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STATE OF FLORIDA
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ORIGINAL
FILE COPY

August 29, 1994

Blanca S. Bayo, Director
Division of Records and Reporting
Florida Public Service Commission
101 East Gaines Street
Tallahassee, FL 32399-0850

Re: Docket No. [REDACTED]

Dear Ms. Bayo:

Enclosed for filing in the above-captioned proceedings on behalf of the Citizens of the State of Florida are the original and 15 copies of the Citizens' Motion to Strike Late Filed Exhibit 43.

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

RECEIVED & FILED
Mars
EPSC-BUREAU OF RECORDS

Sincerely,

Harold McLean
Associate Public Counsel

- ACK _____
- AFA _____
- APP _____
- CAF Enclosures
- CMU _____
- CTR _____
- EAG _____
- LEG Person
- LIN 3
- OSC _____
- ROH _____
- SEC 1
- WAS WAS
- OTH _____

DOCUMENT NUMBER-DATE
08858 AUG 29 94
EPSC-RECORDS/REPORTING

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Petition for Interim and)
Permanent Rate Increase in)
Franklin County, Florida by)
ST. GEORGE ISLAND UTILITY)
COMPANY, LTD.)

DOCKET NO. 940109-WU

Filed: AUGUST 29, 1994

CITIZENS' MOTION TO STRIKE LATE FILED EXHIBIT 43

The Citizens of the State of Florida, by and through JACK SHREVE, Public counsel, move to strike Late Filed Exhibit 43 and as grounds therefore show:

1. Late filed exhibit was due on August 25, 1994. At the hearing in this case the issue was discussed between Chairman Deason and Mr. Pfeiffer:

CHAIRMAN DEASON: Let's just simplify the matter and just say that all late-filed exhibits, and there are not that many. I don't believe it would be too burdensome. That all late-filed exhibits will be due on August the 25th, is that sufficient?

MR. PFEIFFER: Yes.

(Transcript, 1672)

2. The Citizens did not receive late-filed Exhibit 43 on August 25, 1994. Despite the false unsigned notation on late-filed Exhibit 43 that it was hand delivered, it was

mailed to the Citizens on that date. The Citizens received late-filed Exhibit 43 mid-afternoon on August 26. Time was of the extreme essence and all parties knew it.

3. Late-filed Exhibit 43 was hand-delivered to the Commission Director of Records and Reporting at the last possible minute on August 25, 1994. It is a four or five minute walk from the desk at Records and Reporting to the Office of Public Counsel which is located fewer than 200 yards away; hand delivery to the Citizens was then and there possible and feasible.
4. Failure to provide late-filed Exhibit 43 to the Citizens is an inexcusable and intentional attempt to diminish the participation of the Citizens in this case.
5. Late-filed Exhibit 43 is devoid of any certificate of service as is required by the Florida Rules of Civil Procedure and by the rules of this Commission; there is no practitioner signatory to the false representation of hand delivery included with late-filed Exhibit 43 against whom this Commission could apply sanctions or against whom this Commission could seek sanctions..
6. Late-filed Exhibit 43 contains an expense item of \$6850, ostensibly billed by TMB associates which was specifically disavowed under oath by Gene Brown.

Under questioning by the Citizens:

Q (By Mr. McLean) With respect to TMB Associates, do you claim any rate case expense for services rendered by TMB Associates?

A (Witness Brown) No.

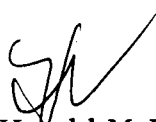
(Transcript, 1357)

7. The Citizens view and urge this Commission to find that this activity on the part of St. George Island Utility Company, Ltd. is an attempted fraud upon this Commission, upon the staff of the Commission and upon the Citizens of the State of Florida. The dates of the services rendered by TMB all preceded the date of the question and answer¹. The utility knew that they had incurred expense for services rendered by TMB associates and furnished a false answer to avoid cross examination on the subject.

¹ There will no doubt be a characteristic attempted dodge employed by utility management here: the exhibit talks about "invoices" received since the last rate case exhibit (see late-filed Exhibit 43, unnumbered p. 2) and management will no doubt explain away this scam by saying that since an invoice was not received from TMB, that there was no expense at the time of the question and answer. There is no such qualification in either the question or the answer. The question included fair inquiry as to whether the utility claimed rate case expense for TMB associates. The unqualified answer was "no". Had the answer been qualified in any way, the undersigned would have immediately inquired into the services rendered by TMB associates and the reasonableness associated therewith.

WHEREFORE, The Citizens of the State of Florida move late-filed Exhibit 43 stricken from the record in its entirety because it was not timely filed and because it specifically contradicts sworn testimony in the record by utility management.

Respectfully submitted,



Harold McLean
Associate Public Counsel

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Attorney for the Citizens
of the State of Florida

**CERTIFICATE OF SERVICE
DOCKET NO. 940109-WU**

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 29th day of August, 1994.

Robert Pierson, Esq.
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