



JACK SHREVE
PUBLIC COUNSEL

STATE OF FLORIDA
OFFICE OF THE PUBLIC COUNSEL

c/o The Florida Legislature
111 West Madison Street
Room 812
Tallahassee, Florida 32399-1400
904-488-9330

URGENT
FILE ONLY

March 30, 1994

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

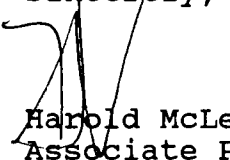
Re: Docket No. ~~94-0000~~ WJ

Dear Mr. Tribble:

Enclosed for filing in the above-captioned proceedings on behalf of the Citizens of the State of Florida are the original and 15 copies of the Citizens' Response to Motion for Protective Order -- Citizens' Motion to Strike.

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

Sincerely,


Harold McLean
Associate Public Counsel

RECEIVED
MAR 30 1994
RECORDS

- ACK
- AFA _____
- APP _____
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- CAN _____
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FPSC-RECORDS/REPORTING

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Petition for Interim and)
Permanent Rate Increase in)
Franklin County, Florida by)
ST. GEORGE ISLAND UTILITY)
COMPANY, LTD.)
_____ /

DOCKET NO. 940109-WU

Filed March 30, 1994

To: Prehearing Officer
Commissioner Julia L. Johnson

CITIZENS' RESPONSE TO MOTION
FOR PROTECTIVE ORDER

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CITIZENS' MOTION TO STRIKE

The Citizens of the State of Florida (Citizens) respond to the Motion for Protective Order filed by St. George Island Utility Company, Ltd. (SGU) on March 18, 1994, and say:

CITIZENS' MOTION TO STRIKE

1. SGU's motion seeks a protective order for certain responses required by the Citizens first set of Requests for Production of Documents served on February 11, 1994.
2. The time for objecting or otherwise responding to the Citizens request for

production expired March 14, 1994¹.

3. The Motion for Protective Order is untimely; no justification whatsoever is offered for the untimely response; the material sought to be protected is the subject of the Citizens' timely Motion to Compel, filed March 17, 1994.

WHEREFORE, the Citizens move the prehearing officer to strike SGU's Motion for Protective Order because it is untimely.

CITIZENS' RESPONSE TO THE MOTION

Aside from the motion's tardiness, and SGU's apparent waiver of the right to assert confidentially, SGU's motion is otherwise deficient on the merits:

4. The motion seeks to obtain a protective order for the utility's income tax returns and associated work papers for the years 1987 through 1992.
5. The Motion seeks protection under Section 367.156, Florida Statutes (1993), and asserts that the disclosure of the referenced tax returns would require the disclosure of proprietary confidential business information.
6. Proprietary confidential business information is defined in Section 167.156(3):

Proprietary confidential business information means information, regardless of form or characteristics, which is owned or controlled by the person or company, is intended to be and is treated by the person or

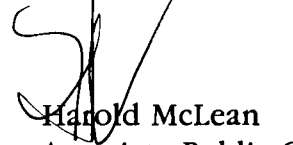
¹ Rule 1.350(b) Fla. R. Civ. P. affords thirty days for response; Rule 1.090(e) affords an additional five days where, as here, the service was by mail. In addition, the Order Establishing Procedure issued by the prehearing officer in this case, like all similar orders issued by this Commission, admonish the parties to assert discovery objections and the like within *ten* days of service of the discovery.

company as private in that *the disclosure of the information would cause harm to the ratepayers or the person's or company's business operations,* and has not been disclosed. . . . (italics supplied)

The motion provides a mere conclusory allegation as to the nature of the tax returns: it furnishes no allegation of any harm which could come to the ratepayers or to the company were the tax returns to be disclosed. The Commission must in the absence of such an allegation assume that there is none, and the Citizens say that the tax return of a regulated utility is definitionally devoid of proprietary information.

WHEREFORE, the Citizens say that the Motion for Protective Order should be stricken, but if not stricken, denied on the merits.

Respectfully submitted,



Harold McLean
Associate Public Counsel

Office of Public Counsel
c/o The Florida Legislature
111 West Madison Street
Room 812
Tallahassee, FL 32399-1400

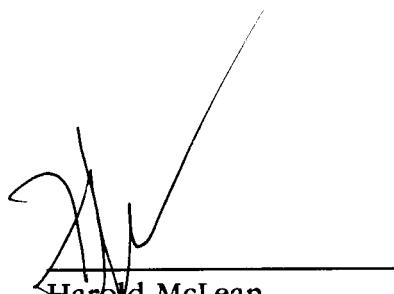
Attorney for the Citizens
of the State of Florida

**CERTIFICATE OF SERVICE
DOCKET NO. 940109-WU**

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 30th day of March, 1994.

José Lorenzo
Division of Legal Services
Florida Public Service Commission
101 E. Gaines St.
Tallahassee, FL 32301

Gene D. Brown, Esq.
3848 Killearn Court
Tallahassee, FL 32308

A handwritten signature in black ink, appearing to read 'Harold McLean', is written over a horizontal line. The signature is stylized and somewhat cursive.

Harold McLean
Associate Public Counsel