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March 12, 1996

GOVERNMENTAL CONSULTANTS:

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ORIGINAL
FILED

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

HAND DELIVERY

Re: Docket No. 950495-WS

Dear Ms. Bayo:

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

- ACK 1. Original and fifteen copies of SSU's Objections to Office
AFA of Public Counsel's Document Request Numbers 307, 310, 311 and 312
APP and Motion for Protective Order; and
CAF 2. A disk in Word Perfect 6.0 containing a copy of the
CMU Objections and Motion entitled "Object.1."

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

LEG Thank you for your assistance with this filing.

LIN

Sincerely,

OPC


Kenneth A. Hoffman

RGP


SEC

WAS

KAH/rl

OTH cc: All Parties of Record

Trib.3

ENCLOSURE


DOCUMENT NUMBER-DATE

03026 MAR 12 96

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, Highlands, Lake, Lee, Marion, Martin, Nassau, Orange, Osceola, Pasco, Polk, Putnam, Seminole, St. Johns, St. Lucie, Volusia and Washington Counties.

Docket No. 950495-WS

Filed: March 12, 1996

SOUTHERN STATES UTILITIES, INC.'S OBJECTIONS
TO OFFICE OF PUBLIC COUNSEL'S DOCUMENT REQUEST
NUMBERS 307, 310, 311 AND 312 AND MOTION
FOR PROTECTIVE ORDER

SOUTHERN STATES UTILITIES, INC. ("SSU"), by and through its undersigned counsel, and pursuant to Rules 25-22.037(2) and 25-22.034, Florida Administrative Code, and Rule 1.280, Florida Rules of Civil Procedure, hereby files its objections to Document Request Nos. 307, 310, 311 and 312 served by the Office of Public Counsel ("OPC") and hereby moves for a protective order in connection therewith. In support of its objections and Motions, SSU states as follows:

OPC Document Request No. 307

1. On March 5, 1996, OPC served its 22nd Set of Requests for Production of Documents including Document Request No. 307 which states:

307. Provide a copy of all attachments and exhibits mentioned in the December 14, 1993 letter from Laura Holquist to Ronald Sorensen (sic).

DOCUMENT NUMBER-DATE

03026 MAR 12 1996

FPSC-RECORDS/REPORTING

7643

2. The Holquist-Sorenson letter is a letter from Laura Holquist, an officer of Lehigh Corporation to Ronald Sorenson, an attorney with the law firm of Briggs and Morgan in St. Paul, Minnesota. Briggs and Morgan provide legal services to Lehigh Corporation. The letter addresses Lehigh Corporation's accounting treatment for monies paid by purchasers of Lehigh Corporation lots from the states of New York and Michigan. The monies have been paid for the purpose of funding water and wastewater line installations by Lehigh Corporation. The monies reside in an escrow account established by Barnett Bank and are released to Lehigh Corporation if the lot purchaser cancels his or her purchase contract with Lehigh Corporation or when water and wastewater lines are installed.

3. On February 19, 1996, the Prehearing Officer issued Order No. PSC-96-0240-PCO-WS requiring SSU to produce the Holquist-Sorenson letter. SSU had objected to the production of the letter based, in part, on its contention that it did not have possession, custody or control of the letter. The Prehearing Officer disagreed stating:

We have required SSU in this proceeding to produce documents of its parents and siblings, for which it has possession, custody, or control, and which are within the scope of Rule 1.280(b), Florida Rules of Civil Procedure (citation omitted). The Holquist-Sorenson letter is reported in the audit workpaper files maintained for SSU at Price Waterhouse. Therefore, the letter is within the control of SSU.¹

¹Order No. PSC-96-0240-PCO-WS, at 3.

4. The Holquist-Sorenson letter refers to six Exhibits and eight Attachments which are described below:

Exhibits

(1) - legal research performed by Briggs and Morgan concluding that the escrowed monies belong to Lehigh Corporation, not the lot purchasers.

(2) - Pages from the Commission's March, 1993 final order in the Lehigh Utilities, Inc. rate case.

