

RUTLEDGE, ECENIA, UNDERWOOD, PURNELL & HOFFMAN

PROFESSIONAL ASSOCIATION
ATTORNEYS AND COUNSELORS AT LAW

STEPHEN A. ECENIA
KENNETH A. HOFFMAN
THOMAS W. KONRAD
R. DAVID PRESCOTT
HAROLD F. X. PURNELL
GARY R. RUTLEDGE
R. MICHAEL UNDERWOOD
WILLIAM B. WILLINGHAM

POST OFFICE BOX 551, 32302-0551
215 SOUTH MONROE STREET, SUITE 420
TALLAHASSEE, FLORIDA 32301-1841

GOVERNMENTAL CONSULTANTS:
PATRICK R. MALOY
AMY J. YOUNG

TELEPHONE (904) 681-6788
TELECOPIER (904) 681-6515

November 6, 1995

ORIGINAL
FILE COPY

HAND DELIVERY

Ms. Blanca S. Bayo, Director
Division of Records and Reporting
Florida Public Service Commission
2540 Shumard Oak Boulevard
Betty Easley Conference Center
Room 110
Tallahassee, Florida 32399-0850

Re: Docket No. 950495-WS

Dear Ms. Bayo:

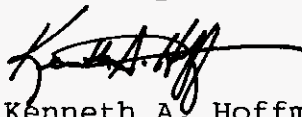
Enclosed herewith for filing in the above-referenced docket on behalf of Southern States Utilities, Inc. ("SSU") are the following documents:

1. Original and fifteen copies of SSU's Response to OPC's Petitions for Special Appearance -and- Motions to Strike; and
2. A disk in Word Perfect 6.0 containing a copy of the Motion entitled "Response.Pet."

Please acknowledge receipt of these documents by stamping the extra copy of this letter "filed" and returning the same to me.

Thank you for your assistance with this filing.

Sincerely,



Kenneth A. Hoffman

ACK _____
 AFA 2
 APP _____
 CAF _____
 CMU _____
 CTR _____
 EAG _____
 LEG 1
 LIN 5
 ORC _____
 RCH _____
 SEC 1
 WAS 1
 OTR _____

cc: All Parties of Record
Trib.3

RECEIVED
NOV 6 1995
m

DOCUMENT NUMBER-DATE

10942 NOV-6 95

FPSC-RECORDS/REPORTING

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

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

FILED
NOV 6 1995

Docket No. 950495-WS

Filed: November 6, 1995

SSU'S RESPONSE TO OPC'S PETITIONS FOR SPECIAL APPEARANCE -and- MOTIONS TO STRIKE

Southern States Utilities, Inc. ("SSU"), by and through its undersigned attorneys and pursuant to Rule 25-22.037(2) (b), Florida Administrative Code, hereby responds to the Office of Public Counsel's ("OPC") Petitions for Special Appearance -and- Motions to Strike SSU's First Set of Interrogatories and First Set of Requests for Production of Documents to OPC in this docket, and as grounds therefor, states as follows:

1. On July 26, 1995, the Commission entered Order No. PSC-95-0901-PCO-WS, acknowledging the intervention of the Office of Public Counsel ("Order Acknowledging OPC Intervention") in the above-referenced docket.

2. On October 10, 1995, SSU served its First Set of Interrogatories to OPC. On October 25, 1995, SSU served its First Set of Requests for Production of Documents to OPC.

3. On October 30, 1995, OPC filed a Petition for Special Appearance -and- Motion to Strike SSU's First Set of Interrogatories to OPC. On November 1, 1995, OPC filed a Second

DOCUMENT NUMBER-DATE
10942 NOV-6 95
FPSC-RECORDS/REPORTING 3432

Petition for Special Appearance -and- Motion to Strike, this time directing its Motion to SSU's First Set of Requests for Production of Documents to OPC.

