

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: October 12, 1992

SOUTHERN STATES' THIRD REQUEST FOR CONFIDENTIAL
CLASSIFICATION AND MOTION FOR PROTECTIVE ORDER

TO: HONORABLE BETTY EASLEY
Commissioner and Prehearing Officer
Florida Public Service Commission
101 East Gaines Street
Tallahassee, Florida 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,
Florida Administrative Code, request Confidential Classification
and a Protective Order with respect to documents provided in
response to OFFICE OF PUBLIC COUNSEL ("Public Counsel") Document
Request No. 172. These documents contain information relevant to
proposed sales and internal valuation of the remainder of Southern
States' gas operations. In support of this request, Southern
States states as follows:

1. 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 all documents between or
by employees of the Company, Topeka, MPL,
between or by consultants of the Company,

DOCUMENT NUMBER-DATE

761

11944 OCT 12 1992

FPSC-RECORDS/REPORTING

Topeka, and MPL, and all memorandum to files which address the Company's discontinuance of the remainder of its gas operations.

2. On September 21, 1992, Southern States provided documents responsive to Public Counsel's Document Request No. 172 to Public Counsel. On the same date, Southern States filed its Third Motion for Temporary Protective Order for Confidential Information and Notice of Intent to Request Confidential Classification requesting confidential treatment of these documents. The confidential documents were appended to Southern States' Third Motion for Temporary Protective Order for Confidential Information and Notice of Intent to Request Confidential Classification as Confidential Exhibit "B". Southern States' request for temporary protection of these documents is still pending.

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. 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. Southern States maintains that such documents and information are proprietary and confidential 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. such information has not been disclosed and would not otherwise be disclosed except pursuant to an agreement to maintain its confidential status and that the information not be released to the public; and

d. the disclosure of such information could adversely affect the consummation of a sale or the sales price of said gas operations.

5. Hence, the information and documents provided in response to Public Counsel's 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. Upon conclusion of this proceeding, Southern States requests that the confidential documents described above be returned to Southern States.

WHEREFORE, Southern States requests that the Commission enter an Order declaring that the information and documents described herein constitute proprietary and confidential business information under Section 367.156(3), Florida Statutes, and that any use of such confidential information at the final hearing be in accordance with the procedure set forth in Order No. PSC-92-0638-PCO-WS (Order Establishing Procedure).

Respectfully submitted,


KENNETH A. HOFFMAN, ESQUIRE
LAURA L. WILSON, ESQUIRE
Messer, Vickers, Caparello,
Madsen, Lewis, Goldman & Metz, P.A.
P. O. Box 1876
Tallahassee, Florida 32302-1876
(904) 222-0720

and

BRIAN P. ARMSTRONG, ESQUIRE
Southern States Utilities, Inc.
1000 Color Place
Apopka, Florida 32703
(407) 880-0058

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 Request for Confidential Classification and Motion for Protective Order was furnished by hand delivery(*) and/or U. S. Mail, this 12th day of October, 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
Homasassa, Florida 32646

By: 
KENNETH A. HOFFMAN, ESQ.