

**RUTLEDGE, ECENIA, UNDERWOOD, PURNELL & HOFFMAN**

PROFESSIONAL ASSOCIATION  
ATTORNEYS AND COUNSELORS AT LAW

STEPHEN A. ECENIA  
KENNETH A. HOFFMAN  
THOMAS W. KONRAD  
MICHAEL G. MAIDA  
J. STEPHEN MENTON  
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

TELEPHONE (850) 681-6788  
TELECOPIER (850) 681-6515

OF COUNSEL  
CHARLES F. DUDLEY

GOVERNMENTAL CONSULTANTS  
PATRICK R. MALOY  
AMY J. YOUNG

December 19, 1997

**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. 970002-EG

Dear Ms. Bayo:

Enclosed herewith for filing in the above-referenced docket on behalf of Florida Public Utilities Company ("FPU") are the original and fifteen copies of FPU's Response to Staff's Conservation Audit Report.

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

ACK \_\_\_\_\_  
AFA \_\_\_\_\_  
APP \_\_\_\_\_  
CAF \_\_\_\_\_  
CMU \_\_\_\_\_  
CTR \_\_\_\_\_  
EAG Ballinger  
LEG 1  
LIN 3  
OPC \_\_\_\_\_  
RCR \_\_\_\_\_  
WAS \_\_\_\_\_  
TEL \_\_\_\_\_

Thank you for your assistance with this filing.

Sincerely,

William B. Willingham

Enclosures

All Parties of Record

RECEIVED & FILED

RECORDS BUREAU OF RECORDS

DOCUMENT NUMBER-DATE

~~13016~~ DEC 19 97

FPSC-RECORDS/REPORTING

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Conservation Cost Recovery )  
Clause )  
\_\_\_\_\_ )

Docket No. 970002-EG  
Filed: December 19, 1997

FLORIDA PUBLIC UTILITIES COMPANY'S  
RESPONSE TO STAFF'S CONSERVATION AUDIT REPORT

Florida Public Utilities Company ("FPU"), by and through its undersigned counsel, submits this Response to Staff's Conservation Audit Report for the twelve months ended September 30, 1997, Audit Control No. 97-318-4-1. Specifically, FPU maintains that the conservation expenses documented on pages 1 and 2 of Schedule CT-3 of the Marianna filing are advertising expenses directly related to FPU's conservation programs. Accordingly, FPU is entitled to recover these expenses through its conservation cost recovery clause. In support of this Response, FPU states as follows:

During the twelve-month period ended September 30, 1997, FPU spent \$5,310.24 to advertise and introduce its conservation programs in the local newspaper. A copy of the advertisement is attached hereto as Exhibit "A". As Exhibit "A" demonstrates, the advertisement identifies each Commission approved conservation program offered by FPU's Marianna Division.<sup>1</sup> FPU maintains that the expenses at issue are authorized and recoverable pursuant to Rule 25-17.015(5), F.A.C.

The Audit Report states that the advertisement at issue does not satisfy Rule 25-17.015(5), F.A.C., because it "does not state the specific problem or how to solve the problem".<sup>2</sup> FPU believes

<sup>1</sup> FPU's conservation programs were approved by Commission Order No. PSC-96-1120-FOF-EG, issued September 4, 1996.

<sup>2</sup> Audit Report at page 1.

that the Audit Report is based upon an overly strict and erroneous interpretation of the Rule. The intent of Rule 25-17.015(5), F.A.C., is to distinguish advertisements that are directly conservation related from those advertisements that are "company image enhancing" or directed to a "competing energy source". As demonstrated by Exhibit "A", the advertisement at issue does not mention a competing energy source, does not seek to enhance the company's image, and is directly related to FPU's approved conservation programs.

The Audit Report apparently relies upon that portion of the Rule that states:

In determining whether an advertisement is "directly related to an approved conservation program", the Commission shall consider, but is not limited to, whether the advertisement or advertising campaign:

- (a) Identifies a specific problem.
- (b) States how to correct the problem.
- (c) Provides direction concerning how to obtain help to alleviate the problem.