4. In order to avoid any further delay occasioned by OPC's Petitions and Motions, SSU served the identical discovery requests upon the Citizens through OPC on October 30, 1995, the same day that SSU first learned of OPC's objection. The issue raised by OPC's belated attempts to avoid or delay SSU's discovery is whether SSU properly directed its initial discovery requests to OPC. The resolution of this issue directly affects the requisite dates for the filing of objections and responses to SSU's discovery requests. If the discovery requests were properly directed to OPC as SSU contends, then OPC has failed to timely object within 10 days¹ to same and is required to serve its responses on November 9 (to SSU's interrogatories) and November 27 (to SSU's document requests), respectively.

5. OPC's Petitions request a "special appearance"; however, "special appearances" are no longer recognized in Florida. First Wisconsin National Bank of Milwaukee v. Donian, 343 So.2d 943 (Fla. 2nd DCA 1977). OPC's Petitions for Special Appearance are not authorized by law and must be denied.

6. OPC's Motions to Strike appear to be based on the contention that OPC is not a party to this proceeding and that SSU's initial discovery requests should have been directed to the Citizens rather than OPC. Intervention in Commission proceedings

¹See Order No. PSC-95-0943-PCO-WS.

has historically been granted to OPC -- not the Citizens -- without objection by OPC. See, e.g., United Telephone Company v. Mayo, 345 So.2d 648, 650, fn. 2 (Fla. 1977) ("The Commission authorized intervention in the docket by Public Counsel"). In the undersigned counsel's experience in SSU's last four rate cases,² intervention and party status have been granted to OPC, without objection from OPC, and SSU has consistently directed all pleadings and discovery to OPC (not the Citizens), without objection from OPC. For example, in Docket No. 920199-WS, SSU directed its First Set of Interrogatories and Requests for Production of Documents to OPC as the party required to respond to the discovery requests. See Exhibit A attached to this Response. OPC responded to SSU's discovery requests and at no time raised an objection to the fact that the requests were directed to OPC as opposed to the Citizens.

7. In the instant rate case, OPC was granted intervention and party status on July 26, 1995 pursuant to the Order Acknowledging OPC Intervention. If OPC wished to object to its party status in this proceeding, OPC was required to file a motion for reconsideration within 15 days of the Order Acknowledging OPC Intervention, i.e., by August 10, 1995. This OPC failed to do and by virtue of such failure, has waived its right to raise this issue almost three months later. OPC compounded its waiver and SSU's reliance thereon by failing to move to strike or otherwise object to SSU's numerous responses and motions filed in this proceeding

²See Docket Nos. 900329-WS, 911188-WS, 920199-WS and 920655-WS.

which appropriately identified OPC as the adversarial party in the pleading. Moreover, the orders issued in this proceeding have consistently referred to a granting or denial of motions filed by OPC, not the Citizens. Not once has OPC objected to the characterization by SSU, the Prehearing Officer and the Commission of OPC as a party to this proceeding.

8. OPC's belated premise that it would be legally incorrect to treat OPC as the intervening party in this proceeding is flatly inconsistent with the statutory authority granted to OPC under Sections 350.0611 and 350.0613, Florida Statutes (1993). These provisions clearly contemplate OPC's participation in Commission proceedings as a party and authorize OPC to assert positions before the Commission which OPC deems to be in the public interest.

350.0611 Public Counsel; duties and powers. -- ... The Public Counsel shall have such powers as are necessary to carry out the duties of his office, including, but not limited to, the following specific powers:

(1) To recommend to the commission, by petition, the commencement of any proceeding or action or to appear, in the name of the state or its citizens, in any proceeding or action before the commission and urge therein any position which he deems to be in the public interest....

* * *

(3) In any proceeding in which he has participated as a party³ to seek review of any determination, finding, or order of the commission....

³Section 120.52(12)(b), Florida Statutes (1993), defines a "party" to include any person who is entitled to participate in an administrative proceeding pursuant to statute.

