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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

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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: January 19, 1995

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

Petitioner St. George Island Utility Company, Ltd. ("SGIU") files this Response to the "Motion to Strike" filed by Public Counsel. In opposition to the motion, SGIU states:

1. Public Counsel has moved to strike portions of SGIU's "Reply to the 'Response to Motion for Reconsideration' and Response to 'Cross Motion for Reconsideration.'" Public Counsel has asserted that portions of SGIU's pleading that reply to Public Counsel's response to SGIU's Motion for Reconsideration are improper under the Commission's rules.

ACK ✓ 2. There is nothing in the Commission's rules that prohibits the filing of a reply
AFA — to a response to a motion for reconsideration. The Commission's rules do expressly set time
APP —
CAF — limits for the filing of motions for reconsideration, cross-motions for reconsideration and
CMR — responses to these motions. The Commission's rules do not mention replies to responses or
CTR —
E/M — set any time limits for filing them. Public Counsel has taken this to be a prohibition.

LEE Pierson
LH 3 3. Clearly the filing of a reply to a motion is not mandatory under the
GRC — Commission's rules. This does not mean, however, that it is prohibited. If the Commission
ROH —
SRO 1 had intended to prohibit the filing of replies to responses to motions it would have been a
WAB *Wells* simple thing to set it out in the rule.
QTH —

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4. All that SGIU has attempted to accomplish by filing a reply is to fully inform the Commission and its staff with regard to issues raised in the Motion for Reconsideration. Replies to responses to motions are routinely filed in all manner of judicial and quasi-judicial proceedings in Florida. SGIU has not sought to gain any improper advantage in the proceeding nor to offer any improper advocacy. Instead, SGIU has sought only to offer its arguments regarding the issues. In most instances filing of such a pleading, far from being considered improper, would be considered the responsible and helpful thing to do. In many instances failing to file such a pleading would be reason for an attorney to contact his or her malpractice carrier.

5. It would be unjust and unwise for the Commission to shut out information that may prove useful to it in resolving issues that are before it. Instead of striking the reply, the Commission should consider the points raised and endeavor to reach a just result. If the Commission wishes to prohibit the filing of replies it should expressly provide that in its rules.

WHEREUPON, St. George Island Utility Company, Ltd. opposes the Motion to Strike and requests that it be denied.

Respectfully submitted this 19th day of January, 1995.



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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by United States Mail to Robert Pierson and Suzanne Summerlin, Florida Public Service Commission, 101 East Gaines Street, Tallahassee, Florida 32399-0863; to Harold McLean, Associate Public Counsel, Claude Pepper Building, Room 812, 111 West Madison Street, Tallahassee, Florida 32399-1400; and to Barbara Sanders, St. George Island Water and Sewer District, Post Office Box 157, Apalachicola, Florida 32320 this 19th day of January, 1995.



Attorney