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BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

In the Matter of : DOCKET NO.

Application for a rate increase and : 950495-WS
 increase in service availability charges:
 by SOUTHERN STATES UTILITIES, INC. for :
 Orange-Osceola Utilities, Inc. in :
 Osceola County, and in Bradford, Brevard:
 Charlotte, Citrus, Clay, Collier, Duval, :
 Highlands, Lake, Lee, Marion, Martin, :
 Nassau, Orange, Osceola, Pasco, Putnam, :
 Seminole, St. Johns, St. Lucie, Volusia :
 and Washington Counties. :

SECOND DAY - MORNING SESSION

VOLUME 6

Pages 555 through 663

PROCEEDINGS: HEARING

BEFORE: CHAIRMAN SUSAN F. CLARK
 COMMISSIONER J. TERRY DEASON
 COMMISSIONER JULIA L. JOHNSON
 COMMISSIONER DIANE K. KIESLING
 COMMISSIONER JOE GARCIA

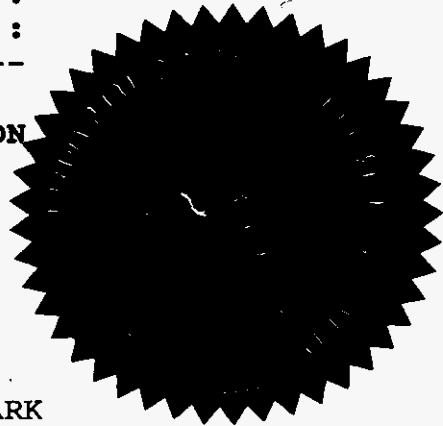
DATE: Wednesday, May 1, 1996

TIME: Commenced at 9:00 a.m.

PLACE: Betty Easley Conference Center
 Room 148
 4075 Esplanade Way
 Tallahassee, Florida

REPORTED BY: JOY KELLY, CSR, RPR
 Chief, Bureau of Reporting
 (904) 413-6732
 ROWENA NASH HACKNEY
 Official Commission Reporter
 (904) 413-6736

APPEARANCES:
 (As heretofore noted.)



DOCUMENT NUMBER - DATE
 04903 MAY -1 96
 FPSC-RECORDS/REPORTING

WITNESSES

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EXHIBITS

NUMBER		ID.	ADMTD.
83	(Poirier) Petition	565	565
84	(Sharkey) Fax dated August 24 1995 to Tracy Smith from Janet Howarth	587	662
85	(Sharkey) November 29, 1995 fax to Tracy Smith	592	662
86	(Sharkey) six-page fax dated December 13, 1995 to Karl Koch from Sharkey	599	662
87	(Sharkey) Fax sent to Secretary of Commerce Charles Dusseau 12/13/95	613	662
88	(Sharkey) Capital Stragegies fax of 2-18-95 letter	618	662
89	(Sharkey) Commission Order No. PSC-93-1023-FOF-WS; letter dated 2-9-95; memos of 12-3-93 and 6-14-94	635	662

P R O C E E D I N G S

1
2 (Hearing reconvened at 9:05 a.m.)

3 (Transcript follows in sequence from
4 Volume 5.)

5 CHAIRMAN CLARK: Ladies and gentlemen, we
6 are ready to call the hearing back to order. I want
7 to give you some idea on how we are going to proceed
8 this morning. The first thing I would like to
9 announce is Mr. Pruitt will not be with us today. He
10 experienced an episode of high blood pressure
11 yesterday, but we expect him back tomorrow. He
12 assures me it is not the result of this case. I have
13 my doubts about that, but we expect him back tomorrow.
14 He is doing fine.

15 We will take up, prior to getting otherwise
16 started on the case, the testimony of two public
17 witnesses. Then we will take up the motion to strike
18 the testimony of Mr. Sandbulte, and I will hear from
19 Mr. Beck since it will be Public Counsel's motion to
20 strike. And I will hear from you, Mr. Armstrong.
21 After that we will take up Mr. Sharkey, and then we
22 will revert to the order of witnesses which on my list
23 is Mr. Hartman.

24 MR. ARMSTRONG: Madam Chair, there is also
25 pending the motion to strike the testimony of

1 Mr. Broverman.

2 CHAIRMAN CLARK: Yes. Mr. Armstrong, I need
3 to check out one more thing before I do that, but you
4 will get a ruling on that today.

5 MR. ARMSTRONG: Will we argue that, or just
6 get a ruling from the bench?

7 CHAIRMAN CLARK: Well, I have both the
8 motions on it. I don't feel the need for anymore
9 argument on it.

10 MR. ARMSTRONG: I just know that the
11 Prehearing Officer had asked if there was any specific
12 references to the transcripts that would show --

13 CHAIRMAN CLARK: Well, maybe I would benefit
14 from that. And I do need to check with Staff on one
15 issue first, and then I will let you know. Maybe we
16 will take it up after lunch, immediately after lunch.

17 MR. ARMSTRONG: Thank you.

18 CHAIRMAN CLARK: I understand there is a
19 Mr. Poirier and Mr. Lutz who are here and wish to give
20 testimony. What I would like for you to do is stand,
21 and let me swear you in, and then we will take it in
22 the order of Mr. Poirier and then Mr. Lutz.

23 And if there are any other technical
24 witnesses who were not here Monday who will be
25 testifying, if they would also stand and raise their

1 right hand. (Witnesses collectively sworn.)

2 CHAIRMAN CLARK: Thank you. Mr. Poirier, if
3 you would go up where Ms. DeMello is indicating.

4 Bev, I think it needs to be the other seat.

5 WITNESS POIRIER: Can you hear me?

6 CHAIRMAN CLARK: Yes. Mr. Lutz, we will
7 take the testimony from Mr. Poirier, and then hear
8 from you.

9

- - - - -

10 DANIEL POIRIER

11 was called as a witness on behalf of the Citizens of
12 the State of Florida and, having been duly sworn,
13 testified as follows:

14 CHAIRMAN CLARK: Mr. Poirier, could you give
15 us your name and the facility from which you take
16 service?

17 WITNESS POIRIER: My name is Daniel Poirier.
18 The last name is spelled P-O-I-R-I-E-R. I live at
19 5533 Sharon Avenue in Intercession City, Osceola
20 County, Florida.

21 I am here today acting as a spokesman for
22 customers of Southern States Utilities at Intercession
23 City in Osceola County, Florida. I am here to deliver
24 a petition to the Florida Public Service Commission
25 from customers of SSU at Intercession City and to

1 comment on the rate structure, water quality and
2 service rendered by the Utility. I will begin with
3 the petition.

4 I request to enter into the docket files the
5 petition and signatures of customers in Intercession
6 City who are opposed to Commission-approved rate
7 structure, interim water rate increases and proposed
8 final rates. In essence, the petition is asking to
9 return to the uniform rate structure.

10 Our reasoning for the validity of uniform
11 rate structure parallels an excerpt taken from the
12 1995 edition of Moody's Utility Manual, a Dunn &
13 Bradstreet Investment Guide. And I quote: Uniform
14 rates recognize that SSU, operating as a statewide
15 utility system, provides economical service to all
16 customers regardless of their location. A uniform
17 rate policy applied today in many other states also
18 prevents rate shock by spreading the cost of capital
19 improvements, reduces rate case preparation expenses
20 and can help promote water conservation. In a state
21 facing a future water supply deficit, uniform rates
22 represent sound public policy and a long-term benefit
23 to customers and shareholders.

24 We the citizens of Intercession City concur
25 with that statement. Our current situation with

1 modified stand-alone rates clearly demonstrates why we
2 oppose them. The Commission-approved interim water
3 rate increases have tripled our water bills and
4 created hardship for residents of Intercession City.
5 Those hardest hit have been the many retirees whose
6 fixed income budgets cannot withstand the severity of
7 this rate shock recently imposed upon them.

8 Most family budgets cannot tolerate
9 abnormally high increases for any service. But when
10 that happens, people react. This case has dredged up
11 feelings of anger toward SSU because to the customer
12 there have not been any noticeable improvements in the
13 water systems that can justify even a small increase.
14 In fact, those who have experienced problems with
15 SSU's water system, think a decrease from previous
16 rates would be more appropriate.

17 The interim increases have caused customers
18 to resurface the multitude of problems that exist with
19 the current system at Intercession City. At a meeting
20 with representatives of SSU and the PSC on Monday,
21 April 22, 1996, residents voiced their displeasure
22 with the water quality, service problems and high
23 rates.

24 Here is a brief outline of the most common
25 water and service problems: water pressure; low water

1 pressure, especially in the older section of the city
2 is the most common complaint; discolored and bad
3 tasting water and pink scum. Customers in the older
4 section complain about discolored water that leaves
5 black and brown residues on their fixtures. Others
6 complain of bitter tasting water and also noticed the
7 chlorine levels were frequently high.

8 A lack of fire hydrants; fire protection is
9 a must, but the SSU system is not properly sized to
10 meet fire line requirements. Water system shut downs
11 for long periods of time and without advanced notice.
12 And finally, service call response time is excessive.
13 It sometimes takes days to respond to and repair line
14 problems.

15 Customers at the meeting said SSU has been
16 insensitive to these problems. The Company
17 representative's response was to down play the
18 importance of the problems and sidestep them all
19 together. That attitude is a direct contrast to
20 Company literature which emphasizes SSU's commitment
21 to continuing water system's improvement and
22 dedication to setting high standards for customer
23 service.

24 On the issue of high rates, the SSU rep said
25 the large increase was necessary to recover \$100,000

1 in improvements at the Intercession City site. When
2 asked what the improvements were, the representative
3 could not furnish specifics. Sidestepping questions
4 about customer problems and making vague
5 generalizations about how SSU must recover increased
6 costs is frustrating to consumers whose rates have
7 tripled.

8 The customer wants reasonable answers to
9 valid questions about rates and services. Water users
10 in Intercession City want to know why they are paying
11 Cadillac prices for what appears to be a Model T
12 system. But most of all, they want to return to the
13 days when moderate water rate increases were applied
14 in a fair, just and reasonable manner.

15 CHAIRMAN CLARK: Mr. Poirier, you indicated
16 you had a petition; is that correct?

17 WITNESS POIRIER: That is correct.

18 CHAIRMAN CLARK: All right. We'll go ahead
19 and mark it as Exhibit 83. Do you have more than one
20 copy?

21 WITNESS POIRIER: Yes, I do.

22 CHAIRMAN CLARK: We need to give one copy to
23 the court report, which is this lady right here. I
24 guess Bev is going to get that from you. And then we
25 need to distribute --

1 Bev, would you make sure the parties get
2 copies, as well as the Commissioners? And we will
3 identify it as Exhibit 83 and admit it in the record
4 without objection. Thank you.

5 Are there any questions of this witness?

6 (Exhibit No. 83 marked for identification
7 and received in evidence.)

8 MR. TWOMEY: Yes.

9 COMMISSIONER GARCIA: May I ask you a
10 question while Mr. Twomey gets ready. You said you
11 have what kind of scum? Pink scum in the --

12 WITNESS POIRIER: That is one of the
13 customers at Intercession City testified to that fact,
14 yes, at the meeting.

15 CHAIRMAN CLARK: Mr. Twomey.

16 MR. TWOMEY: Yes, Madam Chairman. Thank
17 you.

18 **CROSS EXAMINATION**

19 BY MR. TWOMEY:

20 Q Mr. Poirier, good morning. My name is Mike
21 Twomey, and I represent a number of homeowner
22 associations throughout the state served by Southern
23 States Utilities, the vast majority of them which pay
24 subsidies under the uniform rate concept and are,
25 therefore, opposed to the concept.