350.0613 Public Counsel; employees; receipt of pleadings. -- ... The commission shall furnish the Public Counsel with copies of the initial pleadings in all proceedings before the commission, and if the Public Counsel intervenes as a party in any proceeding he shall be served with copies of all subsequent pleadings, exhibits, and prepared testimony, if used. Upon filing notice of intervention, the Public Counsel shall serve all interested parties with copies of such notice and all of his subsequent pleadings and exhibits.

§350.0611(1), (3) and 350.0613, Fla. Stat. (1993) (emphasis supplied).

9. To the extent OPC's Motions to Strike challenge the Commission's jurisdiction over OPC, OPC's Motions must be denied. In civil proceedings, objections directed to a court's lack of personal jurisdiction must be timely raised by a responsive pleading or motion. A failure to timely raise an objection based on lack of personal jurisdiction results in a waiver of the objection or defense. See Fla.R.Civ.P. 1.140(a)(1), (2), (b)(2) and (h); Donian, supra, 343 So.2d at 945; Coto-Ojeda v. Samuel, 642 So.2d 587, 588 (Fla. 3d DCA 1994). Pursuant to Rule 25-22.060, Florida Administrative Code, OPC could have filed a motion for reconsideration of the Order Acknowledging OPC Intervention within 15 days after the date that Order was issued (July 26, 1995). Having failed to timely challenge its party status or the Commission's personal jurisdiction in this proceeding, OPC has waived its right to do so and OPC's Motions to Strike must be denied.

10. OPC's Petitions and Motions are flagrant attempts by OPC to avoid and delay production of the information and materials to which SSU is entitled. OPC's abuse of the discovery process should not be tolerated. Although SSU served identical interrogatories upon the Citizens immediately upon receiving notice that OPC believes it is not a party to which discovery should be directed, justice would not be served if OPC is permitted to delay its responses to SSU's original discovery requests to OPC.

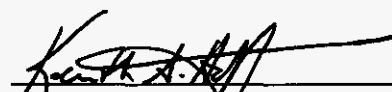
WHEREFORE, SSU respectfully moves the Commission for an Order:

A. Denying OPC's Petitions for Special Appearance -and- Motions to Strike;

B. Confirming that OPC's 10 day time period for filing objections to SSU's First Set of Interrogatories and First Set of Requests for Production of Documents has expired using the original dates of service by hand delivery of such discovery requests; and

C. Directing OPC to respond to SSU's First Set of Interrogatories and First Set of Requests for Production of Documents on or before November 9, 1995 and November 27, 1995, respectively.

Respectfully submitted,


KENNETH A. HOFFMAN, ESQ.
WILLIAM B. WILLINGHAM, ESQ.
Rutledge, Ecenia, Underwood,
Purnell & Hoffman, P.A.
P. O. Box 551
Tallahassee, FL 32302-0551
(904) 681-6788

and

BRIAN P. ARMSTRONG, ESQ.
MATTHEW FEIL, ESQ.
Southern States Utilities, Inc.
1000 Color Place
Apopka, Florida 32703
(407) 880-0058

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of SSU's Response to OPC's Petitions for Special Appearance -and- Motions to Strike were furnished by U. S. Mail to the following on this 6th day of November, 1995:

Lila Jaber, Esq.
Division of Legal Services
2540 Shumard Oak Boulevard
Gerald L. Gunter Building
Room 370
Tallahassee, FL 32399-0850

Mr. W. Allen Case
President
Sugarmill Woods Civic Asso.
91 Cypress Blvd., West
Homosassa, FL 34446

Charles J. Beck, Esq.
Office of Public Counsel
111 W. Madison Street
Room 812
Tallahassee, FL 32399-1400

Donald Odom, Esq.
P. O. Box 1110
Tampa, FL 33601

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

Mr. Morty Miller
President
Spring Hill Civic Asso., Inc.
P. O. Box 3092
Spring Hill, FL 34606

Mr. Kjell Pettersen
Chairman, MIFWRDFC
P. O. Box 712
Marco Island, FL 33969

Robert Bruce Snow, Esq.
20 N. Main Street
Room 462
Brooksville, FL 34601-2850


KENNETH A. HOFFMAN, ESQ.

