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ORIGINAL
FILE COPY

September 8, 1992

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

Re: Docket No. 920199-WS

Dear Mr. Tribble:

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 Citizens' Response to Motion and Objections Filed by SSU on August 20 and August 31, 1992.

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


- ACK ✓
- AFA ✓
- APP _____
- CAF _____
- CMU _____
- CTR _____
- EAG _____
- LEG ✓
- LRN 4
- OPR _____
- PPR _____
- SEE ✓
- WAS ✓
- OTH _____

Sincerely,

Harold McLean
Associate Public Counsel

Enclosure

RECEIVED & FILED


FPSC-BUREAU OF RECORDS

DOCUMENT NUMBER-DATE

10270 SEP-8 1992

FPSC-RECORDS/REPORTING

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Application for rate increase in)
Brevard, Charlotte/Lee, Citrus, Clay,)
Duval, Highlands, Lake, Marion,)
Martin, Nassau, Orange, Osceola,)
Pasco, Putnam, Seminole, Volusia, and)
Washington Counties by SOUTHERN)
STATES UTILITIES, INC.; Collier)
County by MARCO SHORES UTILITIES)
(Deltona); Hernando County by)
SPRING HILL UTILITIES (Deltona);)
and Volusia County by DELTONA)
LAKES UTILITIES (Deltona))

Docket No. 920199-WS

Filed: September 8, 1992

RESPONSE TO MOTION AND OBJECTIONS
FILED BY SSU ON AUGUST 20 AND AUGUST 31, 1992

Come now the Citizens of the State of Florida, by and through JACK SHREVE,
Public Counsel, and say:

1. On August 20, 1992, the above captioned applicants (SSU) filed a motion for a protective order addressing the Citizen's requests for production of documents (POD) No. 145 (among others);
2. Document Request No. 145 (which was served by the Citizens on 5, 1992) reads as follows:

Provide a copy of all State and Federal Commission orders in the Company's possession, custody, or control which address the regulatory treatment of acquisition adjustments.

3. While SSU could rightfully object to the Citizens' seeking the legal conclusions

which SSU draws from any of the referenced documents, it cannot resist production of the documents themselves under color of work product privilege. The Citizens seek neither the "legal theories, strategies, and proposed arguments" (addressed in Surf Drugs), nor the "Legal conclusions opposing attorney intends to draw from underlying facts of case" (addressed in the EEOC case). The Citizens request only the documents.

4. On August 31, 1992, SSU filed its objections to the Citizens interrogatory No. 320 and to the Citizens POD No. 169, each of which read as follows:

320. Please provide the gross and net book value of the St. Augustine Shores system at the time of sale.

169. Provide a copy of all internal memorandum, reports, studies, and other documents between or by employees of the Company, Topeka, MPL, between or by consultants of the Company, Topeka, and MPL, and all memorandum to files which address the sale of St. Augustine Shores and Deltona Gas.

SSU is characterized by a myriad of financial allocations and other accounting procedures which include companies regulated by the Florida PSC, companies regulated by the counties, companies regulated by other entities, and unregulated companies; and among the parents and affiliates of all of them. St. Augustine Shores was and is no exception to that scheme: the Citizens have the right to scrutinize any matter within SSU's possession which either show or reasonably lead to information which might show the accuracy, correctness, and

prudence of the various allocations adopted by SSU and of the accounting treatment of the financial issues surrounding the operation and sale of St. Augustine Shores. The Citizens believe and urge the commission to hold that any financial activity whatsoever in which SSU had a role--particularly in Florida--is relevant to the question of whether SSU's application for higher rates is well-founded.

The impact of the operation and sale of St. Augustine Shores on the portions of SSU regulated by the FPSC can be ascertained only in the light of full response to the inquires of the Citizens. The information sought is relevant and is reasonably calculated to lead to information which is admissible in this proceeding.

5. The Citizens reiterate their August 25th 1992 motion for additional time in which to file testimony which provided in part:

Motion for Additional Time in Which to File Testimony:

6. The delay in obtaining discovery from SSU has crippled the Citizens' case before the Commission. It is impossible for the Citizens to base deposition of witnesses on information which was sought but not received in interrogatories and Document Requests. It is impossible for the Citizens to assemble evidence which weighs upon the issues in this case when much relevant evidence is successfully obscured from the Citizens' view by SSU.
7. Although much of the delay in complying with discovery has been the fault of SSU

not all of it has been. Despite the time allotted to discovery being of the essence, Order NO. PSC-92-0819-PCO-WS which issued on August 14, 1992, resolved issues which were ripe for decision as early as June 13, 1992. [footnote omitted]

8. The Citizens' discovery is sadly incomplete through no fault of their own. There has been no delay in filing discovery: the delay has been incurred in obtaining answers. Despite the voluminous objection to discovery, SSU has prevailed only on rare occasion. [footnote omitted]

9. The Citizens' discovery is yet in its early stages owing to continuing resistance from the utility which is articulated principally in the absence of answers and, secondarily, in SSU's filing unsuccessful motions: the Citizens cannot fashion a case in the time which remains.

10. The Citizens recognize that a delay of the time for filing testimony may well dictate a delay in the hearing which is now scheduled to begin on November 6, 1992, and the Citizens recognize that SSU may have the right to impose requested rates before a the hearing could be rescheduled. However, the interim rates awarded by the commission on August 18, 1992, comprise 87% of the applicant's requested rates; there is no material prejudice to any party in a delay.

WHEREFORE, the Citizens move the commission to enter its order: denying

SSU's objections to Citizens' interrogatory No. 320, and deny SSU's motion for protective order concerning POD 145; moreover, the Citizens reiterate their August 25th 1992 motion for additional time in which to file testimony in this proceeding.



Harold McLean
Associate Public Counsel

**CERTIFICATE OF SERVICE
DOCKET NO. 920199-WS**


I HEREBY CERTIFY that a correct copy of the foregoing has been furnished by U.S. Mail or hand-delivery to the following parties on this 8th day of September, 1992.

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