1 Let me ask you this. You mentioned that you
2 had an April 22, 1996 meeting with the representatives
3 of SSU and the PSC?

4 A That is correct.

5 Q Did you request that meeting?

6 A I did not.

7 Q I'm sorry, did your community request the
8 meeting?

9 A The customer base did, yes.

10 Q Who was the SSU representative?

11 A Teasley.

12 Q Karla Teasley?

13 A Yes.

14 Q And who was there from the PSC, if you
15 recall?

16 A Bev DeMello.

17 Q Is it Ms. Teasley that you are referring to
18 when you cited the representative that was
19 insensitive?

20 A That's correct.

21 Q I thought I heard you say the SSU
22 representative was insensitive to your --

23 A There were two representatives from SSU. I
24 don't know. There was a man there who was in charge
25 of maintenance operations and was supposed to field

1 questions, but did not.

2 Q Which one were you describing as
3 insensitive?

4 A Actually, both of them.

5 Q Okay, good.

6 Now, you've said there have been no
7 noticeable improvements in your water quality; is that
8 right?

9 A That was the feeling of the customers at the
10 meeting, yes.

11 Q Okay. You feel as a group apparently that
12 not only is SSU not entitled to a rate increase of the
13 magnitude requested, but they should have a decrease.
14 Is that correct?

15 A Well, what I said was it's difficult for the
16 customers to justify a rate increase without any
17 increase in the water quality, water pressure, things
18 that you would normally expect from a vital water
19 system.

20 Q Yes, sir. Now you indicated, I believe,
21 that the SSU representative, or SSU representatives,
22 stated that the increase in rates to your system was
23 necessitated by some \$100,000 of improvements there;
24 is that correct?

25 A That was the figure that was thrown out,

1 yes.

2 Q Okay. That was the figure that was thrown
3 out, but that representative, I think you said,
4 couldn't specify what improvements had been made. Is
5 that correct?

6 A That is correct, that is correct.

7 Q Now, sir, let me ask you, have you observed
8 what you had characterized as \$100,000 of apparent
9 improvements in the system?

10 A I have not.

11 Q Have you observed any improvements in the
12 system?

13 A I have not. I have experienced problems
14 with SSU that I did not surface at this hearing.

15 Q Like what?

16 A Would you like me to surface them?

17 Q Yes, sir. Yes, sir, I would.

18 A To give you an example, I built a new home
19 in Intercession City beginning in July of 1994.

20 Q Yes, sir.

21 A Contacted people from SSU, told them what I
22 was going to do and needed to know where the surface
23 point would be to access their water system. They
24 sent a representative out, showed me where the water
25 lines went down the utility right of way. I designed

1 the house around that information only to discover
2 that all those lines had been taken out of service.

3 Q So what -- did that inconvenience you?

4 A Yes, as a matter of fact, it did.

5 Q What did you have to do? What did you have
6 to do to rectify that?

7 A It had to go approximately a block away and
8 tap into another source, bring it all the way to the
9 opposite end of my house and tap in at that point. It
10 resulted in about another 150 feet of water pipe.

11 Q Did they charge you for that additional
12 pipe?

13 A Well, I paid a tap-in fee, yeah, the
14 standard \$271 fee.

15 Q Yes, sir. You said -- any other problems
16 that you want to surface with SSU?

17 A I've experienced low water pressure, but
18 that's --

19 Q Is that common?

20 A Every one in Intercession City experiences
21 that.

22 Q I think you indicated that response times
23 were slow; is that correct?

24 A According to the people who attended that
25 meeting, especially in the older section of the city,

1 yes.

2 Q Are they talking about response from the
3 Company when they have a complaint or an inquiry or
4 repair?

5 A Yes.

6 Q Lastly, Mr. Poirier, your aside from the
7 quality service complaints, you are here to protest
8 the high level of SSU's rate; is that correct?

9 A That is correct.

10 Q Now, and if I heard you correctly -- and
11 correct me if I'm wrong -- you're in favor of the
12 uniform rate concept primarily because it would lower
13 the level of your rates. Is that correct?

14 A I think it achieves a greater level of
15 equity across the state. Yes, it would lower our
16 rates.

17 Q So even if it increased your rates
18 dramatically, you'd still be in favor of it; is that
19 correct?

20 A That is correct.

21 Q Okay.

22 A Would you like me to expand on that?

23 Q You are welcome to.

24 A As I understand it, the cost, the increased
25 cost for SSU, comes from meeting government mandated

1 environmental improvement factors. I think the
2 environment is something that we all need to pay for.
3 In the cost for improving the world in which we live,
4 be it the water supply or the air, should be shared by
5 everyone.

6 Q So I take it then -- where did you get that
7 notion that the increased costs to SSU were due to
8 regulatory compliance and to protect the environment?

9 A In writings I have received or
10 communications that I have received from the Company.

11 Q From SSU?

12 A Yes.

13 Q From the same Company that sends you
14 insensitive representatives, gives you slow response
15 time on your customer complaints and cites to you
16 increased costs that they can't show you. Is that
17 correct?

18 A That is correct.

19 Q Now, if it were demonstrated to you at the
20 conclusion of this hearing that the notion that the
21 majority of costs SSU claims to have incurred here for
22 environmental is not true, then would that modify your
23 opinion in your support for uniform rates?

24 A I would have to take that under
25 consideration. I can't give you an off-the-cuff

1 answer.

2 Q That's fair enough. Thank you very much.

3 A Thank you.

4 CHAIRMAN CLARK: Mr. Hoffman.

5 Mr. Armstrong. Staff. Commissioners. Thank you,

6 Mr. Poirier. Mr. Lutz.

7 (Witness Poirier excused.)

8 - - - - -

9 **ROBERT LUTZ**

10 was called as a witness on behalf of the Citizens of
11 the State of Florida and, having been duly sworn,
12 testified as follows:

13 WITNES LUTZ: Good morning. My name is
14 Robert Lutz, L-U-T-Z. I live at 55636 Lee Street,
15 Astor, Florida in Lake County.

16 Astor is a small fish camp community of
17 retirement people primarily. Oh, let me say I
18 represent no one except myself and my wife. I haven't
19 been sent here by anyone, so if I say something to
20 make you mad, get mad at me and not my neighbors.
21 They are bleeding, believe me. They are bleeding now.

22 Our little town has two water systems,
23 believe it or not. One is SSU, and the other is Astor
24 Water Management. Now, I have Astor Water neighbors
25 between 50 and 70 feet away from me. They pay \$11 per

1 month, period, nothing more. If they water their
2 lawns, if they don't use any water, they pay \$11 per
3 month. I've spoken to a number of neighbors to verify
4 this.

5 I have the misfortune of being connected to
6 SSU whose charges for water alone last month were
7 \$26.91. That's right, nearly \$27, making a combined
8 bill with sewer of \$71.34. That's pretty hard on a
9 retirement pocket, believe me.

10 Let me quickly outline the reckless use of
11 water that got us this kind of a bill. We use water
12 saving techniques where possible. In the last couple
13 of months, instead of flushing our toilets, we use the
14 air fresheners in the toilets and flush them when we
15 have to and not before. Very simply, it gets rank,
16 but that's the only way we have to save water anymore.

17 We have scrimped on water. We are very
18 conscientious of our water usage. When we need hot
19 water, if it's something that isn't in the kitchen, we
20 go to the bathroom that's closest to the hot water
21 heater to save on water flow if we need hot water. I
22 will concede that we don't have water saver toilets.
23 I'm 6'4", 250 pounds; water saver toilets don't work
24 for big people.

25 I'll move on to something else. SSU is

1 billing unmetered sewage directly off their water
2 meter without compensating for any loss of water, such
3 as washing the car, washing down the house, pressure
4 cleaning, watering the lawn, and on, and on, and on.

5 For instance -- I'll just give you one
6 instance. In February I had a man spend two days
7 pressure cleaning everything on my place including the
8 roofs, decking, you name it. Not one drop of this
9 water was processed by SSU as sewage, and yet they
10 billed me for an additional 1,150 gallons, roughly
11 1,150 gallons, as sewage. That bill was a mere
12 \$92.68.

13 My neighbor lady, Jean -- I'll give you her
14 last name if I have to -- has been living alone in her
15 new home the last two months until her husband retires
16 next month. Her combined bill came to \$98 last month
17 because she watered her lawn. Or would you have me
18 believe that one woman can generate \$98 of sewage?
19 And this while her neighbors who are approximately 50
20 feet away pay \$11 per month.

21 On a different tack all together, let me
22 tell you a horror story that happened two years ago.
23 My wife and I have been trying to sell a small condo
24 on Juneau Trail in Astor. My niece got married in
25 November, and as the condo had been sitting empty for

1 about 11 months, we thought to let them use it as
2 their honeymoon cottage for a week. So we checked
3 with SSU, and they quoted us a modest disconnect -- or
4 a connect and disconnect fee. Then came the bill,
5 over \$200. We were to pay back bills up to the time
6 we had disconnected, and that just stunned us.

7 With much playing with SSU and a lot of help
8 from the Public Service Commission, we finally got
9 them to forgive us that bill and charge us the connect
10 and disconnect fees. They scolded me and told me not
11 to let it happen again. Quite generally, they acted
12 as if they were doing me a huge favor, and maybe they
13 were. But I would like to know how in the world they
14 managed to convince the Public Service Commission that
15 they need to be paid for services not rendered and
16 expenses not incurred.

17 I could understand a minimum connect fee,
18 say two or three months. But to have to pay 11 months
19 is patently absurd. On Juneau Trail, this is where
20 our little condo was at that we had been trying to
21 sell forever, under SSU present billing structure,
22 they are taking in at peak around \$5,000 per month.
23 Now, this is during the peak season, I will grant you
24 that, just from the condos alone, not even counting
25 the houses up and down Juneau Trail which is a

1 beautiful street. Why do they need that much money
2 just to maintain one street? Why do they have to have
3 service personnel almost as live ins on this street?

4 I'll tell you one reason. Over three years
5 ago, they brought in an outside -- I'm not sure what
6 you'd call it. I call it a research crew, that sent a
7 TV camera down the pipeline. I spoke at great length
8 to these people. I didn't know what they were doing.
9 They let me look in their truck there and watch this
10 camera. I was being taken down the pipe. It was very
11 interesting; I thought it was. I'm very technically
12 oriented anyway.

13 They found that the drain fields along
14 Juneau Trail lays like a snake on a plowed field.
15 Anyone knows that sewage gas produces -- or sewage
16 produces gas and every high point in the drain traps
17 gas pockets and every gas pocket blocks the passage of
18 fluids. SSU has known about this for over three years
19 now. But instead of making the appropriate repairs,
20 they just keep on wasting man hours and machinery. In
21 other words money, lots of money. Those pumps cost a
22 lot of money, they have to replace them frequently
23 because they are pumping against so much resistance
24 with that pipe going up and down.

25 I believe the Public Service Commission

1 should carefully examine this, and surely SSU has been
2 pouring money into other areas where they failed to
3 take definitive action. This poorly managed company
4 needs to clean up their act instead of cleaning out
5 their customers.

6 I suggest that SSU windfall profits --
7 that's what I call them anyway -- those are profits
8 that have been made from this terrible, and for some,
9 nearly crippling increase, plus the phony figures they
10 use for sewage treated, be returned to the customers.
11 Something stinks beside sewage, and a lot of people
12 are being hurt by it very seriously. I thank you very
13 much.