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application of Southern)
States Utilities, Inc. and Deltona)
Utilities, Inc. for Increased)
Water and Wastewater Rates in)
Citrus, Nassau, Seminole, Osceola,)
Duval, Putnam, Charlotte, Lee,)
Lake, Orange, Marion, Volusia,)
Martin, Clay, Brevard, Highlands,)
Collier, Pasco, Hernando, and)
Washington Counties.)

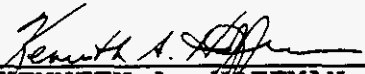
Docket No. 920199-WS
Filed: October 14, 1992

**SOUTHERN STATES' NOTICE OF SERVICE
OF ITS FIRST SET OF INTERROGATORIES
AND REQUESTS FOR PRODUCTION OF
DOCUMENTS TO PUBLIC COUNSEL**

SOUTHERN STATES UTILITIES, INC. and DELTONA UTILITIES, INC., (hereinafter referred to collectively as "Southern States"), by and through its undersigned counsel, hereby files and serves its Notice of Service of the original and one copy of its First Set of Interrogatories and Requests for Production of Documents to the OFFICE OF PUBLIC COUNSEL ("Public Counsel") on Harold McLean, Esq., Office of Public Counsel, 111 West Madison Street, Room 812, Tallahassee, Florida 32399-1400, by hand delivery, on October 14, 1992. Copies of Southern States' First Set of Interrogatories and Requests for Production of Documents have also been served on counsel for the Commission Staff and all other parties of record whose addresses are reflected on the attached Certificate of Service.

EXHIBIT "A"

Respectfully submitted,


KENNETH A. HOFFMAN, ESQUIRE
LAURA L. WILSON, ESQUIRE
Messer, Vickers, Caparello,
Madsen, Lewis, Goldman & Metz, P.A.
P. O. Box 1876
Tallahassee, Florida 32302-1876
(904) 222-0720

and

BRIAN P. ARMSTRONG, ESQUIRE
Southern States Utilities, Inc.
1000 Color Place
Apopka, Florida 32703
(407) 880-0058

Attorneys for Applicants Southern
States Utilities, Inc. and
Deltona Utilities, Inc.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing Southern States' Notice of Service of its First Set of Interrogatories and Requests for Production of Documents to Public Counsel were furnished by hand delivery(*) and/or U. S. Mail, this 14th day of October, 1992, to the following:

Harold McLean, Esq.*
Office of Public Counsel
111 West Madison Street
Room 812
Tallahassee, Florida 32399-1400

Matthew Feil, Esq.*
Catherine Bedell, Esq.*
Florida Public Service Commission
Division of Legal Services
101 East Gaines Street
Room 226
Tallahassee, Florida 32399

Mr. Harry C. Jones, P.E. President
Cypress and Oak Villages Association
91 Cypress Boulevard West
Homasassa, Florida 32646

Michael S. Mullin, Esq.
P. O. Box 1563
Fernandina Beach, Florida 32034

By: 
KENNETH A. HOFFMAN, ESQ.

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application of Southern)
States Utilities, Inc. and Deltona)
Utilities, Inc. for Increased)
Water and Wastewater Rates in)
Citrus, Nassau, Seminole, Osceola,)
Duval, Putnam, Charlotte, Lee,)
Lake, Orange, Marion, Volusia,)
Martin, Clay, Brevard, Highlands,)
Collier, Pasco, Hernando, and)
Washington Counties.)

