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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: August 31, 1994

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RESPONSE OF ST. GEORGE ISLAND UTILITY COMPANY, LTD. TO MOTION TO STRIKE

Petitioner St. George Island Utility Company, Ltd. ("SGIU"), in accordance with Rule 25-22.038(2)(b), files this response to the "Motion to Strike Late Filed Exhibit 43" that has been filed by Public Counsel. References to the Transcript of the hearing in this proceeding will be designated "Tr." followed by the volume and page numbers. In opposition to the Motion, SGIU

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states:
1. SGIU filed Late Filed Exhibit 43 with the Commission on August 25, as directed by the Chairman at the formal hearing. There was no direction at the hearing with regard to how the Exhibit should be served. The Exhibit was served so that Public Counsel received it on August 26. The document did not include a certificate of service because it is not a pleading, motion or other document that necessitates a certificate of service, but is instead an exhibit that should be placed into the record of the formal proceeding. In any case, the document was served, as Public Counsel states in its Motion.

2. Public Counsel's characterization of the sequence of filing Late Filed Exhibit 43 as ". . . an inexcusable and intentional attempt to diminish the participation of the

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Citizen's. . ."; and "attempted fraud" is indicative of the effort by Public Counsel to grandstand for attention in this proceeding rather than to prove its case. It is the same sort of behavior that Public Counsel displayed at the hearing when he cross-examined the witness Frank Seidman in an attempt to prove some manner of doctoring of a document that did not happen and that Public Counsel had no reason to believe did happen. See: Tr. v. 1, pp 88-92 and 106; v. 5 pp. 598-604.

3. It is the same sort of effort Public Counsel made with regard to Exhibit 9, an exhibit that clearly reflected a properly produced and maintained document with a copy of a check attached. Public Counsel sought to make a point that the copy of the check did not reflect that it had been negotiated was some sort of heinous thing, when in fact all that occurred is that a document was properly and prudently maintained in a manner to show that a check was delivered with the contract. The check was later negotiated. Tr. v. 3, pp. 369-79, v. 5, pp. 596-604.

4. It is the same sort of behavior displayed by Public Counsel when he sarcastically said "Congratulations" in response to Mr. Brown's testimony about efforts to develop St. George Island. Tr. v. 10, pp. 1412-1413. The transcript of course does not reveal Counsel's sarcastic tone, but anyone who was there knows it and tape recordings will confirm it. This is a sarcastic "congratulations" for developing the island where Public Counsel's clients live and where they safely consume water from a water system also developed by Mr. Brown. This comment is

further reflective of a mean spirited effort to malign and vilify rather than prove a case. This motion is more of the same.

5. SGIU has no interest in depriving Public Counsel of an opportunity to respond to the late filed exhibit, and will be happy to agree to any reasonable time frame for Public Counsel to do that. Indeed, if Public Counsel had but called, any reasonable request would have been agreed upon, and SGIU would have been happy to join in any reasonable request to the Commission without the need for the vindictive motion Public Counsel has filed in an apparent effort to mislead the Commission.

6. The expenses for TAB Associates reflected in Late Filed Exhibit 43 are not being claimed by SGIU. They are legitimate rate case expenses that are not being claimed by SGIU. To the extent that Exhibit 43 reflects that they are being claimed, this response expressly withdraws that implication.

WHEREUPON, SGIU agrees to allow Public Counsel an opportunity to respond to Exhibit 43, and respectfully requests that Public Counsel's Motion to Strike be denied.

Respectfully submitted this 31st day of August, 1994.

 (for)

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**Attorneys for St. George
Island Utility Company, Ltd.**

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by hand delivery to Robert Pierson and Suzanne Summerlin, Florida Public Service Commission, 101 East Gaines Street, Tallahassee, Florida 32399-0863; and to Harold McLean, Associate Public Counsel, Claude Pepper Building, Room 812, 111 West Madison Street, Tallahassee, Florida 32399-1400; and a copy has been furnished by U.S. Mail to Barbara Sanders, St. George Island Water and Sewer District, Post Office Box 157, Apalachicola, Florida 32320 this 31st day of August, 1994.

David A. Cheroque
Attorney