FPU maintains that the intent and spirit of the Rule do not contemplate the strict application suggested by Staff when it is plainly evident that (1) the advertisement is directly related to approved conservation programs, (2) the advertisement does not discuss competitive energy sources and (3) the advertisement is not image enhancing. Nonetheless, FPU maintains that the advertisement satisfies subsections (a) and (b) by identifying specific problems and the corrections. For example, the advertisement identifies the Duct Leakage Repair residential program. The problem of duct leakage is identified in the advertisement. The correction of the problem, duct repair, also is identified in the advertisement. Clearly, the advertisement satisfies both the letter and the spirit of the Rule.


It is noteworthy that the advertisement at issue introduces FPU's new conservation programs to its customers, and that this was the first notice that FPU provided to its customers subsequent to the Commission's approval of FPU's conservation programs. FPU intended for this advertisement

to provide a brief introduction to its new programs. It also is noteworthy that FPU has subsequently utilized advertising that describes each individual program in detail, which advertisements were deemed acceptable by the Commission's auditors.

WHEREFORE, Florida Public Utilities Company requests that the Commission allow the advertising expenses at issue for purposes of calculating its conservation cost recovery factor for the Marianna Division to be applied to customer bills for the period April 1998 through March 1999, and to billings thereafter until such time as another cost recovery factor is approved by the Commission.

Dated this 14th day of December 1997.

Respectfully submitted,

  
KENNETH A. HOFFMAN, ESQ.  
Rutledge, Ecenia, Underwood,  
Purnell & Hoffman, P.A.  
P. O. Box 551  
Tallahassee, Florida 32302-0551  
(850) 681-6788 (phone)  
(850) 681-6515 (fax)  
Attorneys for Florida Public  
Utilities Company

## CERTIFICATE OF SERVICE

I HEREBY certify that a true and correct copy of the foregoing was furnished by United States Mail this 19th day of December, 1997 to:

W. Cochran Keating IV., Esq.  
Division of Legal Services  
Florida Public Service  
Commission  
2540 Shumard Oak Boulevard  
Gerald L. Gunter Building  
Tallahassee, Florida 32399-0850

Lee L. Willis, Esq.  
James Beasley, Esq.  
Ansley McMullen  
P. O. Box 391  
Tallahassee, FL 32302

Jeffery Stone, Esq.  
Beggs & Lane  
P. O. Box 12950  
Pensacola, FL 32576-2950

Joseph A. McGlothlin, Esq.  
Vicki Kaufman, Esq.  
McWhirter Law Firm  
117 S. Gadsden Street  
Tallahassee, FL 32301

John W. McWhirter, Jr., Esq.  
McWhirter Law Firm  
P.O. Box 3350  
Tampa, FL 33601-3350

Charles Guyton, Esq.  
Steel Hector  
215 S. Monroe Street, #601  
Tallahassee, FL 32301

Office of Public Counsel  
111 W. Madison St., #812  
Tallahassee, FL 32399-1400

Mr. Frank C. Cressman  
FPUC  
P. O. Box 3395  
West Palm Beach, FL 33402-3395

Mr. Stuart L. Shoaf  
St. Joe Natural Gas Company  
P. O. Box 549  
Port St. Joe, FL 32457-0549

Wayne Schiefelbein, Esq.  
Gatlin Law Firm  
3301 Thomasville Road, Suite 300  
Tallahassee, FL 32312

James A. McGee, Esq.  
FPC  
P. O. Box 14042  
St. Petersburg, FL 33733-4042

Ansley Watson, Jr., Esq.  
Macfarlane Law Firm  
2300 First Florida Tower  
111 Madison Street  
Tampa, FL 33602

Norman Horton, Jr., Esq.  
Messer Law Firm  
P. O. Box 1876  
Tallahassee, FL 32302

Michael Palecki, Esq.  
955 East 25th Street  
Hialeah, FL 33013-3498

Debra Swim, Esq.  
Gail Kamaras, Esq.  
LEAF  
1115 N. Gadsden Street  
Tallahassee, FL 32303

By   
KENNETH A. HOFFMAN, ESQ.

