dear Mr. Tribble:


Enclosed herewith for filing in the above-referenced docket are copies of the following documents:

1. The original and fifteen copies of Southern States' Third Motion for Temporary Protective Order for Confidential Information and Notice of Intent to Request Confidential Classification; and
2. A disk in Word Perfect 5.0 containing a copy of the above document named "GIGA.921".

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

KAH/rl
Enclosures
cc: Brian P. Armstrong, Esq.

RECEIVED & FILED


FPSC BUREAU OF RECORDS

Note: Confidential DNS
10974 + 10975-92 are in
DOCUMENT NUMBER-DATE
10973 SEP 21 1992
FPSC-RECORDS/REPORTING
Confidential files

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application of Southern)
States Utilities, Inc. and Deltona)
Utilities, Inc. for Increased)
Water and Wastewater Rates in)
Citrus, Nassau, Seminole, Osceola,)
Duval, Putnam, Charlotte, Lee,)
Lake, Orange, Marion, Volusia,)
Martin, Clay, Brevard, Highlands,)
Collier, Pasco, Hernando, and)
Washington Counties.)

Docket No. 920199-WS
Filed: September 21, 1992

**SOUTHERN STATES' THIRD MOTION FOR TEMPORARY
PROTECTIVE ORDER FOR CONFIDENTIAL INFORMATION
AND NOTICE OF INTENT TO REQUEST CONFIDENTIAL CLASSIFICATION**

TO: HONORABLE BETTY EASLEY
Commissioner and Prehearing Officer
Florida Public Service Commission
101 East Gaines Street
Tallahassee, FL 32399-0850

SOUTHERN STATES UTILITIES, INC. and DELTONA UTILITIES, INC. (hereinafter referred to collectively as "Southern States"), by and through its undersigned counsel, and pursuant to Rule 25-22.006(3) and (5), Florida Administrative Code, hereby files its Third Motion for Temporary Protective Order for Confidential Information and Notice of Intent to Request Confidential Classification with respect to written responses and documents provided in response to OFFICE OF PUBLIC COUNSEL'S ("Public Counsel") Interrogatory Nos. 312 and 313 and Document Request No. 172. In support of its Third Motion for Temporary Protective Order for Confidential Information and Notice of Intent to Request Confidential Classification, Southern States states as follows:

1. Interrogatory Nos. 312 and 313 included in Public Counsel's Eighth Set of Interrogatories request the following information:

DOCUMENT NUMBER-DATE

10973 SEP 21 1992

FPSC-RECORDS/REPORTING

691

312. List all employees of Topeka Group, their title, their annual salaries, and their annual benefits, and a description of the services they provide to the Company. Provide this information for the years 1990, 1991, and 1992. For all employees that have been moved or absorbed by MPL, please so state and provide their annual salaries, and their annual benefits, and a description of the services they provide to the Company.

313. List all senior executives (vice presidents and above) MPL, their title, their annual salaries, and their annual benefits, and a description of the services they provide to the Company. Provide this information for the years 1990, 1991, and 1992. [Emphasis supplied.]

2. Document Request No. 172 included in Public Counsel's Seventh Set of Requests for Production of Documents requests the following documents:

172. Provide a copy of all internal memorandum, reports, studies, and other documents between or by employees of the Company, Topeka, MPL, between or by consultants of the Company, Topeka, and MPL, and all memorandum to files which address the Company's discontinuance of the remainder of its gas operations.

3. Section 367.156(2), Florida Statutes, authorizes the Commission to issue protective orders exempting "proprietary confidential business information" from the provisions of Section 119.07(1), Florida Statutes. 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" are the following:

(d) Information concerning bids or other contractual data, the disclosure of which would impair the efforts of the utility or its affiliates to contract for goods or services on favorable terms.

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

4. Confidential Appendix 312-A and Confidential Appendix 313-E contain the annual salary information requested in Public Counsel's Interrogatory Nos. 312 and 313. This information has been provided on this date to Public Counsel and is appended to this filing as Composite Exhibit "A". Southern States maintains that the annual salaries of Minnesota Power & Light Company ("Minnesota Power") and Topeka Group, Inc. ("Topeka") employees constitute "proprietary confidential business information" under Section 367.156(3), Florida Statutes, for the following reasons:

a. such information is intended to be and is treated by Minnesota Power, Topeka and Southern States as proprietary and confidential;

b. the public disclosure of such information would cause harm to the business operations of Minnesota Power, Topeka and/or Southern States;

c. upon information and belief, such information either has not been disclosed or disclosed only unless pursuant to a statutory provision, an order of a court or administrative body, or a private agreement providing that the information will not be released to

the public; and

d. the disclosure of such information would impair the competitive businesses of the provider of the information.

5. The confidential response to Public Counsel's Document Request No. 172 including all documents provided with said response contain information relevant to proposed sales and internal valuation of the remainder of Southern States' gas operations. These documents have been provided to Public Counsel on this date and are appended to this Motion as Confidential Exhibit "B". Southern States maintains that such documents and information are proprietary and confidential for the reasons stated in paragraph (4)(a), (b) and (c) above and because the disclosure of such information could adversely affect the consummation of a sale or the sales price of said gas operations. Hence, the information and documents provided in response to Document Request No. 172 contain the same type of information for which protection is expressly required under Section 367.156(3)(d), Florida Statutes. Accordingly, for the reasons stated herein, such information and documents constitute "proprietary confidential business information" under Section 367.156(3), Florida Statutes.

6. The non-confidential portions of Southern States' responses to Public Counsel's Interrogatory Nos. 312 and 313 have been provided on this date to the Commission Staff and the Cypress and Oak Villages Association.

7. Southern States will file a request for confidential classification of the confidential documents described herein

within twenty-one (21) days as required by Rule 25-22.006(4), Florida Administrative Code.

8. If Public Counsel identifies specific material that it intends to use in this proceeding, Southern States will file a formal request for confidential treatment of such materials pursuant to a motion for protective order as required by Rule 25-22.006(5)(a), Florida Administrative Code.

WHEREFORE, for the reasons stated above, Southern States requests the Prehearing Officer to enter an order granting this Third Motion for a Temporary Protective Order and that the documents described herein be treated as proprietary and confidential for a period of sixty (60) days pending Public Counsel's review and identification of those materials that it intends to use in this proceeding.

Respectfully submitted,



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and

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

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing Southern States' Third Motion for Temporary Protective Order for Confidential Information and Notice of Intent to Request Confidential Classification was furnished by hand delivery(*) and/or U. S. Mail this 21st day of September, 1992, to the following:

Harold McLean, Esq.*
Office of Public Counsel
111 West Madison Street
Room 812
Tallahassee, Florida 32399-1400

Matthew Feil, Esq.*
Catherine Bedell, Esq.*
Florida Public Service Commission
Division of Legal Services
101 East Gaines Street
Room 226
Tallahassee, Florida 32399

Mr. Harry C. Jones, P.E. President
Cypress and Oak Villages Association
91 Cypress Boulevard West
Homosassa, FL 32646

By: 
KENNETH A. HOFFMAN, ESQ.