(3) - A copy of the March 26, 1990 Escrow and Trust Agreement.

(4) - Copies of the most recently used agreement for deed form and offering statement for New York lot purchasers.

(5) - Copies of the most recently used agreement for deed form and offering statement for Michigan lot purchasers.

(6) - Copies of Water Supply and Sewer Disposal sections of select offering statements.

Attachments

(1) - List of escrowed monies summarized by land sections where lots were purchased.

(2) - List of current land section densities.

(3) - An absorption table included in the Lehigh Acres Wastewater Master Plan.

(4) - Comparison of current land section densities with expected build-outs.

(5) - October 27, 1992 memo from Bill Livingston, president of Lehigh Corporation.

(6) - Graphic identifying land sections where New York and Michigan lots are located.

(7, 8) - Letters from Lehigh Corporation to states of New York and Michigan.

5. SSU objects to producing Exhibits 1-6 and Attachments 1, 4, 5 and 6 on the following grounds:

a. Rule 1.350(a), Florida Rules of Civil Procedure, requires a party to produce documents only if the requested documents: (i) contain matters within the scope of discovery as defined by Rule 1.280(b), Fla.R.Civ.P.; and (ii) are in the possession, custody or control of the party to whom the request is directed. SSU does not have possession, custody or control of Exhibits 1, 3, 4 and 5 nor Attachments 1, 4, 5 and 6. As recognized by the Prehearing Officer, SSU is not required to produce documents which are not in SSU's possession, custody or control.²

b. SSU further objects to producing Exhibit 1 on the ground that it contains the legal research and analysis of Briggs and Morgan protected from disclosure under the legal work product and attorney-client privileges.

c. SSU objects to producing Exhibit 2 on the grounds that it inappropriately requests SSU to conduct legal research³ and produce documents which are public records and already available to

²Order No. PSC-96-0240-PCO-WS, at 3.

³Order No. PSC-95-1503-PCO-WS issued December 5, 1995, held in pertinent part: "OPC's request inappropriately solicits legal research, rather than factual information." Id., at 2.

(if not already in the possession of) OPC.

d. SSU also objects to producing Exhibits 4 and 5 on the ground that the only agreement for deed forms in SSU's possession were produced to OPC on or about September 29, 1995 in Appendices 208-A (New York) and 208-B (Michigan) to SSU's response to OPC Document Request No. 208.

e. Based on the prior decisions of the Prehearing Officer in Order Nos. PSC-96-0240-PCO-WS and PSC-95-1503-PCO-WS, SSU is not required to produce Exhibits 1-6 nor Attachments 1, 4, 5 and 6 to OPC.

6. SSU has possession of Attachments 2, 3, 7 and 8 and will produce copies of these documents to OPC.

OPC Document Request Nos. 310, 311 and 312

7. On March 6, 1996, OPC served its 23rd Set of Requests for Production of Documents containing Document Request Nos. 310, 311 and 312. A copy of OPC's 23rd Set of Requests for Production of Documents is attached hereto as Exhibit A.⁴

8. The first three items requested under Document Request No. 310 were already requested by OPC in its February 21, 1996 Notice of Deposition Duces Tecum for Ms. Ida Roberts. SSU has already produced all documents in its possession responsive to the first three items listed under OPC Document Request No. 310.

⁴On March 12, 1996, OPC also filed an Amended Notice of Deposition Duces Tecum requesting that the documents requested in its 23rd Set of Requests for Production of Documents be produced at the depositions of Mr. Tracy Smith, Dr. John Cirello and Ms. Karla Olson Teasley. SSU objects to OPC's March 6, 1996 Notice of Deposition Duces Tecum for the same reasons stated herein.

