



JACK SHREVE
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November 9, 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' Objection to Certain Discovery and Motion for Protective order.

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

Sincerely,

Harold McLean
Associate Public Counsel

ACK 1
RFA 2
APP
CSE
CJ
CJ
HM:bsr
Enclosures
LH 5
CJ
RCM
SLC 1
WAS Miller
OTH

DOCUMENT NUMBER-DATE
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FPSC-RECORDS/REPORTING

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

ORIGINAL
FILE 950495

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 9, 1995

OBJECTION TO CERTAIN DISCOVERY
MOTION FOR PROTECTIVE ORDER

The Citizens of the State of Florida, by and through JACK SHREVE, Public Counsel, object to certain discovery served upon them by Southern States Utilities, Inc. (SSU) and move the Florida Public Service Commission (commission) for a protective order and as grounds therefore say:

Pursuant to PSC-95-0943-PCO, which provides, among other things, that objections to discovery should be raised within ten days of their service, the Citizens of the State of Florida (Citizens) hereby enter their objections to certain discovery as specifically set forth below.

On October 30, 1995, SSU served numerous interrogatories and requests for production of documents on the Citizens.

Interrogatories:

The Citizens object to interrogatories 7, 8, 9, 10, 13, 17 29 and 51 because each seeks information which is neither relevant to the issues in this docket nor reasonably calculated to lead to the

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discovery of admissible evidence. Each of the enumerated interrogatories rests on a premise that the activities of OPC, its employees, or its oversight committee may be considered by the commission as probative of whether SSU is entitled to rate relief. The premise is fallacious.

The Citizens object to interrogatory 12 because it is offered for the sole purpose of harassment. It is carefully calculated to be unduly burdensome and has no imaginable benefit to SSU.

The Citizens object to interrogatories 15, 43, 44 because each seeks information subject to attorney client privilege.

Interrogatory 15 asks on what occasions the legal representatives of the customers of SSU plan to meet with and/or communicate with their clients in this case. Although it is difficult to imagine a matter more private between attorney and client, the following two interrogatories come very close:

Interrogatories 43 and 44 seek the mental impressions, conclusions, opinions, or legal theories of the attorneys for the Citizens in this case. Such information is to be protected from disclosure by the court--and the commission--even where there has been a special showing of need for trial preparation materials by the opposition. (See Rule 1.280(3) Fla. Rules of Civil Procedure) The threshold materiality of a matter is at the heart of legal strategy and is privileged material.

The Citizens object generally to SSU's Definition number 1 articulated at page 2 of the interrogatories and to instruction number 1 articulated on page 4 of the interrogatories. Both are so

broad as to implicitly seek information well within the attorney-client privilege.

Requests for Production of Documents:

The Citizens object to Requests for Production of Documents 11, 12, 13, 14, 15, 16 19, 20, 21, and 22 because each seeks information which is neither relevant to the issues in this docket nor reasonably calculated to lead to the discovery of admissible evidence.

Each of the enumerated requests rests on a premise that the activities of OPC, its employees, or its oversight committee may be considered by the commission as probative of whether SSU is entitled to rate relief. The premise is fallacious. To take request 19 as an example, it is certain that an organizational chart of the Citizens' legal representatives is neither relevant to any issue in the case nor reasonably calculated to the discovery of admissible evidence. In fact, such a request amounts to a attempt at harassment, which ought to fail on that count alone.

The Citizens object to requests 6, 7, and 8 because each seeks information subject to attorney client privilege.

Request 6 asks for documents reflecting communications between the Citizens and their attorneys. Request 7 asks for documents reflecting communications among the Citizens attorneys. Finally, Request 8 asks for documents reflecting communications between the Citizens attorneys and themselves. Neither the Florida Rules of Civil Procedure nor the commission's own rules provide authority for such requests; in fact as set forth above, it is the precise sort of information which courts are to protect from disclosure even where


there is a showing of special need and hardship.

The Citizens object generally to SSU's Definition number 1 and to General Instruction number 1, as those matters are articulated on pages 2 and 3 of the Requests. Both the definition and the instruction so enlarge the requests as to reach material clearly the subject of Attorney-client privilege.

The Citizens object to the time and place demand included in the requests as unreasonable. However, the Citizens are confident that a mutually agreeable time and place can be arranged by counsel for the parties.

WHEREFORE, the Citizens of the State of Florida object to the enumerated interrogatories and requests for production of documents for the reasons as set forth in the body of this pleading and move the commission, under the authority of Rules 25-2.034 and 25.037(2), Florida Administrative Code, and Rule 1.280, Florida Rules of Civil Procedure, for an order relieving them from any obligation to further respond to the enumerated interrogatories.

Respectfully submitted,


Hatfield McLean
Associate Public Counsel

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Attorney for the Citizens
of the State of Florida

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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 party representatives on this 9th day of November, 1995.


*Ken Hoffman, Esq.
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