



JACK SHREVE  
PUBLIC COUNSEL

STATE OF FLORIDA  
OFFICE OF THE PUBLIC COUNSEL

c/o The Florida Legislature  
111 West Madison St.  
Room 812  
Tallahassee, Florida 32399-1400  
850-488-9330

ORIGINAL

November 27, 2002

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

COMMISSION  
CLERK

NOV 27 PM 12:08

Re: Docket No. 020071-WS

Dear Ms. Bayo:

Enclosed for filing in the above-referenced docket are the original and 15 copies of the Citizens' Motion to Compel.

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

Sincerely,

Stephen C. Burgess  
Deputy Public Counsel

SCB:bsr

Enclosures

NOV 27 2002  
13

RECEIVED & FILED

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DOCUMENT NUMBER-DATE

13039 NOV 27 02

FPSC-COMMISSION CLERK

**BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**

In re: Application of Utilities, Inc. of Florida ) Docket no. 020071-WS  
Florida for a rate increase in Marion, Orange )  
Pasco, Pinellas and Seminole Counties ) Dated November 27, 2002

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**MOTION TO COMPEL**

The Citizens of the State of Florida, through their attorney, pursuant to Rules 28-106.204, and 28-106.205, Florida Administrative Code, hereby seek the Florida Public Service Commission ("the Commission") to compel Utilities, Inc. of Florida ("Utilities, Inc.") to answer the specific discovery, as describe herein:

1. On July 25, 2002, the Citizens propounded their first set of interrogatories and requests for production of documents on Utilities Inc. On August 9, 2002, the Citizens propounded their second set of interrogatories and requests for production of documents. Utilities, Inc. has failed to provide adequeate response to the Interrogatories and requests for production of documents, as described in the following paragraphs.

2. Interrogatory No. 2 asked for data comparable to MFR schedules B-5 and B-6 for the years 1996-2000. Utilities, Inc. responded that "[n]o such document exists". This discovery was an interrogatory, not a request for production of an existing document. The fact that no such document exists, then, is of no relevance to the inquiry. Utilities, Inc. has not raised a valid objection and should be compelled to provide an answer to the interrogatory on an expedited basis.

3. Interrogatory No. 8 asked Utilities, Inc. to "explain why when adding plant to Seminole County Plant in Service the adjustment to accumulated depreciation is a reduction". Utilities, Inc. advises OPC to "[s]ee the second set of MFRs . . . ." The Citizens find nothing in the second set of MFRs that provides an answer to this very specific question. Utilities, Inc. should be compelled to provide a specific answer to this interrogatory on an expedited basis.

4. Each of the Interrogatories 20, 21, 22, 24, 26,27, 28 and 29 asks Utilities, Inc. to list information about expenses in the following areas, respectively: legal fees, industry association dues, athletic associations, fines, EPA violations, chamber of commerce dues, lobbying, and charitable contributions. For each of these questions, Utilities, Inc. replies that "[n]o such list exists," but, as an alternative, the utility has supplied the general ledger. Once again, the fact the "no such list [currently] exists" is irrelevant to the utility's obligation to answer an interrogatory. The information that the Citizens seek is directly relevant to the issue of whether the expense items should be recoverable and whether the expense level is reasonable. Utilities, Inc. has not raised a valid objection to these interrogatories within the time allowed by rule. The Commission should compel Utilities, Inc. to supply the requested information on an expedited basis.

5. The Citizens' Request for Production No. 3 asked for certain supporting "contracts and workpapers". Utilities, Inc. did not object to this production request, but it did not provide the contract[s]. The Commission should compel Utilities, Inc. to supply the requested contract[s] on an expedited basis.

6. The Citizens request for production No. 5 asked for supporting documentation for Schedule B-9 for each county. The Citizens contend that Utilities, Inc. possesses far more detailed support (e.g., identification of the vendors involved) than was supplied. Utilities, Inc. did not object to this production request, and should be compelled to supply all detailed support in its possession on an expedited basis.

7. The Citizens' request for production No. 14 asked for all invoices for legal services included in test year expenses. Utilities, Inc. did not object, but responded by saying that it is willing to produce any invoices which the Citizens identify from those listed in the general ledger. This response inappropriately delays the response time by requiring the Citizens to submit a second request for production in order to obtain the same documents that were sought in the first request. Utilities, Inc. should be compelled to provide this on an expedited basis.

8. The Citizens' request for production Nos. 28 and 32, respectively, asked for travel and expense vouchers for senior managers and for legal vouchers. To both of these requests, Utilities, Inc. responded: "See Applicant's response to Data Request No. 14". As with Citizens' request No. 14 (see paragraph 7, above), these answers improperly require the Citizens to place two sequential requests (with the lost time that results) for information that was properly sought in the first request. Utilities, Inc. should be compelled to provide the documents on an expedited basis.

9. The undersigned counsel has conferred with Lorena Holley and Martin S. Friedman, who will subsequently provide response to the Commission.

WHEREFORE, the Citizens of the State of Florida respectfully move this Commission to compel Utilities, Inc. to provide discovery responses consistent with those enumerated herein.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Stephen C. Burgess", with a long horizontal flourish extending to the right.

Stephen C. Burgess  
Deputy Public Counsel

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

(850) 488-9330

Attorney for Florida's Citizens

**CERTIFICATE OF SERVICE**  
**DOCKET NO. 020071-WS**

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by hand delivery, facsimile and/or U.S. Mail to the following parties on this 27th day of November, 2002.

By U.S. Mail & Facsimile:

Martin S. Friedman, Esquire  
Rose, Sundstrom & Bentley, LLP  
650 S. North Lake Blvd.  
Suite 420  
Altamonte Springs, FL 32701

By Hand Delivery:

Rosanne Gervasi, Esquire  
Lorena Holley, Esquire  
Division of Legal Services  
Fla. Public Service Commission  
2540 Shumard Oak Blvd.  
Tallahassee, FL 32399-0850

  
Charles J. Beck  
Deputy Public Counsel