# Court TV's Erik Sorenson courts new viewers

By Frazer Moore  
EAP Television Writer

NEW YORK — What's with this newfangled Court TV, boasting a headliner like J. Simpson's lawyer Johnnie Cochran. This Court TV, premiering a morning show with a voguish cafe-bar motif. This Court TV, facing the future without a pioneer-czar Steve Brill, who took his leave earlier this year.

Is Court TV, cherished by its faithful as a sort of video utility — hot and cold running trials — getting slick and entertainment-oriented? Is the gavel coming down on courtroom coverage in the Court TV tradition of boldness, no-frills rectitude?

Not at all, insists Erik Sorenson, the network's executive vice president of programming.

Court TV is "a unique programming service," he says, "and while it doesn't have the public-service patina of C-SPAN, there are viewers who think that Court TV answers to a higher calling."

Sorenson isn't about to throw away the goodwill the network has won with its unblinking eye and "sober-as-a-judge" approach.

But there's a problem, he adds, his confident smile dimmed a few watts. In the post-Simpson-trial era, Court TV's ratings have plummeted, even in prime-time when viewers used to flock for O.J. recaps.

Meanwhile, Court TV remains a money-loser.

"After six years and an investment of over \$100 million, you'd like to be in the black," he says. By "you" he means "them": NBC, Time Warner and John Malone's Liberty Media, the troika that shares Court TV's ownership. "I think things are pretty serious."

A promotional spot reassures the Court TV hardcore that "we heard your call" for continued trial coverage "with less commentary and fewer interruptions."

But Sorenson wants to woo new viewers who consider "courtroom action" an oxymoron.

"I don't think a full-time trial service can be financially viable," he says. "So the issue is, to what extent do you rely on it — 16 hours a day? 11 hours a day? We're down now to 7 hours a day, from 11 a.m. to 7:30 p.m. (EDT). I think that's the right number."

Sept. 1 marks Sorenson's first anniversary at Court TV, which he joined after 16 years at CBS and hitches as executive producer of "The CBS Evening News" and the syndicated magazine "Day & Date."



Erik Sorenson, vice president of programming for Court TV, poses in the control room in New York.

Having come from that world, Sorenson is introducing more viewer-friendly shows than Court TV has offered in the past, in a drive to boost ratings before and after the trial day.

He recently launched "Legal Cafe" from 9 to 11 a.m. EDT. Welcoming viewers to "your daily wakeup call to the law in your life," June Grasso plays host in a cozy, curio-filled salon. Her legal-expert guests answer questions on topics like prenuptial agreements or getting fired.

"But the big push is in prime time," says


Sorenson. No wonder. Sweetening the numbers for that three-hour weeknight block could finally coax Court TV into the black. The network, available in 32 million homes, needs only to attract a modest 3 rating (or about 100,000 viewers) to turn a profit, says Sorenson — up from the .18 it currently averages.

With that in mind, the trials-wrapup "Prime Time Justice" has been broadened into a full-service newscast reported from a judicial perspective. Airing at 8 p.m., it is anchored by Gregg Jarrett and Jami Floyd.

At 9 p.m., Johnnie Cochran's law-talk hour "Cochran & Co." tackles such diverse issues as the Timothy McVeigh sentencing and whether Showtime's filmed remake of "12 Angry Men" accurately dramatizes jury deliberation.

And Sorenson is weighing possible replacements for the long-running documentary series "Trial Story," at 10 p.m.

"The programs we're coming up with, there are other networks that could do them," concedes Sorenson, reiterating Court TV's once-and-future sine qua non. "Without our camera in the courtroom, without the trials we televise, you don't need us."

  
 Florida Public Utilities Company  
 2625 Pennsylvania Ave  
 MARIETTA, FL  
 FOR MORE INFORMATION:  
 904-526-6831  
 OR  
 904-574-4748  
 EXHIBIT

**FLORIDA PUBLIC UTILITIES**  
 Your Energy Company

**Residential Programs**

- Residential Geothermal Heat Pump
- Residential Energy Audit
- Low Income Energy Audit
- FPU Express Loan - 8.9% APR
- Good Cents Home
- Duct Leakage Repair

**Commercial Programs**

- Commercial/Industrial Good Cents Building
- Commercial/Industrial Energy Audits

**GOOD CENTS IS BACK!**

