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STATE OF FLORIDA
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ORIGINAL
FILE COPY

November 3, 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' Tenth Motion to Compel, Tenth Motion to Postpone Date for Filing Intervenor Testimony, and Request for in camera inspection of documents.

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

Sincerely,

Charles J. Beck
Charles J. Beck
Deputy Public Counsel

ACK ✓
AFA 3
ATP CJB:bsr
CAF Enclosures
CMB _____
CTR _____
EAG _____
LEG 1
LIR 5
OPC _____
ROH _____
SEC 1
WAS William
OTR _____

Max
SEARCHED _____
SERIALIZED _____
INDEXED _____
FILED _____

DOCUMENT NUMBER-DATE
10878 NOV-3 1995
FPSC-RECORDS/REPORTING

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application for a 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: November 3, 1995

**CITIZENS' TENTH MOTION TO COMPEL, TENTH MOTION TO POSTPONE DATE
FOR FILING INTERVENOR TESTIMONY, AND REQUEST FOR IN CAMERA
INSPECTION OF DOCUMENT**

The Citizens of Florida ("Citizens"), by and through Jack Shreve, Public Counsel, move the Commission to compel Southern States Utilities, Inc. ("SSU") to immediately produce a letter dated December 14, 1993, from Laura A. Holquist to Mr. Ron Sorenson discussing the status of escrow funds relating to Lehigh Utility Corporation. In addition, the Citizens request the Commission to postpone, on a day-for-day basis, the filing date for intervenor testimony for each day SSU fails to produce a copy of this letter. Finally, the Citizens request the Commission to conduct an in camera inspection of this document should SSU claim it is privileged.

1. Counsel for the Citizens and SSU have spent considerable time communicating and attempting to resolve this dispute before

bringing this motion. SSU refuses to produce a copy of this document.

2. Document request #63 of the Citizens' first set of requests for production of documents asked for the workpapers of SSU's outside accountants. A copy of their response is attached. Their response made certain workpapers available at the Price Waterhouse office in Orlando, Florida. No claim of privilege was made in their response.

3. On Monday, September 18, 1995, representatives of the Citizens went to the Price Waterhouse offices in Orlando and reviewed those documents made available.¹ The Citizens tagged a portion of those documents for copying and were told they would be provided to us in two or three days.

4. After a few weeks passed without receiving copies of the documents, the Citizens contacted SSU and asked where they were. SSU stated they would be provided in a day or two.

5. About two days later, documents purporting to be the tagged documents were received. The citizens, however, noticed that the documents received did not contain the letter at issue in this motion, even though that document had been tagged for copying

¹ The Citizens sixth motion to compel filed September 22, 1995, addresses the refusal to provide certain documents for inspection. There has been no ruling on that motion.

at the Price Waterhouse offices.

6. SSU advised the Citizens that the letter at issue was inadvertently omitted from the copies provided. SSU now claims, however, that the letter is privileged and that it will not produce the document.

7. SSU made no claim of privilege in response to this request for production of documents, and any such possible claim now is waived. The document was contained in their outside auditor workpapers and was in fact produced for the Citizens during a visit to the offices of the auditors. Production of the document itself at the auditor's office also waives any possible claim of privilege. It appears that SSU now refuses to produce the document only because the contents of the document take issue with positions previously taken by the company. The document is needed for the Citizens' testimony to be filed in this case.

8. The Citizens request the Commission to order SSU to provide a copy of this document to the Citizens. In addition, the Citizens request the Commission to postpone, on a day-for-day basis, the filing date for intervenor testimony until SSU fully satisfies these discovery requests. Intervenor testimony is now scheduled for November 20, 1995. The day-for-day postponement

should be determined using that date as a starting point.

Respectfully submitted,

JACK SHREVE
PUBLIC COUNSEL



Charles J. Beck
Deputy Public Counsel

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111 West Madison Street
Room 812
Tallahassee, FL 32399-1400

Attorneys 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 party representatives on this 3rd day of November, 1995.

*Ken Hoffman, Esq.
William B. Willingham, Esq.
Rutledge, Ecenia, Underwood,
Purnell & Hoffman, P.A.
P.O. Box 551
Tallahassee, FL 32302-0551

Brian Armstrong, Esq.
Matthew Feil, Esq.
Southern States Utilities
General Offices
1000 Color Place
Apopka, FL 32703

Kjell W. Petersen
Director
Marco Island Civic Association
P.O. Box 712
Marco Island, FL 33969

*Lila Jaber, Esq.
Division of Legal Services
Fla. Public Service Commission
2540 Shumard Oak Blvd.
Tallahassee, FL 32399

Michael B. Twomey, Esq.
P. O. Box 5256
Tallahassee, Florida
32314-5256



Charles J. Beck
Deputy Public Counsel

SOUTHERN STATES UTILITIES, INC.
RESPONSE TO REQUEST FOR PRODUCTION OF DOCUMENTS
DOCKET NO.: 950495-WS

REQUESTED BY: OPC
SET NO: 1
DOCUMENT REQUEST NO: 63
ISSUE DATE: 07/18/95
WITNESS: MORRIS A. BENCINI
RESPONDENT: Morris Bencini

DOCUMENT REQUEST: 63

Provide copies of the outside independent auditors' workpapers for each of the past three years for the Company, Topeka Group, Inc., MPL, Buenaventura Lakes, East L.A. Services Corporation, and Lehigh Acquisition Corporation.

RESPONSE: 63

Price Waterhouse, LLP is the outside independent auditor for SSU, Topeka, Minnesota Power, Lehigh Acquisition Corp. and East L.A. Services. In addition, Price Waterhouse is also the independent auditor for Orange-Osceola Utilities, Inc. ("OOU"). SSU objects to the request to produce workpapers for East L.A. Services Corporation and Lehigh Acquisition Corporation as these entities have nothing to do with this filing and, therefore, such workpapers would not be relevant and would not likely be relevant to issues to be decided in this proceeding.

Please note that the workpapers relating to the outside independent audits of Price Waterhouse are their property. Consistent with prior practice, the Company will request that these workpapers for SSU and Topeka be made available to OPC auditors at the Price Waterhouse offices. Reasonable notice should be given of the date for this review in order to allow Price Waterhouse and SSU personnel to arrange their schedules to participate in this review process. The responsible Price Waterhouse offices and locations of the respective audit workpapers are as follows:

<u>Company Name</u>	<u>Price Waterhouse Office</u>
Southern States Utilities	Orlando, Florida
Minnesota Power	Minneapolis, Minnesota
Topeka Group, Inc.	Minneapolis, Minnesota

Please note that the Company does not have the authority to request a review of the Price Waterhouse workpapers relating to OOU since this purchase by SSU has not yet closed. However, we have forwarded this request to OOU. The workpapers relating to the OOU audit are maintained by the Price Waterhouse office in Miami, Florida.