



JACK SHREVE
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STATE OF FLORIDA
OFFICE OF THE PUBLIC COUNSEL

ORIGINAL
FILE COPY

c/o The Florida Legislature
111 West Madison Street
Room 812
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August 7, 1995

Blanca S. Bayo, Director
Division of Records and Reporting
Florida Public Service Commission
2540 Shumard Oak Blvd.
Tallahassee, FL 32399-0850

Re: Docket No. 950495-WS

Dear Ms. Bayo:

Enclosed for filing in the above-referenced docket are the original and 15 copies of Citizens' Reply to the Response of Southern States Utilities, Inc. to the Citizens' Motion to Permit Additional Interrogatories.

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

APP _____

CAF _____

CMU _____

CTR _____

EAC _____

LEG

LRT HM:bsr

OPC _____ Enclosures

ADM _____

SEC

Sincerely,

Harold McLean
Associate Public Counsel

RECEIVED & FILED

98
FPSC BUREAU OF RECORDS

DOCUMENT NUMBER-DATE
07514 AUG-7 95
FPSC-RECORDS/REPORTING

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

ORIGINAL
FILE COPY

Application for rate increase for)
Orange-Osceola Utilities, Inc. In)
Osceola County, and in Bradford,)
Brevard, Charlotte, Citrus, Clay,)
Collier, Duval, Highlands, Lake,)
Lee, Marion, Martin, Nassau, Orange,)
Osceola, Pasco, Putnam, Seminole,)
St. Johns, St. Lucie, Volusia, and)
Washington Counties, by Southern)
States Utilities, Inc.)

Docket No. 950495-WS

Filed: August 7, 1995

REPLY TO THE RESPONSE OF SOUTHERN STATES UTILITIES, INC.
TO THE CITIZENS' MOTION TO PERMIT ADDITIONAL INTERROGATORIES

The Citizens of the State of Florida, by and through JACK SHREVE, Public Counsel, reply to the Southern States Utilities, Inc.'s response (SSU's response) to the Citizens' Motion to Permit Additional Interrogatories and say:

1. While this reply is not expressly authorized by commission rules, the reply is not specifically disallowed. As the commission recently held in In re Application of St. George Island Utility Company, Ltd., 95 F.P.S.C. 3:33 (1995) (order no. PSC-95-0274-FOF-WU)

As mentioned in the case background, St. George filed a reply to OPC's Response to its motion for reconsideration. Although the Commission's rules do not expressly authorize the reply, they also do not specifically disallow it. Accordingly, OPC's motion to strike St. George's reply is disallowed.

In the St. George case, the commission received and considered, over objection, a reply to a response to a motion. The Citizens' motion is not specifically disallowed, accordingly, it should be considered.

DOCUMENT NUMBER-DATE

07514 AUG-7 95

FPSC-RECORDS/REPORTING

Requests for Production:

2. Although the SSU's response purports to be a response to the Citizens' motion, the response suggests that there should be a limit on requests for production of documents.

3. Neither the Citizens' motion nor the Florida Rules of Civil Procedure limit in any way requests for production of documents. No request for limitation has been filed by any party; the issue is not pending before the commission.

Interrogatories:

4. SSU's implication that this case is less complex than the last is patently disingenuous. By way of its MFR's, SSU presents the sworn testimony of twenty-two witnesses. Data purporting to justify rate relief for at least 25 more systems is included as well. Data purporting to support rate increases in the Lehigh Acres and Marco Island systems are included in this case, it was not included in the last rate case. 100 interrogatories were permitted in Lehigh alone¹; no limit was established in Marco Island². In Marco, the commission simply and appropriately eliminated the restriction to thirty provided by the Rules of Civil Procedure.³

5. The tenor of the SSU response--that it is somehow the burden of the Citizens to show the need for discovery--is contrary

¹ Order No PSC-92-0459-PCO-WS (1992), Docket no. 911188-WS

² Marco Island, a case in which SSU was a party, is inexplicably absent from the list of cases furnished to the commission by SSU in its response.

³ Order No. 23787, Docket no. 900329-WS

to extensive Florida Law on the Subject. The only burden to be considered, and then only when properly raised, is SSU's burden to allege and prove undue hardship in discovery compliance.

6. SSU's representation that it "will make a good faith attempt" to comply with or object to discovery is precisely what both SSU and its counsel are obliged to do under Florida Law and under Florida Rules of Professional Conduct, respectively.

7. SSU's response is devoid of any allegation of prejudice associated with any number of interrogatories.

WHEREFORE, SSU's response, to the extent it addresses requests for production of documents should be stricken, and to the extent it suggests a limit on interrogatories, should be denied.

Respectfully submitted,


Harold McLean
Associate Public Counsel

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Attorney for the Citizens
of the State of Florida

**CERTIFICATE OF SERVICE
DOCKET NO. 950495-WS**

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 7th day of August, 1995.

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