Docket No. 920199-WS

**SOUTHERN STATES' FIRST SET OF INTERROGATORIES
AND REQUESTS FOR PRODUCTION OF DOCUMENTS
TO OFFICE OF PUBLIC COUNSEL**

Pursuant to Rules 25-22.034 and 25-22.035(3), Florida Administrative Code, and Rule 1.340, Florida Rules of Civil Procedure, SOUTHERN STATES UTILITIES, INC. and DELTONA UTILITIES, INC. (hereinafter referred to collectively as "Southern States"), hereby submits its First Set of Interrogatories and Requests for Production of Documents to OFFICE OF PUBLIC COUNSEL ("Public Counsel"). The interrogatories shall be answered under oath by Public Counsel or through its qualified employees. Pursuant to its Motion for Expedited Responses filed and served contemporaneously herewith, Southern States requests Public Counsel to provide its responses to the interrogatories and document requests set forth below, by hand delivery, on or before October 28, 1992.

**GENERAL INSTRUCTIONS
AND DEFINITIONS**

1. Please provide the name, address and relationship to the Public Counsel of each person(s) providing answers to each of the following Interrogatories and Document Requests.

2. "And" and "or" shall be construed as and/or.

3. "Documents" shall mean all written, printed, typed, recorded, or graphic matter of any kind, including, without limiting the foregoing, all notes, work papers, supporting or back up materials, correspondence, memoranda, contracts, agreements, marginal notations, computer printouts, computer or word processing disks, magnetic tapes, or memory-stored material, and includes, without limitation, originals and all copies unless identical.

INTERROGATORIES

1. Please provide Public Counsel's definition of a "cross-subsidy".

2. Please identify all administrative and general ("A&G") costs which Public Counsel believes vary with the amount of direct labor required to provide water and wastewater services.

3. Would Public Counsel agree that the selection of a reasonable allocation method is not an exact science?

4. What is the purpose of Ms. Dismukes' Schedule 1 of Exhibit ___ (KHD-1) and the associated text in Ms. Dismukes' testimony?

5. Identify the significance of the size of Southern States versus a "small" water and wastewater company as such size difference relates to the selection of an allocation method.

6. Would Public Counsel agree that Ms. Dismukes' argument that an allocation based on number of customers creates a subsidy of one type of customer by another, i.e., a water customer by a wastewater customer, could be applied regardless of the method of

allocation used? Please explain your answer.

7. Please explain why it would be preferable to implement a subsidy through the revenue distribution process rather than indirectly through an allocation process.

8. Does Public Counsel believe that allocating costs according to direct labor more closely approximates the A&G costs that would be incurred by the water versus the wastewater systems? Please explain your answer.

9. Please identify how Ms. Dismukes' recommendation regarding the allocation of A&G costs and general plant distributes these costs in proportion to the benefits received by each system.

10. Please identify the relationship, if any, which Public Counsel believes exists between varying levels of water usage and the level of A&G and other common costs of issue in this proceeding.

11. Please identify the costs associated with Southern States' "acquisition and sales efforts" which are included in A&G and other common costs which have been identified by Southern States in this proceeding.

12. Identify all A&G costs and other common costs incurred by Southern States, in addition to electricity for the general plant, which allegedly benefit the acquisition/sales effort.

13. Please identify the methodology for allocation of A&G expenses which Public Counsel advocated in Docket No. 900329-WS.

(a) If the methodology advocated in Docket No. 900329-WS differs from that recommended by Ms. Dismukes on page 16, lines

22-24 of her prefiled testimony, please state the reasons why Public Counsel has changed or modified its position.

(b) Please identify by docket number all prior Florida Public Service Commission ("Commission" or "FPSC") dockets in which Public Counsel has recommended that the Commission adopt the allocation methodology recommended by Ms. Dismukes on page 16, lines 22-24 of her prefiled testimony.

(c) Please identify by docket number and order number all prior Commission proceedings in which the Commission adopted the allocation methodology recommended by Ms. Dismukes on page 16, lines 22-24 of her prefiled testimony.

(d) Please identify by case or docket number all regulatory proceedings in jurisdictions outside of Florida in which the regulatory body has adopted the allocation methodology recommended by Ms. Dismukes on page 16, lines 22-24 of her prefiled testimony.

14. Please quantify the "considerable" effort which Public Counsel alleges is spent by SSUSI on possible acquisitions and sales.