9. SSU objects to producing documents responsive to item six under Document Request No. 310 on the grounds that the request is vague, ambiguous, overly broad, burdensome and not reasonably calculated to lead to the discovery of admissible evidence. See Fla.R.Civ.P. 1.280(b); Calderbank v. Cazares, 435 So.2d 377, 379 (Fla. 5th DCA 1983); Krypton Broadcasting v. MGM-Pathe Communications Co., 629 So.2d 852 (Fla. 1st DCA 1994). There is no time limitation contained in the request. The request can be construed to include correspondence with Department of Environmental Protection, water management districts, Department of Highway Safety and Motor Vehicles and Department of Transportation staff on virtually every operations and administrative related issue involving the Company. SSU should not be required, particularly at this late stage of this proceeding, to begin culling through all of its records and files in search of correspondence or other documents provided to or from any agency staff member. Having responded to hundreds of discovery requests in this proceeding, SSU should be protected from OPC's open-ended, vague and burdensome discovery request which will clearly cause SSU to incur undue expense and is not likely to produce information reasonably calculated to lead to the discovery of admissible evidence.

10. SSU objects to producing documents responsive to OPC Document Request Nos. 311 and 312. The documents requested already have been produced by SSU at the deposition of Ms. Roberts or are subsumed within items four, five and seven of Document Request No.

310.

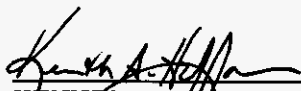
WHEREFORE, for the foregoing reasons, SSU respectfully requests that the Prehearing Officer sustain SSU's Objections set forth above and issue a Protective Order determining that:

A. SSU shall be required to produce only Attachments 2, 3, 7 and 8 to the Holquist-Sorenson letter;

B. SSU shall not be required to produce documents responsive to items one, two, three and six of OPC Document Request No. 310; and

C. SSU shall not be required to respond to OPC Document Request Nos. 311 and 312.

Respectfully submitted,



KENNETH A. HOFFMAN, ESQ.
WILLIAM B. WILLINGHAM, ESQ.
Rutledge, Ecenia, Underwood,
Purnell & Hoffman, P.A.
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(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 Southern States Utilities, Inc.'s Objections to Office of Public Counsel's Document Request Numbers 307, 310, 311 and 312 and Motion for Protective Order was furnished by U. S. Mail to the following on this 12th day of March, 1996:

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Mr. John D. Mayles
President
Sugarmill Woods Civic Asso.
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Charles J. Beck, Esq.
Office of Public Counsel
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32305-1110

Michael B. Twomey, Esq.
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Mr. Frank Kane
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Lehigh Acres, FL 33936

Mr. Kjell Pettersen
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Marco Island, FL 33969

Mr. Paul Mauer, President
Harbour Woods Civic Association
11364 Woodsong Loop N
Jacksonville, FL 32225


KENNETH A. HOFFMAN, ESQ.

1995/object.1

E 3/6/96

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: March 6, 1996

CITIZENS' 23RD SET OF REQUESTS FOR PRODUCTION OF DOCUMENTS
TO SOUTHERN STATES UTILITIES, INC.

Pursuant to Section 350.0611(1), Fla. Stat. (1995), Rules 25-22.034 and 25.22.035, F.A.C., and Rule 1.350, F.R.C.P., Florida's Citizens' ("Citizens"), by and through Jack Shreve, Public Counsel, request Southern States Utilities, Inc. ("SSU" or the "company") to produce the following documents for inspection and copying at the Office of Public Counsel, Claude Pepper Building, 111 West Madison Street, Room 812, Tallahassee, Florida 32399-1400, on or before Friday, April 5, 1996, or at such other time and place as may be mutually agreed upon by counsel.

INSTRUCTIONS

1. If any document is withheld under any claim of privilege, please furnish a list identifying each document for which privilege is claimed, together with the following information: date, sender,

recipients, recipients of copies, subject matter of the document, and the basis upon which such privilege is claimed.

2. If the Company has possession, custody, or control of the originals of the documents requested, please produce the originals or a complete copy of the originals and all copies which are different in any way from the original, whether by interlineation, receipt stamp or notation. If the Company does not have possession, custody, or control of the originals of the documents requested, please produce any copies in the possession, custody, or control, however made, of the Company.

3. Please construe "and" as well as "or" either disjunctively or conjunctively as necessary to bring within the scope of this production of documents any document which might otherwise be construed to be outside the scope.