14 CHAIRMAN CLARK: Thank you, Mr. Lutz.

15 MS. JABER: We just have one question, Madam
16 Chairman.

17 CHAIRMAN CLARK: All right. Let me see if
18 the other parties have questions. Mr. Shreve.
19 Mr. Twomey.

20 MR. TWOMEY: Just a couple.

21 **CROSS EXAMINATION**

22 BY MR. TWOMEY:

23 Q And first, sir, what is the name of the
24 system of SSU that serves you, if you know?

25 A All I know is Southern States Utilities,

1 Astor Florida. I know nothing else. You mean the
2 system that serves me?

3 Q Yes, sir. It doesn't have a name. Do you
4 know if it has a name associated with it aside from
5 SSU?

6 A I haven't seen any other name on their
7 trucks or anything.

8 Q But you have -- was it Astor Water
9 Management?

10 A Yes. I think that's the name of the
11 company, Astor Water Management.

12 Q And it's just within --

13 A About 50 feet across the canal from me.

14 Q And they have dramatically lower rates; is
15 that right?

16 A They sure do.

17 Q Do you know whether they enjoy --

18 A They don't have sewage, I'm sorry.

19 Q Just water service.

20 A Just water service, period.

21 Q Do you know whether or not they enjoy the
22 advantages and benefits of being a subsidiary of a
23 major power company? Do you know if they are owned by
24 a large electric power company?

25 A I don't believe so. I have no idea who they

1 are owned by.

2 Q Do you know if they are part of a large
3 system throughout Florida?

4 A I know nothing about the company. I've
5 never been tied in with them. I suppose I could have
6 stopped in at the office and talked to them. They
7 have a very small office there in Astor.

8 Q Does SSU have an office in Astor?

9 A No.

10 Q How do you resolve your complaints or
11 billing complaints with them? How do you contact them
12 in order to resolve customer and billing complaints
13 and so forth?

14 A Telephone is the only way I've done it.

15 Q Are they very responsive?

16 A They certainly weren't very responsive when
17 we had the problems with that billing.

18 Q I see.

19 A I mean, I just couldn't believe it. They
20 didn't let us know that we were in for a bill of over
21 \$200 just for connecting up for a week. That was just
22 unbelievable that they never let us know this.

23 Q Yes, sir.

24 MR. TWOMEY: That's all I have. Thank you
25 very much.

1 CHAIRMAN CLARK: Staff.

2 MS. JABER: Madam Chairman, Mr. Twomey asked
3 the question that we were going to ask. Maybe the
4 Utility can clarify for us what facility Mr. Lutz
5 belongs to.

6 CHAIRMAN CLARK: We'll get that later.

7 MR. ARMSTRONG: Holiday Haven.

8 CHAIRMAN CLARK: What?

9 MR. ARMSTRONG: Holiday Haven.

10 CHAIRMAN CLARK: Thank you, Mr. Lutz.

11 (Witness Lutz excused.)

12 - - - - -

13 CHAIRMAN CLARK: Yesterday, Mr. Shreve made
14 an oral motion to strike some of the testimony of
15 Mr. Sandbulte. Mr. Shreve, would you like to briefly
16 reiterate that motion for us?

17 MR. SHREVE: Commissioner, I'd be glad to.
18 This is a little hard to even know what to argue
19 exactly because Commissioner Kiesling has already
20 ruled this was not an issue, but then a deposition was
21 taken after that ruling by Southern States Utilities.
22 I think we are probably going to see this thrown out
23 throughout the hearing so we might as well get it out
24 of the way right now.

25 In that deposition, I feel that the

1 integrity involving four people were brought into
2 question from a case that occurred six years ago -- an
3 incidence that occurred six years ago.

4 I don't think it is fair. I don't think it
5 ever happened. We are talking about hearsay to an
6 attorney of Southern States Utilities -- and I'm going
7 to try to be a little vague about this while still
8 making an argument, and I'll be glad to reply to
9 anything or answer any questions -- by a Staff member
10 of the Public Service Commission. Two of the people
11 are deceased. If this is going to continue in this
12 case, which it has no part of this case, it has no
13 position, nothing to do with this case, Mr. Hoffman
14 handled the reconsideration of the case that was
15 dismissed six years ago. If anything ever happened,
16 they new about it at that time. Mr. Hoffman handled
17 the appeal at that time; Southern States was familiar
18 with it. Now six years later, this comes as a
19 surprise to most of us.

20 If this is going to continue and these
21 accusations are going to be made, we are fully ready
22 to face them. And I have at least six witness that I
23 want to call to bring in the question of whether or
24 not the statement was ever made by your Staff member;
25 and if there was, whether there was confusion on what

1 was heard from the Staff member. Or if it was made,
2 why it might have been made to Southern States
3 Utilities instead of the proper authorities at the
4 Public Service Commission with everyone else being
5 kept in the dark.

6 As far as the statement that I was moving to
7 strike, what he said, I don't really care that much
8 one way or the another. But if we are going to
9 continue in this route, and they are going to continue
10 to bring something up that's going to impune the
11 integrity of people from the past like that, then I
12 just want it very clear that we are not going to be
13 intimidated; we are not going to be bullied; and we're
14 ready to go forward on it and put on anything that
15 needs to be done to show it has no part of this case
16 and it never happened.

17 CHAIRMAN CLARK: Thank you, Mr. Shreve.
18 Mr. Armstrong or Mr. Hoffman.

19 MR. ARMSTRONG: Madam Chair, I consider that
20 a withdrawal of his motion to strike because he just
21 told you he doesn't care, and he gave no reason or
22 rationale based on any rule of evidence or other
23 stated law as to why the information should be
24 stricken.

25 And as to his insinuations, innuendos and

1 his investigation, he can have whatever investigation
2 he likes. But, as I said, this Company wants to get
3 and has tried desperately to get to the substantive
4 issues in this case. And the fact is you heard
5 Mr. Shreve say, "I don't think it ever happened." If
6 any accusation of this sort, that we're talking about,
7 was ever made against myself or Mr. Hoffman, I know
8 what our answer would be, it never happened. And I'm
9 sorry that this has been brought up, but it was in
10 response to a question and an answer made under oath.
11 I think Mr. Shreve has withdrawn his motion.

12 MR. SHREVE: Commissioner, to correct what
13 Mr. Armstrong -- I did say it never happened, and I
14 have another witness that will say it never happened,
15 so I'm not hedging on anything he's talking about.

16 CHAIRMAN CLARK: Mr. Shreve, I need to get
17 clarification from you. Are you withdrawing your
18 motion to strike that testimony?

19 MR. SHREVE: I want it very clearly pointed
20 out before this Commission what the situation is, that
21 we are relying on Commissioner Kiesling's ruling. And
22 if they want to pull this the next time it's coming
23 up, I want it very clearly understood that we are
24 ready to go forward and pull in all of the witnesses.

25 CHAIRMAN CLARK: I take that as a withdrawal

1 of the motion.

2 MR. SHREVE: That's fine.

3 CHAIRMAN CLARK: But, Mr. Armstrong, and,
4 Mr. Hoffman, I would ask you to caution your witnesses
5 not to bring this issue up. It is not an issue in
6 this case. It is not relevant.

7 MR. ARMSTRONG: Madam Chair, I think the
8 question was why do you believe you have to file for a
9 rate --

10 CHAIRMAN CLARK: I know what the question
11 was. I went over it, and I think it was a gratuitous
12 statement that on further questioning maybe was not
13 even on point. But I would just ask you to caution
14 your witnesses.

15 MR. ARMSTRONG: We can do that. We're
16 trying to get to the substance.

17 CHAIRMAN CLARK: Let's not pursue something
18 that's not an issue in this case.

19 MR. ARMSTRONG: Madam Chair, that's what we
20 have been trying to do for over a year now. The
21 Company has taken hit after hit on our integrity, and
22 I think our people are pretty fed up with it, too. We
23 want to get to the substance and the evidence under
24 oath. And we agree, we will make the caution that
25 you've asked for, Madam Chair.

1 CHAIRMAN CLARK: Thank you. I understand at
2 this point there's been an agreement among the parties
3 that we can take up Mr. Sharkey at this time. And I
4 believe Mr. Sharkey is by subpoena for OPC. Is that
5 correct, Mr. Beck?

6 MR. BECK: Yes, Madam Chairman.

7 CHAIRMAN CLARK: And, Mr. Sharkey, you did
8 stand and were sworn in?

9 WITNESS SHARKEY: Halfway through.

10 CHAIRMAN CLARK: We will do it again just to
11 make sure.

12 CHAIRMAN CLARK: Mr. Beck.

13 MR. BECK: Thank, you, Madam Chairman.

14 - - - - -

15 **JEFF SHARKEY**

16 was called by the Citizens of the State of Florida
17 as an adverse witness and, having been duly sworn,
18 testified as follows:

19 **DIRECT EXAMINATION**

20 **BY MR. BECK:**

21 Q Would you please state your full name?

22 A Jeffrey Brian Sharkey.

23 Q By whom are you employed?

24 A Capital Strategies, Inc.

25 Q How long have you been employed by Capital

1 Strategies, Inc.

2 A About two and-a-half years.

3 Q What is the nature of the business of
4 Capital Strategies, Inc.?

5 A Government relations strategic business
6 development.

7 Q Does Capital Strategies -- or is Capital
8 Strategies retained by Southern States Utilities?

9 A Yes.

10 CHAIRMAN CLARK: Mr. Sharkey, can I ask you,
11 you need to get close to it and don't let your answers
12 fade for us, please.

13 WITNESS SHARKEY: Yes.

14 Q (By Mr. Beck) For how long has Capital
15 Strategies been retained by Southern States Utilities?

16 A Two and-a-half years.

17 Q For what purpose?

18 A We work with Southern States Utilities on
19 developing information and helping them identify
20 issues related to water policy in the state,
21 particularly at the local and county level,
22 understanding what's taking place in terms of the
23 water policy issues in the state.

24 Q Are you the principal employee of Capital
25 Strategies who does work for Southern States?

1 A Yes.

2 Q Do you have a retainer agreement with
3 Southern States?

4 A Yes.

5 Q And could you describe the terms of that
6 agreement?

7 A It's a monthly arrangement.

8 Q They pay you a monthly retainer?

9 A Yes.

10 Q How much do they pay you?

11 A Is that relevant? (Pause)

12 I think it's \$3,000 a month.

13 Q Is there an hourly fee that you charge them
14 if you go over a certain number of hours?

15 A No.

16 MR. BECK: Madam Chairman, could I have an
17 exhibit marked for identification, please?

18 CHAIRMAN CLARK: Mr. Beck, the next exhibit
19 number is 84.

20 (Exhibit No. 84 marked for identification.)

21 Q (By Mr. Beck) Do you have Exhibit 84 for
22 identification in front of you Mr. Sharkey?

23 A Yes, sir.

24 Q And is that a fax from your office to a
25 Mr. Tracy Smith?

1 A Yes.

2 Q Do you know who Tracy Smith is?

3 A Yes.

4 Q Who is he?

5 A He works for Southern States Utilities.

6 He's their legislative -- I think he's their
7 government relations liaison. I'm not sure what his
8 title is.

9 Q Is he one of your contacts at Southern
10 States?

11 A Yes.

12 Q I noticed when Mr. Poirier was testifying
13 this morning that you were meeting with Mr. Smith in
14 the back of the room and that he showed you a
15 document; is that right?

16 A Yes.

17 Q What was the document he showed you?

18 A It was the calendar for the House of
19 Representatives in the Senate today.

20 Q Now with respect to Exhibit 84, this lists
21 an agenda for meetings there were held in August of
22 1995; is that right?