15. Would Public Counsel agree that disputing, defending or otherwise litigating condemnation attempts by governmental authorities is an ordinary cost of doing business in the water and wastewater industry? Please explain your answer.

16. Please identify methods by which Southern States can avoid the condemnation of water and wastewater systems.

17. Please explain why Southern States' customers should not

be required to pay for costs associated with disputing, defending or litigating condemnation proceedings?

18. Please explain why Southern States' customers should not be required to pay for the costs of disputing, defending or litigating condemnation proceedings when Public Counsel is proposing that Southern States' customers share in any gain which might result from the condemnation?

19. Please explain the rationale behind Ms. Dismukes' proposal to have customers share in the gain on sale of the University Shores land.

20. Does Public Counsel agree that customers do not pay for any depreciation of land? Please explain your answer.

21. Does Ms. Dismukes agree that Southern States' customers benefit from the acquisition of additional systems and customers? If not, why not?

22. If Southern States had incurred a loss from the sale of the University Shores land, would it be proper for the loss to be recovered from Southern States' other customers? Please explain your answer.

23. If a loss had been incurred by Southern States relating to the condemnation of its St. Augustine Shores system, would it be proper for the loss to be recovered from Southern States' other customers, whether such customers are served by FPSC regulated systems or otherwise? Please explain your answer.

24. Please identify all Florida Public Service Commission ("FPSC") precedents (and provide copies thereof) upon which Public

Counsel intends to rely in which the Commission has required customers of a utility to share in the gain or loss relating to the condemnation or sale of an individual system which is not regulated by the Commission.

25. Please identify all FPSC precedents (and provide copies thereof) upon which Public Counsel intends to rely in which the Commission has required customers of a utility to share in the gain or loss relating to the condemnation or sale of utility land?

26. If Southern States successfully defeats a condemnation attempt, does Public Counsel believe that the costs associated with defeating the condemnation attempt should be recoverable from the customers?

27. Please identify any indicia of ownership which attaches to customers as a result of the payment of water or wastewater rates.

28. Please identify any indicia of ownership which attaches to customers as a result of the payment of contributions in aid of construction.

29. Please provide any and all facts which support Ms. Dismukes' statement on page 33 of her prefiled testimony that "Topeka Group or MPL would not have considered the merger if there would not have been cost savings associated with it."

30. Does Public Counsel agree that customer confusion may result from the appearance of the names Southern States Utilities, Inc., Southern States Utility Services, Inc., Deltona Utilities, Inc., United Florida Utilities Corporation, Seaboard Utilities

Corporation and/or Venice Gardens Utilities Corporation, or any combination of the above, on various correspondence and regulatory reports which may be provided to customers? Please explain your answer.

31. Does Public Counsel support the merger of Lehigh Utilities, Inc. into Southern States Utilities, Inc.? Please explain your answer giving reasons why Public Counsel supports or opposes the merger.

32. Please provide in detail Ms. Dismukes' prior experience regarding utility mergers, sales, acquisitions and/or condemnations.

33. Does Public Counsel believe the merger of Lehigh Utilities, Inc. and Southern States Utilities, Inc. with Southern States Utilities, Inc. as the surviving corporation will result in less customer confusion of the type recently demonstrated on October 1 at the Lehigh customer service hearing? Please explain your answer.

34. Please identify the names of the representatives of the Office of Public Counsel who conducted an on-site investigation at Southern States' offices in Apopka and the dates each representative was present in Apopka.

35. (a) Identify the dates, times and locations of all meetings, discussions or communications, whether oral or written, between or among the Office of Public Counsel (including the Public Counsel, agents, employees or representatives of Public Counsel), Commissioners of the Florida Public Service Commission, or

Commission Staff regarding Southern States' application for a rate increase in Docket No. 920199-WS either while such application was pending or otherwise.

