

FILE COPY



JACK SHREVE  
PUBLIC COUNSEL

STATE OF FLORIDA  
OFFICE OF THE PUBLIC COUNSEL

c/o The Florida Legislature  
111 West Madison Street  
Room 812  
Tallahassee, Florida 32399 1400  
904-488-9330

December 27, 1996

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

RE Docket No ~~960329~~-WS

Dear Ms Bayo

Enclosed for filing in the above-captioned proceeding on behalf of the Citizens of the State of Florida are the original and 15 copies of the Response to Gulf Utility's Objection to Citizens' Fourth Set of Interrogatories

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

Sincerely,  
  
Stephen C. Reilly  
Associate Public Counsel

- ACK \_\_\_\_\_
- AFA 1 \_\_\_\_\_
- APP \_\_\_\_\_
- CAF \_\_\_\_\_
- CMU \_\_\_\_\_
- CTR \_\_\_\_\_
- EAG \_\_\_\_\_ SCR/bgm
- LEG 1 Enclosures
- LIN 3 \_\_\_\_\_
- OP \_\_\_\_\_
- RCR \_\_\_\_\_
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- WA with \_\_\_\_\_
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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

IN RE: Application for Increase in) Docket No. 960329-WS  
rates and service availability ) Filed: December 27, 1996  
charges in Lee County by Gulf )  
Utility Company )  
\_\_\_\_\_)

CITIZENS' RESPONSE TO GULF UTILITY'S  
OBJECTION TO CITIZENS' FOURTH SET OF INTERROGATORIES

The Citizens of the State of Florida, (Citizens) by and through their undersigned attorney, hereby file this response to Gulf Utility Company's (Gulf, Utility or Company) objections to Citizens' Fourth Set of Interrogatories, and state:

1. On December 18, 1996, Gulf filed its objections to the Citizens' Fourth Set of Interrogatories.

2. On Friday, December 20, 1996 Gulf filed with the Commission, and hand delivered a copy to the Citizens, Attachment A, (which was inadvertently omitted from Gulf's filing) which details the basis for the Company's objections to the Citizens' Fourth Set of Interrogatories.

3. In its objection Gulf suggests that under Rule 25-22.034, F.A.C., and Rule 1.340, Fla. R. Civ. Procedure, every separate bit of data solicited by an interrogatory can be construed as a "separate answer" (as determined by the respondent) which in turn creates a separate identifiable interrogatory.

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RECORDS DEPARTMENT

4. Gulf offers absolutely no Florida case law to support this interpretation of Rule 25-22.034, F.A.C., or Rule i.340, Fla. R. Civ. Procedure.

5. Employing the Company's suggested methodology will permit every respondent to discovery to establish whatever number of interrogatories they wish to establish. To demonstrate the subjective quality of the Company's exercise one can review just one aspect of their analysis. Generally, when an interrogatory requests information for multiple time periods the Company suggests that the question should be considered a separate interrogatory for each time period. For example, see Gulf's analysis of Interrogatory No. 18a. However, it did not employ the same methodology in Interrogatory No. 21, nor did the Company consider Interrogatory No. 32 to be really 23-24 interrogatories, because it sought information for each month of 1995 and 1996 to date. Presumably, if the Procedural Order had allowed 300 interrogatories Gulf could have easily reanalyzed our requests and produced a number over 300. It is a methodology which affords the maximum flexibility to the respondent.

6. Many times the questioner must clarify a question to avoid nonresponsive or evasive answers. Such clarification should not constitute a separate interrogatory. For example, Interrogatory No. 38 provides:

38. For purposes of this request, please refer to Schedule A-19, page 2 of 4. Please describe the nature of the account payable to FGCU and explain why there is a zero balance shown for the average shown under column 15.

Presumably a responsive answer that clarifies the "nature" of the account payable to FGCU would include an explanation of why there is a zero balance for the average shown under column 15. Such attempts to focus the respondents' answer should not constitute a separate interrogatory.

7. A rule of reasonableness should resolve any disputes concerning the complexity or requirements of any interrogatory. The Citizens have propounded 61 numbered interrogatories with 15 lettered subparts not a part of the original numbered interrogatory. The Citizens suggest that the information sought by these interrogatories is well within the 200 interrogatory limit permitted by the Order Establishing Procedure No. PSC-96-1178-PCO-WS, issued for this proceeding.

8. While the Citizens do not intend to file any additional sets of discovery we may be forced to do so if the Company refuses to provide requested late-filed exhibits to the depositions of the Company's witnesses. Other than these requests the Citizens do not intend to file additional sets of discovery.

9. The Company's objection is frustrating and delaying the Citizens receipt of relevant information. The objection

erroneously overstates the number of interrogatories propounded by the Citizens and is based upon a methodology that is without legal authority.

WHEREFORE, the Citizens respectfully request the Commission to not sustain the Company's objections to the Citizens' Fourth Set of Interrogatories, but rather order the Company to provide responsive answers to Citizens' Interrogatories Nos. 60 (a and b) and 61 on or before Thursday, January 9, 1997, the date they are due under Rule 1.340, Fla. R. Civ. Procedure.

Respectfully submitted,



Stephen C. Reilly  
Associate Public Counsel

Office of Public Counsel  
c/o The Florida Legislature  
111 W. Madison Street  
Room 812  
Tallahassee, FL 32399-1400

(904) 488-9330

Attorneys for the Citizens  
of the State of Florida

CERTIFICATE OF SERVICE  
DOCKET NO. 960329-WS

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by U.S. Mail or \*hand-delivery to the following parties on this 27th day of December, 1996.

B. Kenneth Gatlin, Esquire  
Gatlin, Woods & Carlson  
The Mahan Station  
1709-D Mahan Drive  
Tallahassee, FL 32308

\*Maggi O'Sullivan, Esquire  
Division of Legal Services  
Fla. Public Service  
Commission  
2540 Shumard Oak Blvd.  
Tallahassee, FL 32399-0850



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Stephen C. Reilly  
Associate Public Counsel