23 A Yes.

24 Q And referring to the last page of the
25 exhibit, there was meetings listed there for Tuesday,

1 August 29th, and Wednesday, August 30th. Are there
2 not?

3 A Yes.

4 Q And one of the meetings for Wednesday,
5 August 30th, was with Lieutenant Governor Buddy McKay;
6 is that correct?

7 A Yes.

8 Q And did that meeting occur?

9 A Yes.

10 Q And who was present at that meeting?

11 A The lieutenant governor; his chief-of-staff,
12 Karl Koch; Estus Whitfield, the environmental policy
13 coordinator for the office; Mr. Cirello, Brian
14 Armstrong, and I don't -- perhaps Ken Hoffman, I'm not
15 sure there.

16 COMMISSIONER KIESLING: I can't hear you.

17 Q (By Mr. Beck) Perhaps?

18 A Perhaps Ken Hoffman, but I'm not sure if Ken
19 was there or not.

20 Q And how about Tracy Smith?

21 A Yes, Tracy was there.

22 Q Could you tell us what was discussed at that
23 meeting?

24 A The purpose of the meeting was a courtesy
25 visit for Mr. Cirello, who is the new president of the

1 Company, to discuss the water policy issues taking
2 place at the state.

3 Q This meeting was held at the request of
4 Southern States, was it not?

5 A Actually, I had discussed it and initiated
6 it. I thought it would be helpful for Mr. Cirello to
7 listen to the lieutenant governor and his staff
8 regarding the direction the water policy was taking at
9 the state. It's a big issue this year at the
10 legislature, it's a big issue at the water management
11 districts, and it's important that the Southern States
12 participate.

13 Q The lieutenant governor did not initiate
14 this meeting, did he?

15 A No.

16 Q It was either Southern States or you
17 requesting the meeting with the lieutenant --

18 A I think I took the initiative, yes.

19 Q Thank you. Now could you give us a little
20 more detail about what else was discussed at that
21 meeting?

22 A What I remember distinctly was interbasin
23 transfer. Interbasin transfer of water is a big
24 issue. The lieutenant governor had, over the course
25 of the previous year, convened various members and

1 interested parties involved in the debate over water
2 policy, quality control; and that was the thrust of
3 the meeting, getting the SSU people aware of what was
4 taken place in terms of this multiparty dialogue.

5 Q Do you remember the topics of conversation
6 that Mr. Cirello discussed?

7 A No, not all of them.

8 Q Do you remember generally what he discussed?

9 A I think generally we listened. They
10 expressed an interest in explaining what the Company
11 did and what his interests were in maintaining clean,
12 safe, sound water and wastewater treatment for the
13 customer.

14 Q And what do you recall that Mr. Armstrong
15 had to say?

16 A I don't remember.

17 Q Do you recall any discussion of the pending
18 rate case that Southern States had before the Public
19 Service Commission?

20 A I do not remember that.

21 Q About how long did that meeting take?

22 A 20 minutes, 15 minutes -- 20 minutes.

23 Q Had you also requested a meeting with the
24 governor?

25 A Yes.

1 Q What happened with that?

2 A He wasn't available. They turned me down.

3 MR. BECK: Madam Chairman, could I have
4 another exhibit marked for identification?

5 CHAIRMAN CLARK: The next number is 84 --
6 yep, 85.

7 When Mr. Pruitt is not here I lose count.

8 (Exhibit No. 85 marked for identification.)

9 Q (By Mr. Beck) If it's helpful, I'm just
10 going to ask you about the fax cover sheet on this
11 exhibit.

12 A Yes.

13 Q All right. Have you had a chance to look at
14 the fax cover sheet?

15 A Yes.

16 Q This is a fax from you to Tracy Smith and
17 Sam Roberts; is that right?

18 A Yes.

19 Q Who is Sam Roberts?

20 A Ida Roberts is their public information
21 officer and communications vice president, I think.

22 Q She is another -- I'm sorry, go ahead.

23 A I'm not sure what her title is.

24 Q She is another contact for you at Southern
25 States, is she not?

1 A Yes.

2 CHAIRMAN CLARK: Excuse me, Mr. Sharkey, is
3 Sam Roberts the same as Ida Roberts?

4 WITNESS SHARKEY: Yes.

5 Q (By Mr. Beck) Are Tracy Smith and Ida
6 Roberts your two principal contacts at Southern
7 States?

8 A Yes.

9 Q The date listed on this fax is November 29,
10 1995, is it not?

11 A Yes.

12 Q Would you look at the fax header on the top
13 on the sheet. It says November 30th at 10:03; is that
14 right?

15 A Yes.

16 Q Do you know which date this fax was actually
17 sent?

18 A No.

19 Q Now into the message part of the fax, it
20 says there you are still waiting for the bullet sheet
21 to distribute. Do you see that?

22 A Yes.

23 Q What is the bullet sheet?

24 A Frankly, I don't know. I assume it's a
25 bullet sheet on water policy from Southern States

1 Utilities.

2 Q You don't recall having a conversation with
3 Ms. Roberts?

4 A Unless it's attached here. Pardon?

5 Q You don't happen to recall having a
6 conversation with Ms. Roberts about a bullet sheet?

7 A Yes, vaguely.

8 Q What do you recall?

9 A That they were doing information pieces on
10 their position on the water policy, but I don't recall
11 exactly what it said.

12 Q And in your message it says that you are
13 waiting for it to distribute. Who were you planning
14 to distribute that bullet sheet to?

15 A I think to the county commissioners.

16 Q Let's go to the next sentence. It says,
17 "The letter from Minnesota Power was good." What are
18 you referring to?

19 A I frankly don't -- I really don't remember.

20 Q Weren't you referring to Mr. Sandbulte's
21 letter to the governor?

22 A It probably was that one, unless there was
23 some other letter.

24 Q When did you receive a copy of
25 Mr. Sandbulte's letter to the governor?

1 A I don't remember the exact date. It would
2 probably be on the fax -- fax cover from whatever
3 documentation you have there.

4 Q It says here that you talked with Buddy
5 McKay and Estus about it today. Do you see that?

6 A Uh-huh.

7 Q Could you tell us what you discussed with
8 Buddy McKay and Estus about the Minnesota Power
9 letter?

10 A Well, I think it was Buddy McKay's office.

11 Q What did you discuss?

12 A That there was a letter and asked if they
13 had received it. That's what I remember asking.

14 Q It says here you talked with Buddy McKay and
15 Estus. Are you saying that you didn't talk with Buddy
16 McKay and Estus?

17 A I may have mentioned it, but I don't
18 remember any significant conversation over the SSU
19 letter.

20 Q We are talking about the Minnesota Power
21 letter.

22 A Yeah, I don't remember any significant
23 conversation.

24 Q You don't remember any significant
25 conversation with Buddy McKay?

1 A Over the letter, no.

2 Q Do you remember any conversation with Buddy
3 McKay?

4 A Actually, I don't.

5 Q How about Estus Whitfield? I assume you're
6 referring to Estus Whitfield there.

7 A Yes, Estus Whitfield. I don't remember
8 having any significant conversation with them about
9 it, except that I may have received it. But I don't
10 remember talking to Buddy specifically about it, no.

11 Q It says you also talked with Secretary
12 Wetherell about the PSC issues. Could you tell us
13 what that was about, what that conversation was?

14 A At the risk of sounding like I don't
15 remember much, I don't really remember, except I think
16 we were talking about sewer hookups or something.

17 Q Those are the PSC issues you were discussing
18 with Secretary Wetherell?

19 A Well, I think there was some issue about --
20 no -- I actually don't remember frankly. It was an
21 issue related to their concern.

22 I know what it was. It was an issue
23 relating to their concerns about some inconsistencies
24 with DEP regulations and PSC accounting principles on
25 cost recovery or something.

1 Q It says here that she was amazed. Is that
2 what she was amazed about?

3 A Yes.

4 Q About some accounting issues?

5 A No, I think it's the cost recovery issue on
6 equipment that makes it difficult for amortizing the
7 cost of installing sewer treatments or something. I'm
8 not sure of all the issues, but it was an issue that I
9 know Mr. Hoffman was very interested in, and I was
10 trying to gather information about what their position
11 was and what the PSC's issue was.

12 Q Did Mr. Hoffman ask you to contact Secretary
13 Wetherell?

14 A No. I think in the course of events, I just
15 talked to her. They were trying to gather information
16 on the issue.

17 Q Did you discuss with her that the PSC had
18 denied Southern States first request for interim rate
19 increase?

20 A No.

21 Q Isn't that what she was amazed about?

22 A No. I think she was amazed at the
23 difference in number of years for cost recovery or
24 something.

25 Q Did you discuss with her the status of

1 Southern States in its rate case before the
2 Commission?

3 A Not that I remember, no.

4 Q You were aware at that time that Southern
5 States was in a pending rate case before the Public
6 Service Commission, weren't you?

7 A I was aware, but I do not practice in front
8 of the Public Service Commission. I really don't pay
9 that much attention to the schedules of rate cases. I
10 deal mostly with local county officials, public
11 information, gathering issues on water policy at the
12 state level.

13 Q You physically came to one of the agenda
14 conferences on the rate case, did you not, in the
15 latter part of 1995?

16 A Yes, sir.

17 Q What was your purpose of coming here?

18 A I just came to watch. Frankly, I'd never
19 been to one. I wanted to see the building, and I
20 wanted to see how you all operate. I haven't been
21 back.

22 MR. BECK: Could I have another exhibit
23 marked for identification, please?

24 CHAIRMAN CLARK: Exhibit 86.

25 (Exhibit No. 86 marked for identification.)

1 Q (By Mr. Beck) Do you recall when we were
2 discussing the previous exhibit, Exhibit 85, that I
3 asked you to look at the fax header on your fax?

4 A Yes.

5 Q And it showed November 30, 1995, at 10:03?

6 A Yes.

7 Q And in that fax you said you were waiting
8 for the bullet sheet to distribute; is that right?

9 A Yes.

10 Q Now, would you turn to the last page of
11 Exhibit 86? Do you have that in front of you?

12 A Yes.

13 Q Do you see at the top on the fax there's a
14 date of 11/30/95, 11:02, from a fax number with a 407
15 area code?

16 A Yes.

17 Q That's the date you received this page from
18 Southern States Utilities, is it not?

19 A Yes.

20 Q And isn't that the bullet sheet you had
21 asked about one hour earlier from Ida Roberts?

22 A It may have been. I'm not certain, but it
23 may have been.

24 Q Let's go to the first page of this exhibit
25 if we could. This is your cover sheet to a six-page

1 fax that you sent to Karl Koch; is that correct?

2 A Yes.

3 Q In fact, if we look at the upper right-hand
4 corner of these fax headers, on them you'll see Page 1
5 of 6, 2 of 6, and so on, through 6 of 6; is that
6 right?

7 A Yes.

8 Q Now, who is Karl Koch?

9 A He's the lieutenant governor's chief of
10 staff.

11 Q And is this a fax you sent to Mr. Koch on
12 December 13, 1995?

13 A The date is not legible here, but probably.

14 Q Well, let's look at the fax header. And you
15 see the December 13, 1995, at 10:34?

16 A Yes.

17 Q And it's from Capital Strategies, your firm,
18 is it not?

19 A Yes.

20 Q And it's to a number with a 904-921-6114?

21 A Yes.

22 Q That's the governor's office fax number, is
23 it not?

24 A It might be. I don't know for a fact off
25 the top of my head.

1 Q And in this fax you are asking Mr. Koch that
2 you would like to see the lieutenant governor would
3 send a letter to this effect to Susan Clark in
4 response to the attached letter from the CEO of
5 Minnesota Power and SSU's financial difficulties?