(b) If meetings were held, identify who was present, including all legal counsel, the topics discussed and any advice received by Public Counsel from Commissioners or Commission Staff as a result of such meetings and the topics discussed. Provide copies of any documents, studies or analyses presented to the Commissioners or Commission Staff as a result of such meetings.

36. (a) Identify how many hours the Public Counsel and employees, agents or representatives of the Public Counsel spent with state legislators in the calendar years 1990, 1991 and year-to-date 1992.

(b) Identify the legislators with whom the Public Counsel and employees, agents or representatives of Public Counsel met in calendar year 1991 and year-to-date 1992.

(c) How many of the hours identified in the response to subsection (a) above were spent discussing utility issues?

(d) How many of the hours identified in the response to subsection (a) above were spent discussing water and wastewater issues specifically?

(e) How many of the hours identified in response to subsection (a) above were spent discussing Southern States Utilities, Inc., Deltona Utilities, Inc., United Florida Utilities Corporation or Lehigh Utilities, Inc., individually or collectively?

(f) Identify how many hours the Public Counsel and employees, agents or representatives of Public Counsel spent preparing information, either oral or written, for use at the meetings or in discussions with the legislators identified in subsection (b).

(g) What was the purpose of Public Counsel's meetings or discussions with legislators identified in response to subsection (b) above?

37. Identify all legislation introduced in the Florida State Legislature since January 1, 1990 regarding which Public Counsel consulted with the sponsoring legislators.

38. Identify all prior proceedings in which the Office of Public Counsel's witnesses in this proceeding testified and the issues upon which they testified.

39. Please provide Ms. Dismukes' qualifications for providing expert testimony on used and useful issues found on pages 27-32 of her prefiled testimony.

40. Please provide the basis for Ms. Dismukes' conclusion on page 44 of her prefiled testimony that ratepayers should not be charged with any legal fees associated with contesting DER and/or EPA fines and violations.

41. Does Public Counsel maintain that Southern States imprudently incurred expenses for property taxes associated with non-used and useful property.

42. Please identify when the current recession will cease.

43. Please identify when home constructions will return to the levels experienced in Florida during the 1980's.

44. Please identify when housing sales will increase in Florida to the levels experienced during the 1980's.

45. Please identify the amount of rain that will fall during the calendar year 1992.

46. Please identify the impact on utility shareholders if revenue projections are materially higher than actual revenues.

47. Please identify the impact on utility lenders if revenue projections are materially higher than actual revenues.

48. Is it Public Counsel's belief that expense adjustments which might occur outside of the pertinent test year should only be reflected if they are "known and measurable"? Please explain your answer.

49. Is it Public Counsel's belief that expenses incurred during a test year should never be reflected in rates unless the benefits to be derived as a result of the expense also are derived during the test year? Please explain your answer.

50. Please identify situations in which the Commission recognizes and permits recovery of expenses incurred during the test year even though benefits to be derived as a result of such expenses are not received by customers until after the end of the test year.

51. Is it Public Counsel's opinion that all changes to Southern States' expenses which are "known and measurable" but which occur beyond the test year should be considered in ratemaking

in this proceeding?

52. Is it Ms. Dismukes' belief that projections of potential savings are "known and measurable"?

53. What information or facts support Ms. Dismukes' belief that Southern States' membership in the Florida Public Relations Association does not benefit ratepayers?

54. Please identify and state all facts known by Ms. Dismukes about the functions and activities of the Florida Chamber of Commerce, the Apopka Area Chamber of Commerce and the Seminole County Chamber of Commerce.

55. Please identify the relationship between a determination of non-used and useful plant and the level of property taxes actually paid by Southern States.

56. Is it Public Counsel's belief that a determination that utility plant is 25% non-used and useful translates directly into a 25% reduction in property taxes associated with such plant.

57. Please identify any similarities and dissimilarities between property taxes, utility investment in plant, and its related depreciation.

58. Is it Public Counsel's belief that Price Waterhouse future audit fees are "known and measurable"?

59. Can Public Counsel identify the individuals from Price Waterhouse who will work on Southern States' audits in the future?

