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ORIGINAL

March 6, 2003

RECEIVED - FPSC
03 MAR - 6 PM 3:43
COMMISSION
CLERK

Ms. Blanca S. Bayó, Director
Division of the Commission Clerk
and Administrative Services
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0870

RE. Docket No. 020071-WS

Dear Ms. Bayó:

Enclosed are an original and fifteen copies each of a Motion to Dismiss, Motion for Extension of Time to File Testimony and Request for Oral Argument for filing in the above-referenced docket.

Please indicate receipt of filing by date-stamping the attached copy of this letter and returning it to this office. Thank you for your assistance in this matter.

AUS _____
CAJ _____
CMP _____
COM 3 _____
CTR _____
ECR _____
GCL _____
OPC _____
MMS _____
SEC 1 _____
OTH _____
SCB/dsb _____
Enclosures _____

Sincerely,

Stephen C. Burgess
Deputy Public Counsel

Oral Argument
DOCUMENT NUMBER-DATE
02272 MAR-6 8

FPSC-COMMISSION CLERK

RECEIVED & FILED
R.V.N.
FPSC-BUREAU OF RECORDS

Motion to Dismiss
DOCUMENT NUMBER-DATE

02270 MAR-6 8

FPSC-COMMISSION CLERK

Motion for Extension
DOCUMENT NUMBER-DATE

02271 MAR-6 8

FPSC-COMMISSION CLERK

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application for rate increase)
in Marion, Orange, Pasco, Pinellas,)
and Seminole Counties by Utilities,)
Inc. of Florida.)
_____)

DOCKET NO.: 020071-WS
FILED: March 6, 2003

MOTION TO DISMISS

The Citizens of the State of Florida, through their attorney, the Public Counsel, hereby file this Motion to Dismiss. As grounds therefor, the Citizens submit:

1. On February 12, 2003, the Commission issued Order No. PSC-03-0213-PCO-WS. (hereinafter "Order No. 0213" or "the Order") that Order granted the Citizens first, second, third, fourth and fifth motions to compel discovery responses. The Order required Utilities, Inc. to provide responses to all discovery referenced in the Citizens' five motions to compel, and to provide those responses by February 22, 2003. Specifically, the Order stated:

The Citizens' First, Second, Third, Fourth, and Fifth Motions to Compel are granted. UIF shall provide all outstanding answers to these discovery requests within ten days of the date of this Order.

* * * *

Further delays in responding to the discovery requests will not be tolerated.

[Id., at page 3]

2. Utilities, Inc. has failed to meet all the requirements of Order No. 0213. As of this writing, the Citizens still have not received several of the items of discovery that were subject to the requirements of the Order.

3. From the Citizens' (first) Motion' to Compel, Utilities, Inc. has not supplied an answer to Interrogatory 20, nor Document Production requests 5, 16 and 32.

DOCUMENT NUMBER - DATE

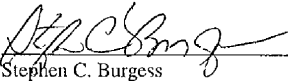
02270 MAR -6 03

FPSC-COMMISSION CLERK

4. From the Citizens' Second Motion to Compel, Utilities, Inc. has not produced Documents 49, 50, 51, 52, 53, 54 or 55.
5. From the Citizens' Fourth Motion to Compel, Utilities, Inc. has not provided a response to Document Requests 44, 45, 46, 47 or 48
6. In addition to the failures specified in paragraphs 3 through 5, above, Utilities, Inc. also has failed to meet the specified deadline on several of the discovery responses which it has provided pursuant to Order No. 0213
7. Under the rules of civil procedure, a party that fails to make discovery is subject to various possible sanctions. One such sanction is the dismissal of the action in question. Rule 1.380 (b)(2)(C), Florida Rules of Civil Procedure. Given the extent of the utility's noncompliance with the rules of civil procedure, and with Order No. 0213, the most severe sanction is appropriate in this case. Accordingly, the Citizens move the Commission to dismiss the application for rate increase filed by Utilities, Inc.

WHEREFORE, the Citizens of the State of Florida respectfully move this Commission to dismiss the petition for rate increase filed by Utilities, Inc. in Docket No. 020071-WS.

Respectfully Submitted,



Stephen C. Burgess
Deputy Public Counsel

Office of Public Counsel
c/o the Florida Legislature
111 West Madison Street, Room 812
Tallahassee, Florida 32399-1400
850-488-9330

CERTIFICATE OF SERVICE
DOCKET NO. 020071-WS

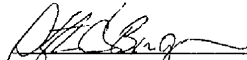
I HEREBY CERTIFY that a true and correct copy of the foregoing Motion to Dismiss has been furnished by hand delivery, facsimile and/or U.S. Mail to the following parties on this 6th day of March, 2003:

By U.S. Mail & Facsimile:

Martin S. Friedman, Esquire
Rose, Sundstrom & Bentley, LLP
650 S. North Lake Boulevard
Suite 160
Altamonte Springs, FL 32701

By Hand Delivery:

Rosanne Gevasi, Esquire
Loena Holley, Esquire
Division of Legal Services
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850



Stephen C. Burgess

Deputy Public Counsel