6 A Yes.

7 Q Could you turn to the second page of your
8 fax?

9 Q Could you turn to the second page of that?
10 Have you had a chance to review that?

11 A No.

12 Q Go ahead if you need time.

13 COMMISSIONER GARCIA: Where are you now,
14 Mr. Beck?

15 MR. BECK: Page 2 of 6.

16 A Yes.

17 Q (By Mr. Beck) You've reviewed that letter?

18 A Yes.

19 Q Did you draft that letter?

20 A Yes.

21 Q And this is the draft of the letter you were
22 asking the Lieutenant Governor to send to Commissioner
23 Chairman Clark; is that right?

24 A That is the infamous letter.

25 Q That's the letter you drafted?

1 A Yes.

2 Q And asked for the Lieutenant Governor to
3 send to Chairman Clark; is that right?

4 A Yes.

5 Q Let's go paragraph-by-paragraph through
6 this.

7 At the bottom of the first paragraph you
8 refer to Southern States and say that they play a
9 valuable role in preserving the quality of Florida's
10 water by purchasing and upgrading small, often rural
11 failed water and wastewater systems. What is your
12 basis for putting that in the --

13 A That's my understanding.

14 Q And from where did you get that
15 understanding?

16 A From my working with the Company.

17 Q That would be through your conversations
18 with Ms. Roberts?

19 A Over the course of three years of seeing
20 their role and activity in purchasing developer
21 abandoned water and wastewater treatment systems, I
22 think they play a very available role, yes.

23 Q And they told you that they take over failed
24 wastewater and wastewater systems?

25 A Probably. That was my understanding. But I

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1 mean, that was the conclusion to which I came.

2 Q In the second paragraph you refer to a copy
3 of a letter to Mr. Sandbulte that details the current
4 economic impact of recent Public Service Commission
5 decisions on Southern States Utilities. What
6 decisions were you referring to?

7 A That was in Mr. Sandbulte's letter.

8 Q Is it Sunbulte or Sandbulte?

9 A Sandbulte. I haven't met the man.
10 Sandbulte.

11 Q In the next paragraph, Mr. Sharkey, at the
12 end you state that Mr. Sandbulte is very concerned
13 about the regulatory environment that the Public
14 Service Commission, which over the last year have
15 resulted in a year-to-date loss of \$453,759 and
16 reduced the Utility's rate of return on investment to
17 minus .43%. Do you see that?

18 A Yes.

19 Q Where did you get that information from?

20 A I think it's in Mr. Sandbulte's letter.
21 It's all a representation of what he said in his
22 letter to the Governor.

23 Q Really? Would you show me where that's in
24 his letter? Then I'll ask you isn't it true that
25 where it appears is in the bullet sheet.

1 A That may be so, yes.

2 Q So it's not in the --

3 A I didn't read -- I haven't read his letter
4 in some time. If it's not in the letter, it probably
5 came from the bullet sheet, yes.

6 Q That's the bullet sheet Ms. Roberts provided
7 to you; is that right?

8 A Yes.

9 Q And that's the bullet sheet you asked her to
10 provide so you could distribute it; is that right?

11 A I'm not sure if I asked her to provide it so
12 I could distribute it. I asked her for the letter.

13 Q Oh, really?

14 A To the County Commissioners, not to the
15 Governor's Office.

16 Q Let's go back to the Exhibit 85.

17 A To the County Commissioners, yes.

18 Q Didn't you say in your fax that you were
19 still waiting for the bullet sheet --

20 MR. RICHARD: Excuse me one second so I can
21 ask him a question.

22 MR. BECK: Sure. (Pause)

23 MR. RICHARD: Okay. I'm sorry, I wanted to
24 make sure he understood some of the questions being
25 asked with respect to the document.

1 A I'm sorry, what was the question?

2 Q I've forgotten. Maybe the court reporter
3 could read it back.

4 CHAIRMAN CLARK: I think you asked if it
5 wasn't a reference to the bullet sheet you had
6 requested from Sam Roberts.

7 Q Is that correct, Mr. Sharkey?

8 CHAIRMAN CLARK: Well, I guess; is that
9 correct? Is that the question?

10 WITNESS SHARKEY: What is the question?

11 Q (By Mr. Beck) Information that we refer to
12 by the year-to-date loss and the return on investment,
13 first of all, that comes from the bullet sheet; is
14 that right?

15 A Yes.

16 Q Not Mr. Sandbulte's letter?

17 A Apparently that's correct, yes.

18 Q And that's the bullet sheet that you
19 requested of Ms. Roberts so that you could distribute
20 it; is that correct?

21 A Yes.

22 Q What does that have to do with the uniform
23 rate issue?

24 A I don't know.

25 Q Would it deal with --

1 A Mr. Sandbulte was expressing his concerns
2 over the Company's financial position.

3 Q What it deals with is the matters that are
4 at issue in the rate case that was pending before the
5 Public Service Commission, isn't it?

6 A I didn't know that.

7 Q Well, it's talking about their losses and
8 their return on investment.

9 A But I think that's a historical issue,
10 losses over not only that year but other years.

11 Q Talks about a year-to-date loss in 1995,
12 does it not?

13 A Uh-huh.

14 Q So you were referring to the '95 earnings of
15 Southern States there.

16 A Yeah, I just extracted it probably from the
17 bullet sheet because I thought that expressed their
18 financial problems.

19 Q In fact, that's the general thrust of your
20 draft letter you asked to be sent, isn't it, the
21 financial problems of Southern States?

22 A No. The general thrust of my letter was a
23 request for information.

24 Q Information about what? Isn't it
25 information about the --

1 A The financial situation of the Company.

2 Q And their overall treatment at the Public
3 Service Commission. Would you agree with that?

4 A That was Mr. Sandbulte's request in his
5 letter to the Governor.

6 Q The next paragraph, Mr. Sharkey, of your
7 draft letter, it says, "I would be very concerned if
8 we were to place in serious financial jeopardy a
9 unique private water utility that is providing quality
10 water and wastewater treatment facilities throughout
11 the state."

12 You're not referring to anything about a
13 uniform rate issue in that, are you?

14 A No. I think they are a unique private water
15 and wastewater facility treatment company.

16 Q Let's go to the bullet sheet, Mr. Sharkey.

17 COMMISSIONER KIESLING: Mr. Beck, would you
18 mind if I interrupted just to ask a question?

19 MR. BECK: No, not at all.

20 COMMISSIONER KIESLING: And I don't care
21 whether you answer it or he answers it. Is the letter
22 that is Page 2 of 6, is that the letter that was sent
23 to Chairman Clark?

24 MR. BECK: No, ma'am.

25 COMMISSIONER KIESLING: I still have not

1 read it. And this one is not signed.

2 MR. BECK: On Monday, we introduced the
3 actual letter that was sent to Chairman Clark.

4 COMMISSIONER KIESLING: You did?

5 MR. BECK: This letter, which is on Page 2
6 of 6, is the draft letter that was prepared by
7 Mr. Sharkey and sent to the Chief of Staff of the
8 Lieutenant Governor.

9 CHAIRMAN CLARK: Commissioner Kiesling, I
10 think that is probably Exhibit 66.

11 COMMISSIONER KIESLING: Thank you.

12 MR. BECK: In fact, Commissioner, the bullet
13 sheet they are referring to is also contained in that
14 exhibit the information that was sent to the
15 Commission and Chairman Clark distributed to the
16 parties.

17 COMMISSIONER KIESLING: Thank you.

18 Q (By Mr. Beck) Do you have the bullet sheet
19 in front of you, Mr. Sharkey?

20 A Yes.

21 Q You'll agree that much of the information in
22 your draft letter comes in the bullet sheet, does it
23 not?

24 A I think just one piece of it does. Probably
25 the numbers.

1 Q Well, the 1995 return of minus .43 that
2 comes from the bullet sheet, does it not, under your
3 second bullet?

4 A Yes.

5 Q There's a statement in there that "SSU is
6 losing money at current authorized rates." Does that
7 have anything to do with the uniform versus
8 stand-alone rate issue, that you know of?

9 A I don't know. Like I said, I don't really
10 pay that much attention to the rate case issues, the
11 substance of them. The detail.

12 Q And the third bullet says, "Through October
13 of 1995, SSU has incurred a year-to-date loss of
14 \$453,749." That also made its way into your draft
15 letter, did it not?

16 A Yes.

17 Q And what does that have to do with the issue
18 of uniform versus stand-alone rates?

19 A I don't know. I just know that the Company
20 was in financial difficulty and I was very concerned
21 about it.

22 Q Would your statement be the same with regard
23 to the next bullet and all the sub matters raised
24 there? Those are all general financial issues, are
25 they not, rather than anything about uniform rates and

1 stand-alone --

2 A Yes.

3 Q -- rates?

4 A As I understand them, yes.

5 Q What led you to send this draft letter to
6 Mr. Koch and ask him if the Lieutenant Governor would
7 send that letter?

8 A This story has been told many times, but
9 I'll repeat it again very quickly.

10 Mr. Sandbulte met the Governor, had a brief
11 conversation. The Governor apparently requested some
12 more information from Mr. Sandbulte. He wrote a
13 lengthy letter.

14 I received a copy of it from Sam Roberts.
15 And I was trying to find out if the Governor's Office
16 had responded to the letter. And my inquiry to
17 Mr. Koch was that he didn't know what letter we were
18 talking about.

19 I then sent him the letter and said, "You
20 might want to get more information on this from the
21 actual entity to which the letter is directed, from
22 the Staff of the Public Service Commission, or whoever
23 it may be that has that information."

24 And that was the purpose of the letter is to
25 get that information so that they could respond

1 effectively to the CEO of a company who had grave
2 concerns about his company's well-being in the state
3 of Florida.

4 Q Well, if you wanted to know if the Governor
5 had responded to Mr. Sandbulte's letter, why didn't
6 you just ask Minnesota Power?

7 A I don't really deal with Minnesota Power.

8 Q If the Governor had responded, the response
9 would have been to them, would it not?

10 A It's my understanding they hadn't received a
11 response.

12 Q Did they ask you to find out whether a
13 response had been sent, "they" being Southern States?

14 A They sent me a copy of the letter. I took
15 the initiative to inquire whether or not there had
16 been any action on the letter.

17 Q Didn't Ida Roberts ask you to find out if
18 there had been a response?

19 A I don't remember that, no.

20 Q Did you keep Ms. Roberts informed of your
21 activities with respect to requesting the Lieutenant
22 Governor and Secretary of Commerce to send letters?

23 A What I remember is at one point probably
24 talking to her and saying, "I'm going to follow up on
25 this letter for Mr. Sandbulte." I don't remember what

1 day it was, no.

2 Q And did you ever hear anything telling you
3 not to do that from anyone at Southern States?

4 A No. But it was my initiative. I'm not sure
5 how well informed they were of it.

6 Q Has Southern States told you subsequent to
7 these letters going out or at any time through the
8 present that they disapproved of your activities?