60. Can Public Counsel provide any assurance that Price Waterhouse audit fees will not increase in the future?

61. Is it Public Counsel's belief that it is unusual for independent auditors to assign different individuals to conduct an audit from year to year?

62. Is it Public Counsel's belief that the expense associated with the conduct of reuse studies required by regulators is not a recoverable expense from ratepayers?

63. Can Public Counsel identify the manholes which will overflow or the lift stations which will fail at the Jungle Den wastewater system in the future?

64. Please identify the "significant reorganization" which Public Counsel believes impacted the Company's relocation costs in the historic test year.

65. If Southern States' relocation costs for the calendar year 1992 are proven to be higher than the costs incurred in calendar year 1991, should the Company be permitted to recover the additional 1992 relocation costs from ratepayers in this proceeding?

66. Provide a detailed explanation which supports Ms. Dismukes' calculation of A&G expenses and common costs which should be allocated to "acquisitions and sales efforts."

REQUESTS FOR PRODUCTION OF DOCUMENTS

1. Please provide copies of any orders identified in response to Interrogatory No. 13(c).

2. Please provide copies of any orders identified in response to Interrogatory No. 13(b).

3. Please provide copies of any and all precedents from any

jurisdiction, either case law or opinions and orders of regulatory authorities, upon which Public Counsel intends to rely to support its proposal that customers share in the gain on the sale of the University Shores land.

4. Please provide a copy of the memo written by Ms. Judy Kimball which is referred to by Ms. Dismukes on page 32 of her prefiled testimony.

5. Please provide the workpapers which support Ms. Dismukes' estimation of the portion of costs of the merger which are allocated to the 127 systems in this proceeding as shown on page 35 and Schedule 8 of Ms. Dismukes' prefiled testimony.

6. Please provide a copy of any and all FPSC precedents in the water and wastewater industry in which common costs are allocated utilizing any method other than number of customers.

7. Provide copies of all workpapers utilized by Ms. Dismukes to arrive at her proposed adjustments in her prefiled testimony filed on October 5, 1992.

8. Provide copies of any and all FPSC precedents which supports Ms. Dismukes' alternative recommendation for the treatment of gains on the sale of the St. Augustine Shores system and the University Shores land.


9. Please provide copies of prepared testimony submitted by Public Counsel's witnesses in all proceedings identified in response to Interrogatory No. 38.

10. Please provide copies of any and all prefiled testimony previously submitted by Ms. Dismukes in a regulatory proceeding on

behalf of a utility company.

11. Please provide all workpapers which support Ms. Dismukes' calculation of A&G expenses and common costs which should be allocated to "acquisitions and sales efforts" requested in Interrogatory No. 66.

Respectfully submitted,


KENNETH A. HOFFMAN, ESQUIRE
LAURA L. WILSON, ESQUIRE
Messer, Vickers, Caparello,
Madsen, Lewis, Goldman & Metz, P.A.
P. O. Box 1876
Tallahassee, Florida 32302-1876
(904) 222-0720

and

BRIAN P. ARMSTRONG, ESQUIRE
Southern States Utilities, Inc.
1000 Color Place
Apopka, Florida 32703
(407) 880-0058

Attorneys for Applicants Southern
States Utilities, Inc. and
Deltona Utilities, Inc.

AFFIDAVIT

STATE OF _____

COUNTY OF _____

BEFORE ME, the undersigned authority, personally appeared:

Name of Affiant

Provided Responses to

Interrogatory Numbers

_____	_____
_____	_____
_____	_____

who after being duly sworn, deposes and states that he/she provided the answers to the above-listed interrogatories served on Office of Public Counsel by Southern States Utilities, Inc., by hand delivery, on October 14, 1992, and the responses are true and correct to the best of his/her information and belief.

Sworn to and subscribed before me this _____ day of _____, 1992.

NOTARY PUBLIC

State of _____ at Large

My Commission Expires: _____