4. If you object to any discovery requests, in whole or part, on the basis of confidentiality, please strictly follow the provisions of Florida Public Service Commission Rule 25-22.006 requiring a motion for a protective order no later than the date the response is otherwise due and urging all parties to seek mutual agreement before bringing a controversy to the Commission.

5. Unless otherwise indicated in the discovery request, only documents created on or after January 1, 1995 are requested.

6. The Citizens specifically request the company to make a review of the files of employees reasonably expected to have information responsive to these document requests. Correspondence and notes of meetings, whether typed or handwritten, are specifically requested. If a particular employee is in charge of an area related to a document request, the Citizens request the Company to search the files both of the employee in charge of the area as well as each employee reporting directly or indirectly to such person if their areas of responsibility also include matters reasonably likely to be responsive to the document request.

DEFINITIONS

1. "Document" or "documents" means any written, recorded, filmed or graphic matter, whether produced, reproduced, or on paper, cards, tapes, film, electronic facsimile, computer storage device or any other media, including, but not limited to, memoranda, notes, minutes, records, photographs, correspondence, telegrams, diaries, bookkeeping entries, financial statements, tax returns, checks, check stubs, reports, studies, charts, graphs, statements, notebooks, handwritten notes, applications, agreements, books, pamphlets, periodicals, appointment calendars, records and recordings of oral conversations, work papers, and notes, any of which are in your possession, custody, or control.

2. As used herein "you" and "your" means the company

together with its officers, employees, consultants, agents, representatives, attorneys (unless privileged), and any other person or entity acting on behalf of the company or Southern States Utilities, Inc.

3. Words in the past tense include the present, and words in the present tense include the past. Use of the singular includes the plural, and use of the masculine includes the feminine where appropriate, and vice versa.

4. If there is any document or other tangible item described by this request which is no longer in your possession, custody, or control, or is no longer in existence or accessible to you, please indicate:

(a) the date and nature of the disposition of such document or other tangible item, including, but not limited to, whether such: (i) is missing or lost, (ii) has been destroyed, or (iii) has been transferred to another person;

(b) the circumstances surrounding such disposition, including any authorization thereof; and

(c) where applicable, the person currently in possession, custody, or control of such document or item.

5. Usage of acronyms, abbreviations, or other symbolic terms are to be taken as having the same meaning as common usage of those terms in the regulation of utilities in the state of Florida have assigned to them.

DOCUMENTS REQUESTED

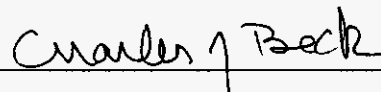
310. Please provide all documents in your possession, custody or control (including drafts) containing, discussing, referring to, or evaluating the following:

- Communications from, to, or about Mr. Jeff Sharkey, Capital Strategies, Inc., or Chiles Communications, Inc..
- Contracts or agreements between Southern States Utilities, Inc., and Capital Strategies, Inc., or Chiles Communications, Inc.
- Communications with the Governor of Florida or his staff, the Lieutenant Governor of Florida or his staff, or the Florida Secretary of Commerce or his staff.
- Communications with members of the Florida legislature or their staff.
- Communications with members of the Florida Public Service Commission or any member of its staff,
- Communications with any government agency or any member of its staff,
- Communications, contacts, meetings, or notices to customers concerning this case or uniform rates.

311. Please provide all drafts of letters, memoranda, correspondence, or other documents provided to the Governor of Florida or his staff, the Lieutenant Governor of Florida or his staff, the Florida Secretary of Commerce or his staff,

members of the Florida legislature or their staff, members of the Florida Public Service Commission or its staff, or customers.

312. Please provide all documents provided to any person or organization whatsoever that consist of draft documents addressed to the chairman or any member of the Florida Public Service Commission.



Charles J. Beck
Deputy Public Counsel

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 6th day of March, 1996.

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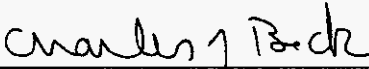
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