9 A No, I don't think so.

10 Q You're still retained --

11 A They were concerned but that word was not
12 used.

13 COMMISSIONER KIESLING: I'm sorry, I
14 couldn't hear you?

15 WITNESS SHARKEY: I think they were
16 concerned, but that word was not used.

17 COMMISSIONER KIESLING: But that what?

18 WITNESS SHARKEY: "Disapproved."
19 Disapproved. That they disapproved of my activities.

20 CHAIRMAN CLARK: You said "that word was not
21 used."

22 WITNESS SHARKEY: "Disapproved." They never
23 said "disapproved."

24 COMMISSIONER KIESLING: I'm sorry, I simply
25 can't hear you.

1 WITNESS SHARKEY: Oh, I'm sorry.

2 CHAIRMAN CLARK: It's sometimes hard so you
3 need to speak very clearly.

4 WITNESS SHARKEY: Okay. I need a longer
5 mike.

6 CHAIRMAN CLARK: What?

7 WITNESS SHARKEY: A longer mike.

8 Q (By Mr. Beck) I asked you whether they ever
9 disapproved or told you they disapproved, and you said
10 they never used that word; is that right?

11 A Yes.

12 Q Did they ever use words to that effect?

13 A No.

14 Q Are you still -- is your firm still retained
15 by Southern States?

16 A Yes.

17 Q Are you still receiving monthly retainer
18 checks from them?

19 A I assume. I haven't checked. I don't --

20 MR. BECK: Madam Chairman, could I have
21 another exhibit marked for identification?

22 CHAIRMAN CLARK: That will be Exhibit 87.

23 (Exhibit No. 87 marked for identification.)

24 Q (By Mr. Beck) Mr. Sharkey, have you had a
25 chance to look at Exhibit 87 for identification?

1 A Yes.

2 Q This is a fax that you sent to Secretary of
3 Commerce Charles Dusseau on December 13, 1995, is it
4 not?

5 A Yes.

6 Q That's the same day you that you sent Karl
7 Koch the letter we have just been discussing; is that
8 right?

9 A Yes.

10 Q In the message portion of your fax to
11 Secretary Dusseau, it says, "Charles, here's the
12 letter for the PSC regarding the financial situation
13 of Southern States Utilities. The situation is
14 critical."

15 What were you referring to in saying that
16 the situation is critical?

17 A From reading Mr. Sandbulte's letter, it
18 appears that their financial situation was critical.

19 Q So the situation critical was their earnings
20 that you were referring to; is that correct?

21 A Yes.

22 Q Had you talked to Secretary Dusseau about
23 the situation prior to sending this fax to him?

24 A I think I talked to him after it. Around
25 that time, briefly.

1 Q And what do you recall of your conversation
2 with Secretary Dusseau?

3 A I said there's a major company with a major
4 investment in the state of Florida who is trying to
5 provide quality wastewater and water treatment service
6 centers that is having financial problems and may
7 withdraw their investment from the state. They are
8 very concerned. And as the Secretary of Commerce he
9 has an interest in economic development.

10 Q The next page is a draft letter that you
11 sent to Secretary Dusseau for him to send to Chairman
12 Clark; is that right?

13 A Yes.

14 Q Again, this isn't the actual letter that was
15 ultimately sent, this is the draft that you prepared
16 for him; is that right?

17 A Yes.

18 Q And the draft that you sent didn't have any
19 of these scratch outs that are on here, was there?

20 A To my knowledge, no.

21 Q And again this letter, your draft for
22 Secretary Dusseau, states that the letter of
23 Mr. Sandbulte details the current economic impact of
24 recent Public Service Commission decisions on Southern
25 States Utilities; is that right?

1 A Yes.

2 Q And again, you use some of the same
3 information that you took from the bullet sheet that
4 Ms. Roberts prepared for you; is that right?

5 A Yes.

6 Q Is your concern in this letter the issue of
7 stand-alone versus uniform rates or is it the general
8 economic situation of Southern States?

9 A Charlie, seriously, my concern was the --
10 Mr. Beck -- my concern was the letter from
11 Mr. Sandbulte. That was probably more than I had
12 known ever before about the financial situation of the
13 company. And my interest was in getting the Secretary
14 of Commerce apprised of that and to gather information
15 on it so they could make meaningful policy dialogue on
16 the issue.

17 Q Let me ask you to look at the third
18 paragraph, which is the main one in the middle of your
19 draft letter. And in about the middle, toward the end
20 of that middle paragraph, your suggestion for
21 Secretary Dusseau was to say that, "My department's
22 interest is ensuring that the government provide a
23 climate for businesses to compete and prosper in the
24 marketplace and for those within a more regulated
25 environment to be allowed a reasonable rate of return

1 on their investments."

2 Did you write that?

3 A Yes.

4 Q Again, your concern here is about the
5 earnings level of Southern States, is it not?

6 A The rate of return. The earnings level,
7 yes.

8 Q And in the beginning of the next paragraph,
9 you state that, "I would assume that in your
10 deliberations about rate structures and rate of return
11 for Southern States that Staff has adequately informed
12 Commission members of the overall economic impact your
13 decisions are having on the Company."

14 Did you draft that, too?

15 A Yes.

16 Q And the concern here again was about the
17 rate case, is it not? Not about just the uniform
18 versus stand-alone rate issue?

19 A I think the issue here is whether or not the
20 Staff has informed them of the overall economic impact
21 on the Company of everything that happens here.

22 Q So it's their overall treatment of the
23 Company by the Public Service Commission?

24 A I think that's what Mr. Sandbulte's letter
25 was referring to.

1 MR. BECK: Could I have one more exhibit
2 marked for identification, please.

3 CHAIRMAN CLARK: That will be Exhibit 88.
4 88 marked for identification.)

5 Q (By Mr. Beck) Mr. Sharkey, have you had a
6 chance to look at Exhibit 88 for identification?

7 (Pause)

8 A Yes.

9 Q That was sent some eight days later than the
10 fax we were previously discussing; is that right?

11 A Yes.

12 Q And you were having conversations back and
13 forth with Secretary Dusseau about the letter you
14 wanted him to send to the Commission; is that right?

15 A I think the Secretary was out of the
16 country. I had discussions through his secretary
17 once, and I may have talked briefly with him about the
18 letter.

19 Q Secretary Dusseau wanted to make changes to
20 your draft, did he not?

21 A Certainly.

22 Q And you were --

23 A I expected as much.

24 Q So you were sending him revisions based on
25 your conversations with him, were you not?

1 A Yes. The purpose -- my assumption was he
2 would do whatever he wanted to do with the letter,
3 send, not send it, change it. He's the Secretary.

4 Q Now on your fax cover sheet to Secretary
5 Dusseau, there is some handwriting in the middle of
6 the message. It says, "Stephanie, bold print is new
7 section. Thanks, Jeff."

8 Is that your handwriting?

9 A Yes.

10 Q And is Stephanie referred to there Stephanie
11 Smith?

12 A I don't know what Stephanie's last name is.

13 Q She was the executive secretary to Secretary
14 Dusseau; is that right?

15 A All I know is Stephanie. She works in the
16 office, yes; I don't know what her title is.

17 Q Do you know whether she worked for Secretary
18 Dusseau?

19 A She worked in his office, yes.

20 Q And you don't know whether she was his
21 executive secretary or not?

22 A No.

23 Q In any event, this is who you were sending
24 the fax to --

25 A That's right, yes.

1 Q -- for her to send to Secretary Dusseau?

2 A Yes.

3 Q Now there's some handwriting in the bottom
4 corner that states that, "Deadline is January 3rd."
5 Do you see that?

6 A Yes.

7 Q In your conversations with Secretary
8 Dusseau, did you mention to him a deadline of
9 January 3rd?

10 A I don't remember.

11 Q You were aware that the Commission was
12 deciding the second interim rate request of Southern
13 States on January 4th, were you not?

14 A I did not know that. I knew there was a
15 meeting; I didn't know what they were dealing with.
16 But what I knew is that Sam Roberts was coming to town
17 with Brian Armstrong.

18 Q And that is the reason for a deadline?

19 A I wanted to deliver the letter or some
20 response to Mr. Sandbulte's letter when they came to
21 town.

22 MR. BECK: Thank you. I have no more
23 questions.

24

25

1 CHAIRMAN CLARK: Mr. Jacobs.

2 CROSS EXAMINATION

3 BY MR. JACOBS:

4 Q Mr. Sharkey, my name is Arthur Jacobs. I
5 represent some users and consumers of SSU in the
6 Nassau County area.

7 I've listened to your testimony. I know you
8 have had the benefit of listening to the two customer
9 witnesses who were here prior to your testifying. And
10 I just have a couple of questions.

11 In reading your letter, I note you say that
12 you didn't know about -- but you did know about the
13 rate case, right? You knew the rate case was ongoing
14 at the time all of this was going on; is that not
15 correct?

16 A I knew -- I mean, I knew there were cases
17 pending before, I'm not sure which ones they were
18 because there were so many.

19 Q Well, you came to this building to a hearing
20 on a rate case, SSU's rate case; is that not correct?

21 A I came to the building because SSU people
22 were here; and I rarely get a chance to see them, so
23 some came over to the building.

24 Q Why did you think they were here?

25 A I knew they had some case in front of the

1 Commission, some docket issue.

2 Q That was a rate case; is that not correct?

3 A Probably.

4 Q Have you not had any discussion with anyone
5 from SSU regarding the fact that there was an ongoing
6 rate case at the time that all of these letters were
7 going back and forth?

8 A My understanding, Mr. Jacobs, there are
9 overlapping issues being addressed here at the
10 Commission. I don't follow the schedule. I don't
11 attend the meetings regularly. I came one time to
12 meet with SSU officials to talk about other activities
13 and to watch how the Commission operated, and I was
14 here for like 20 minutes, half an hour.

15 Q Whenever you receive information from SSU
16 I'm sure you go over it very carefully, don't you?

17 A Occasionally. (Laughter) I try to, yes.
18 Based on time constraints.

19 Q You received this bullet sheet that's being
20 described here, and you have that before you. I think
21 that was probably Exhibit No. 85; is that correct?
22 No, 86. Do you have that sheet before you?

23 A Yes, sir.

24 Q The title of it is, "Financial Impact of
25 FPSC Order," and then it lists in the paragraph

1 thereunder a case number; is that not correct?

2 A If that's what it is, yes.

3 Q Okay.

4 A I don't know.

5 Q So you knew about some case; is that not
6 correct?

7 A As I mentioned, there are multiple issues in
8 front of the Commission on a regular basis that seem
9 to overlap.

10 Q But you didn't know that there was an
11 ongoing rate case happening at the time of these
12 transmittals?

13 A I knew they had submitted for a rate, a
14 rate --

15 Q So you knew they had submitted a rate case?

16 A That's the only thing.

17 Q All right, now --

18 A I didn't know when or what or how or --

19 Q But you knew there was an ongoing rate case;
20 is that right?

21 A I knew there was -- thought there was some
22 uniform hearing case at the same time as well as some
23 other case going on.

24 Q Mr. Sharkey, I know you're not trying to not
25 answer my question --

1 A No.

2 Q -- but I'll ask it again.

3 You did know that there was an ongoing rate
4 case whenever you were transmitting these letters; is
5 that not correct?

6 A I had some indication that there was a rate
7 case ongoing.

8 Q Is that a yes?

9 A That's a yes.

10 Q All right. Thank you.

11 So I guess my question is, are you a lawyer?

12 A No.

13 Q You obviously have legal counsel at your
14 right hand. Has anyone ever talked to you about
15 ex parte proceedings in rate cases like this? Have
16 you had that discussion with anybody?

17 MR. RICHARD: Can we have a time period for
18 that question? He's obviously had discussions since
19 he's be subpoenaed with respect to this hearing.

20 MR. JACOBS: All right.

21 Q (By Mr. Jacobs) Had you ever talked about
22 this rate case with any of the lawyers involved prior
23 to your transmitting these letters?

