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August 2, 1991

**ORIGINAL
FILE COPY**

Mr. Steve Tribble
Division of Records and Reporting
Florida Public Service Commission
101 East Gaines Street
Tallahassee, Florida 32399-0850

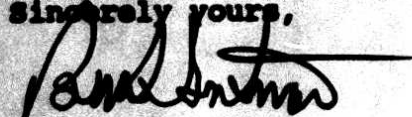
Re: ~~Docket No. 880014-00~~ Petition for Rate Increase in Martin
County by SAILFISH POINT UTILITY CORPORATION

Dear Mr. Tribble:

Enclosed for filing in the above referenced docket are the
original and twelve (12) copies of Motion to Strike Brief or Motion
to File Reply Brief.

Thank you for your assistance.

Sincerely yours,


Ben E. Girtman

BEG/sw

Enclosures

- ACK
- AFA 2
- APP _____
- CAF _____
- CMU _____
- CTR _____
- EAG _____
- LEG 1 w/m
- LIN 3
- OPC _____
- RCH _____
- SEC 1
- WAS** _____
- OTH _____

DOCUMENT NUMBER-DATE

07840 AUG-2 1991

PSC-RECORDS/REPORTING

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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

**IN RE: Petition for Rate Increase)
in Martin County by SAILFISH POINT
UTILITY CORPORATION**

**Docket No.: 900816-WS
Submitted for filing:
August 2, 1991**

**MOTION TO STRIKE
BRIEF BY
SAILFISH POINT PROPERTY OWNERS REPRESENTATIVES
AND CHARLES R. BUCKRIDGE (SPOR)**

or in the alternative

MOTION TO FILE REPLY BRIEF

COMES NOW, Sailfish Point Utility Corporation, Petitioner for a rate increase in the above styled proceeding, and in support of its Motion to Strike and states that:

1. Through repeated efforts both prior to the Prehearing Conference and prior to the hearing, the Utility sought specific information from the SPOR Intervenors regarding what specific paragraphs of their "thousand pages of exhibits" they sought to rely upon and the basis for that reliance. The best that SPOR provided was a reduced number of pages with prefiled testimony which cited only limited provisions, concluding with the statement that nothing else in the documents was "inconsistent" with the conclusions of the SPOR witness.

2. Now, in its Brief, and after the evidentiary portion of the hearing has been concluded, SPOR not only cites paragraphs and pages that were not included in their index of supposedly relevant documents (from their "thousand pages" and which were included in Exhibit 5), SPOR also is suddenly able to identify by specific line

and paragraph, the information requested long before the hearing by the Utility in its motions to compel and strike. The witness, Mr. Rasmusen, failed to cite those references in his prefiled direct and rebuttal testimony, and SPOR was unable to cite them in its response to the Prehearing Officer's directive.

3. Because of SPOR's failure to adequately identify portions of the documents which it sought to rely on, and because of the SPOR Witness's failure to address those pages and paragraphs which SPOR now seeks to rely on in its Brief, SPOR has attempted to circumvent the evidentiary process required in public hearings before this Commission.

4. Furthermore, SPOR cites in his Brief pages or paragraphs which were not included in the index list identifying the documents which SPOR indicated it intended to rely on from the "thousand pages" of SPOR's initial documents. For example, the SPOR Brief, page 3, refers to Exhibit 5, page 62, paragraph 1. That paragraph is not included in the SPOR index. Also, page 65 was not included in the SPOR index. On page 5 of SPOR's Brief, reference is made to page 102, paragraphs 2C, D, and E. Paragraph C is included in the SPOR index, but paragraphs D and E are not.

5. Therefore, the Utility's Motion to Strike Brief should be granted.

6. In the event that the Motion to Strike is denied, the Utility requests the opportunity to file a reply brief so that a response can be made to the information which SPOR has so diligently avoided presenting in the evidentiary process. SPOR has

avoided the duty to provide positive affirmative evidence in his testimony and has failed to cite in prefiled direct testimony or rebuttal testimony portions of the initial exhibits that SPOR's attorney now seeks to rely on, belatedly, in SPOR's initial Brief.

WHEREFORE, Sailfish Point Utility Corporation moves to strike the brief of Intervenor, Sailfish Point Property Owners Representatives and Charles R. Buckridge (SPOR). In the alternative, the Utility moves to file a reply brief.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been sent to Stephen C. Reilly, Esq., Office of Public Counsel, 111 West Madison Street, 812 Clause Pepper Building, Tallahassee, FL 32399-1400, Wm. Reeves King, Esq., 500 Australian Avenue So., Suite 600, Clearlake Plaza, West Palm Beach, FL 33401, and Catherine Bedell, Esq., Florida Public Service Commission, Division of Legal Services, 101 East Gaines Street, Tallahassee, FL 32399-0873 by U.S. Mail, this 2nd day of August, 1991.



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