24 MR. RICHARD: I would object to that,
25 Mr. Jacobs, and suggest that perhaps the only relevant

1 question is whether he had ever had these discussions
2 before these communications that have been introduced.

3 MR. JACOBS: Madam Chairman, I think the
4 question certainly goes to the gravamen of the whole
5 issue here and, that is, these are ex parte
6 communications. I just wanted him to get to his
7 knowledge of it and he had the opportunity to have the
8 knowledge. It seems to be difficult to get an answer
9 from him, and I just wanted to be sure --

10 CHAIRMAN CLARK: Well, Mr. Jacobs, there's
11 been an objection with respect to being specific as to
12 the time.

13 MR. JACOBS: All right, I'll be specific.

14 CHAIRMAN CLARK: Okay.

15 Q (By Mr. Jacobs) At the time of the writing
16 of these letters, had you had any discussions with any
17 lawyer, whether from SSU or otherwise, regarding what
18 ex parte communications might be?

19 A No.

20 Q Are you familiar with what ex parte means?

21 A Generally. Much more so now than I used to
22 be.

23 Q All right, sir. At the time that you
24 transmitted these letters, I noted from the Governor's
25 schedule you attended those meetings with the

1 Lieutenant Governor with a lawyer; is that not
2 correct?

3 A What is it?

4 Q Wasn't there a lawyer involved --

5 A That I attended them with a lawyer?

6 Q Didn't a lawyer go with you to meet with
7 Lieutenant Governor MacKay?

8 A During the Mr. Cirello visit?

9 Q Yes.

10 A Mr. Armstrong.

11 Q All right, fine.

12 CHAIRMAN CLARK: Mr. Sharkey, you need to
13 say, "Yes, Mr. Armstrong." Because we're having
14 difficulty hearing you you when you --

15 A It's loud right here. I apologize.

16 Q (By Mr. Jacobs) Now, do you know whether or
17 not Mr. Armstrong or any lawyers representing SSU had
18 an opportunity to review these letters that you sent
19 back and forth?

20 A They did not to my knowledge.

21 Q Did you ask anyone from SSU to comment on
22 these letters before you sent them?

23 A No, I don't think so. I took the initiative
24 to send the letter.

25 Q And no one at SSU had an opportunity to

1 review these letters prior to your sending them?

2 A Not to my knowledge. I don't remember.

3 Q Is it true -- your knowledge -- wasn't the
4 purpose of these letters to try to influence the
5 decisions of the Public Service Commission?

6 A The purpose of the letter was to get
7 information to respond to Mr. Sandbulte.

8 My interest, of course, is in advocating for
9 the company's interests. Try to make sure they are
10 financially viable. It's not any specific rate case.
11 I don't deal with that. I was trying to get the
12 Governor's Office -- and the Secretary of Commerce's
13 Office fully informed to be able to respond to
14 Mr. Sandbulte's letter.

15 Q But now, Mr. Sharkey, obviously, if you
16 wrote a letter, or asked the Lieutenant Governor to
17 write a letter on the Company's behalf, you're
18 certainly not writing about a case that's already
19 closed, are you?

20 A I have no idea what case they were really
21 talking about, although the bullet sheet was there.

22 Q My question is, Mr. Sharkey, what case are
23 you talking about whenever -- in your letter you say
24 that -- one paragraph "I realize that your ratemaking
25 decisions are very complicated and our office would

1 not question those detailed case-specific decisions.
2 However, I would be very concerned if we were to place
3 in serious financial jeopardy a unique private water
4 utility company." So obviously your letter is not
5 meant to influence what's gone on in the past, but
6 what is going on in the future or in the present; is
7 that not correct?

8 A No. I think the letter speaks
9 specifically -- Mr. Sandbulte's letter reflects the
10 historical problem with their rate of return.

11 Q But, Mr. Sharkey, the cases that are past
12 are past and over so you're not trying to influence
13 what's gone on in the past, are you?

14 A I'm really trying to get information from
15 Mr. Sandbulte's letter. I mean, I think there's a
16 serious issue here reflected in Mr. Sandbulte's
17 letter.

18 Q Mr. Sharkey, does the sentence "However, I
19 would be very concerned if we were to place in serious
20 financial jeopardy a unique private water utility."
21 Is that seeking information?

22 A I think that reflects a statement of
23 concern.

24 Q But isn't that statement meant to influence,
25 not to seek information?

FLORIDA PUBLIC SERVICE COMMISSION

1 A I think it's to state a very serious
2 concern. That was my interest in making sure that the
3 information provided was expeditious.

4 Q Mr. Sharkey, you are in the business, I
5 guess -- and I'm in the business, too -- we're called
6 lobbyist; is that not correct? You are a registered
7 lobbyist for executive lobbying as well as legislative
8 lobbying; is that not correct?

9 A Yes.

10 Q Isn't your job also not only just to get
11 information, but to provide information; is that is
12 not correct?

13 A To provide information?

14 Q Yes.

15 A Yes. To advocate on behalf of --

16 Q You're an advocate.

17 A I'm an advocate.

18 Q All right. Isn't this sentence in here, one
19 of advocacy, attempting to influence rather than just
20 seeking information?

21 MR. RICHARD: Madam Chairman -- excuse me
22 Counsel for interrupting, but I have an objection here
23 and I'd like to make a statement to place in the
24 context, if I may.

25 CHAIRMAN CLARK: Yes.

1 MR. RICHARD: My client is subpoenaed here
2 as a witness. He is not under any -- there is no
3 accusation against him. In fact, I think the only
4 statute that has any application here, which is the
5 one regarding ex parte communications, is not such as
6 any accusation could be made against him. Because as
7 those involved here know, there are no penalties.

8 I think the concept -- and what I'm
9 addressing here is a question of relevance -- the
10 concept of the statutory structure clearly indicates
11 that what the legislature was concerned here -- the
12 legislature recognized that citizens are not always
13 going to be familiar with the procedures of this
14 Commission or the ex parte rules with regard to the
15 Commission. And so the way it was structured was not
16 to place a person, such as my client, in the position
17 of having to respond to accusations that they violated
18 the statute, but rather to place the Commission on
19 notice that if they were to receive an ex parte
20 communication, there was a procedure that was to be
21 followed so as to solve the problem of the ex parte
22 communication by making it non-ex parte; placing it on
23 the record. Once that happens, nobody is subject to
24 any penalty under the statute.

25 Now, what I'm concerned with here is first

1 of all, Mr. Sharkey has not sent any communication to
2 this Commission at all in this regard. He sent it to
3 the Commissioner and to the Secretary, to the
4 Lieutenant Governor and requested that they send a
5 communication to the Commission. He didn't suggest
6 the manner in which they would send it. He didn't
7 suggest it was to be ex parte/non-ex parte. He's
8 already indicated that he has never had any
9 conversations with lawyers or anyone else prior to
10 that time about what the significance was of that.

11 The only issue it seems to me here is
12 whether or not if an ex parte communication was
13 received by this Commission it was treated as the
14 statute said it was to be treated. Having said that,
15 it seems to me that we are now getting into the point
16 where my client is being harassed as though he were a
17 defendant, having done something inappropriate, and
18 neither he nor his client have done anything which is
19 illegal or unethical or subject to any penalties. And
20 I would object to a continuing, a series of questions
21 that suggest on the record that he's done something
22 inappropriate or to continue to ask him the same
23 questions over and over again.

24 MR. JACOBS: May I respond?

25 CHAIRMAN CLARK: You may, Mr. Jacobs.

1 MR. JACOBS: Certainly I'm not here to
2 praise or bury Mr. Sharkey. I'm trying to get to the
3 bottom of an issue.

4 A company -- he is an advocate for a
5 company. That company has an ongoing rate case here,
6 had an ongoing rate case as well at the time of these
7 transmittals. He has become an agent of that company.
8 His actions reflect on the company.

9 It is my understanding that in the bosom of
10 this body here you have an opportunity to review the
11 conduct of this company. And in setting their rate,
12 you could take into consideration this conduct. I'm
13 trying to get to the conduct of the company at the
14 time of the ongoing rate case that's before you. I
15 think it is a proper query on my part, and a proper
16 trail to take. And I'm certainly not trying to be
17 offensive or to badger Mr. Sharkey. I'm trying to
18 elicit what I think should be clear answers to what I
19 hope are clear questions.

20 CHAIRMAN CLARK: Mr. Jacobs, just so I'm
21 clear, you, in reponse to Mr. Richard indicating that
22 it's not relevant and it is harassing, you're
23 indicating that you believe it is relevant with
24 respect to the issue of the conduct of this utility,
25 and the conduct, including Mr. Sharkey's conduct as an

1 agent.

2 MR. JACOBS: That's correct.

3 CHAIRMAN CLARK: Now, with respect to it
4 being harassing, what is your response?

5 MR. JACOBS: I've certainly not intended to
6 be. It's not my nature to do that. I'm just asking
7 questions and I think they elicit a clear response and
8 I can't seem to get one. If I seem to be repeating
9 the question, I'm merely trying to clarify.

10 CHAIRMAN CLARK: Mr. Jacobs, let me tell you
11 what I heard. I will let you continue on this line,
12 but I heard -- you have asked him his intent; he has
13 stated his intent as one of concern. I think the
14 letter itself is susceptible to different
15 interpretations, but to the extent you are asking him
16 again what his intent was, I think he's answered that
17 question.

18 MR. JACOBS: All right. Thank you very
19 much. I will not ask that question again.

20 Q (By Mr. Jacobs) Mr. Sharkey, do you know
21 who appoints the members of the Public Service
22 Commission?

23 A Yes.

24 Q And who does that?

25 A The Governor.

1 Q Okay. So whenever you had these letters
2 written, then you were aware of the fact that that's
3 how the Commissioners are selected?

4 A I know that the Governor appoints them, yes.

5 Q Now, so you didn't have the opportunity to
6 meet with the Governor, but you did meet with the
7 Lieutenant Governor?

8 A When?

9 Q At this time that you sought an appointment
10 with the Governor at the same time you sought an
11 appointment with the Lieutenant Governor? Is that not
12 correct?

13 A With Mr. Cirello, yes.

14 MR. JACOBS: No further questions, and thank
15 you.

16 CHAIRMAN CLARK: Thank you, Mr. Jacobs,
17 Mr. Twomey.

18 MR. TWOMEY: Yes, ma'am.

19 CHAIRMAN CLARK: Mr. Twomey, can we take a
20 break before you get started?

21 MR. TWOMEY: I could use one.

22 CHAIRMAN CLARK: Okay. We're going to take
23 a ten-minute break. We'll come back at five minutes
24 to 11.

25 (Brief recess.)

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CHAIRMAN CLARK: We'll go ahead and reconvene the hearing. Mr. Twomey.

MR. TWOMEY: Thank you, Madam Chairman. I have an exhibit I'd like to have marked for identification.

CHAIRMAN CLARK: Next number is 89.

MR. TWOMEY: This is a somewhat lengthy exhibit, Madam Chairman, and I apologize, it didn't occur to me to mark the individual pages, although I did on my subsequent --

CHAIRMAN CLARK: You mean there's no numbering of these bottom pages.

MR. TWOMEY: I apologize. Something out of my past tells me I certainly would have been --

I apologize, Mr. Richard. I only made ten copies. I'm sorry. That's number?

CHAIRMAN CLARK: 89.

MR. TWOMEY: Thank you.

(Exhibit No. 89 marked for identification.)

CROSS EXAMINATION

BY MR. TWOMEY:

Q Mr. Sharkey, as indicated by Mr. Jacobs, I think you agreed you are, among other things, considered to be a lobbyist; is that correct?

1 A Government relations, professional.

2 Q Yes, sir. Would you agree that your real or
3 perceived access to state governmental officials is an
4 important selling point in your role as a
5 governmental -- I'm sorry, what was the name again?

6 A Government relations.

7 Q Government relations.

8 A What's the question?

9 Q Yes, sir. Would you agree that your real or
10 perceived access to state governmental officials is an
11 important selling point in your role as a governmental
12 relations person?

13 A No. My real asset is my knowledge of the
14 issues and understanding of how the system operates.

15 Q Okay. Would you agree that access is a
16 factor in a successful governmental relation versus
17 business?

18 A My success is a function of my understanding
19 of the system and how it operates and the people
20 involved with it.

21 Q Okay. Whether it's important or not, you do
22 have access, do you not, to people that are high in
23 state government, do you not? High state positions?

24 A Do I have access to them?

25 Q Yes, sir.

- 1 A I know who they are, yes.
- 2 Q And they know you as well; is that correct?
- 3 A Some of them do, yes.
- 4 Q The Governor knows you, Lieutenant Governor
5 knows you, correct?
- 6 A They know who I am, yes.
- 7 Q Charles Dusseau knows you?
- 8 A Yes.
- 9 Q Secretary Wetheral knows you?
- 10 A Yes.
- 11 Q You were -- I think we've discussed in your
12 deposition, you were served as a volunteer and/or paid
13 worker on both of Governor Chiles's campaigns; is that
14 correct?
- 15 A Yes.
- 16 Q You were a business associate for some time
17 of the Governor's son, Bud?
- 18 A Yes.
- 19 Q At Chiles Communication?
- 20 A Yes.
- 21 Q You are on a first-name basis with some
22 members of the Governor and the Governor's staff, are
23 you not, at least sufficiently familiar to send them
24 fax memos requesting courtesy visits and the issuance
25 of letters; is that correct?

1 A I know the people in the Governor's Office
2 by first and last name.

3 Q As I think Mr. Jacobs indicated, you are
4 aware that the Governor appoints persons to the Public
5 Service Commission?

6 A Yes.

7 Q You have a close personal relationship -- do
8 you consider that you have a close personal
9 relationship with the Governor?

10 A I have a close professional relationship.

11 Q Okay. Isn't it true, Mr. Sharkey, that the
12 Governor, that is Governor Chiles, gave you what has
13 been described as a tribute dinner in the Governor's
14 mansion in early 1995?

15 A Yes.

16 Q And if you would turn to the third page of
17 the exhibit, is that the dinner that's reflected in
18 Mr. Tracy Smith's letter to you of February 9th, 1995?

19 A Yes.

20 Q Okay. And this is the same Tracy Smith who
21 is the governmental affairs person for Southern States
22 Utilities, correct?

23 A Yes.

24 Q You would agree that at least as reflected
25 by Mr. Smith in his letter to you, Mr. Sharkey, that

1 he observed that there was a special bond between you
2 and the Chiles'; is that correct?

3 Q That's his observation.

4 A Do you challenge that?

5 A At times I do, yes.

6 Q Okay. You and -- that dinner apparently was
7 something that was in appreciation for your role in
8 the inaugural; is that correct?

9 A Yes.

10 Q You were allowed to invite your guests to
11 that dinner; is that correct?

12 A Yes.

13 Q And isn't it reflected on the next two
14 pages, Pages 4 and 5 of that exhibit, the people you
15 invited to the dinner?

16 A Yes.

17 Q The guests that you invited apparently
18 included at least the representatives of at least two
19 utilities regulated by this Public Service Commission;
20 is that correct? And I don't mean to be coy.

21 Specifically I refer to Mr. Mike Rainer, Michael
22 Rainer of Southern Bell, and then Mr. Tracy Smith of
23 Southern States Utilities, right?

24 A What was the question?

25 Q Yes, sir. The question is that your

1 invitees included at least representatives from two
2 regulated utilities before the PSC; is that correct?

3 A Yes. I don't think Mr. Rainer does any work
4 in the Public Service Commission, but, yes, he works
5 for Southern Bell. He's a good friend.

6 Q Now, Mr. Sharkey, would you agree with me
7 that it's appropriate for members of the public to
8 seek to have input to the Governor and other officials
9 making appointments?

10 A Is that a question?

11 Q Yes, sir. Would you agree it's appropriate
12 for members of the public to seek to have input to the
13 Governor and other persons in state government
14 responsible for making appointments?

15 MR. RICHARD: I want to make sure I
16 understand the question. Are you asking him whether
17 it's appropriate to have input with respect to the act
18 of making appointments?

19 MR. TWOMEY: Yes, sir. To try and have
20 input to an appointing authority about the
21 appropriateness or suitability of appointees.

22 A I don't really understand your question.
23 Tell me again.

24 Q Let me give you an example.

25 If the Governor had a list of persons --

1 A I think I understand.

2 Q Let me just -- if the Governor had a list of
3 appointees, potential appointees for the Corrections
4 Department, and I didn't like a person, or I was in
5 favor of one of the persons, do you think it would be
6 appropriate for me as a citizen to write a letter,
7 make a phone call, send a telegram?

8 A Certainly; it's a representative democracy.
9 I think it's totally appropriate.

10 Q And likewise, as corporate persons, would
11 you agree with me that it's appropriate for companies
12 to have the same level of input?

13 A I think if a company wants to make a
14 statement, ask the Governor, tell them their story,
15 it's totally appropriate.

16 Q Do you consider that that role on occasion
17 is appropriate for a governmental relations person
18 such as yourself?

19 A To what?

20 Q To --

21 A Provide information to elected officials?

22 Q Yes, sir, on behalf of your clients?

23 A On behalf of my own personal interests or
24 ideas, yes.

25 Q Yes.

1 Have you ever, Mr. Sharkey, either on your
2 own behalf or on the behalf of any of your clients,
3 made recommendations to the Governor, Lieutenant
4 Governor, or their respective staffs regarding the
5 appointment of any person to the Public Service
6 Commission?

7 A No.

8 Q Have you ever spoken to any current or
9 former Public Service Commissioner about their
10 respective appointments?

11 A About their respective appointments?

12 Q Yes, sir. Let me be more specific -- go
13 ahead.

14 A I have spoken with members of the Public
15 Service Commission, yes. Socially. No, about being
16 appointed to the Commission?

17 Q Yes, sir. Either before the appointment or
18 reappointment, have you ever had an opportunity to
19 speak to any current or former Commissioner about
20 their chances of success or whether you could help
21 them, things of that type?

22 A No.

23 Q You told Mr. Beck that Capital Strategies,
24 Inc. had been retained by Southern States for some two
25 and a half, three years is that what you said?

1 A I think that's the time frame, I think.

2 Q Let me ask you when was -- when were you
3 first retained in any representative capacity for
4 Southern States? Was it as an employee of Capital
5 Strategies, Inc. or as an employee of Chiles
6 Communications, Inc.

7 A I don't remember, frankly. It was
8 two-and-a-half years ago, three years ago. I'm not
9 sure under which company it was.

10 Q Okay. I'm sorry. If you don't recall which
11 company it was, do you recall the specific date or the
12 month?

13 A No. No.

14 Q Who would have that information,
15 Mr. Sharkey?

16 A Probably our bookkeeper.

17 Q Do you know whether SSU would have that?

18 A I don't know.

19 Q I should probably ask them. I'm sorry.

20 CHAIRMAN CLARK: Mr. Sharkey, you have to
21 audibly say something, you can't shrug your shoulders.

22 WITNESS SHARKEY: I can shrug and audible.

23 CHAIRMAN CLARK: That's right. You can do
24 both but you can't do just one.

25 Q (By Mr. Twomey) Would you look at the first

1 page of the exhibit after the cover sheet. It's the
2 first page of a Public Service Commission order
3 involving an SSU company, and I want to ask you,
4 Mr. Sharkey, the date shown on the order that it was
5 issued on February 25th, 1993. Do you know -- I'm
6 sorry. If you take the cover page of the exhibit and
7 go the very next page, it reflects an order issued by
8 the PSC in Docket 911188 involving Lehigh Utilities.
9 Do you see it?

10 A Yes.

11 Q My question to you is this order was issued
12 on February 25th, 1993, and I merely want to know if
13 you can tell me if you had been retained by Southern
14 States prior to that time?

15 A I don't know.

16 Q Tom Beard was one of the Commissioners that
17 sat on that case. Do you know Tom Beard?

18 A Yes.

19 Q Do you consider Tom Beard to be a friend?

20 A A professional acquaintance.

21 Q Okay. I want to ask you, did you see or
22 socialize with Tom Beard in the summer of 1992 at the
23 Florida Telephone Association meeting at Ocean Reef?

24 A I was there. He was there. We didn't
25 socialize.

1 Q Do you recall whether you had an
2 opportunity, or whether you did discuss any Southern
3 States Utilities's matters with Commissioner Beard at
4 that time?

5 A Yes. I remember clearly I did not. I would
6 not do that.

7 Q Is it true that Commissioner Beard
8 socialized at your residence in December of 1992, do
9 you recall?

10 A No, I don't recall.

11 Q Do you recall whether he was at a --

12 A At my residence?

13 Q Yes, sir, Christmas party at your house in
14 1992.

15 A I don't recall, no. To my knowledge he
16 wasn't there.

17 Q Have you ever had an opportunity to talk to
18 Commissioner Beard about SSU matters while he was a
19 Commissioner?

20 A No.

21 Q Mr. Sharkey, I want to try to get clear on
22 something. You asked -- I think it's reflected by
23 your answers to Mr. Beck's questions, you asked
24 Ida Roberts to send up the bullet sheet that was
25 ultimately -- you ultimately attached to the

1 Sandbulte-Chiles letter that went to the Lieutenant
2 Governor, right?

3 A Pardon me?

4 Q When you sent the draft letter to Lieutenant
5 Governor MacKay, you attached -- you had a cover
6 sheet, cover fax, correct; you had a draft letter as
7 the second page; you had as the third, fourth and
8 fifth pages the Arend Sandbulte to Governor Chiles
9 letter, correct?

10 A I think so, my memory.

11 Q And the last and sixth page of your fax to
12 Karl Koch, Lieutenant Governor's Chief of Staff, was
13 the bullet sheet?

14 A I don't remember. I don't remember that
15 being there. I don't remember what was done.

16 Q Well, I'd ask you to refer back to
17 Exhibit 86 for a minute, please. And if you'd look at
18 the last page, Mr. Sharkey, doesn't that in the upper
19 right-hand corner reflect that that page -- first of
20 all, that is the bullet sheet we're talking about,
21 right?

22 A Yes.

23 Q Doesn't that reflect that that's Page 6 of
24 6?

25 A Apparently, yes. I just don't remember

1 sending it, but --

2 Q Yes, sir. But I think you've agreed that
3 we've established that the document was faxed from
4 your office, correct?

5 A Yes.

6 Q Now, the bullet sheet was obtained by you
7 apparently earlier that day from Ida Roberts, correct?

8 A Apparently.

9 Q My question to you, Mr. Sharkey, is, isn't
10 it true that Ida Roberts knew that you were going to
11 attach this bullet sheet to a draft letter to be sent
12 to the Lieutenant Governor's office?

13 A That's not my understanding but you'd have
14 to ask her. I don't believe that's the case.

15 Q What did Ida Roberts to your knowledge think
16 you were going to do with this sheet, Mr. Sharkey?

17 A You'd have to ask her. I don't --

18 Q We've established, I think, that you've
19 asked the Lieutenant Governor of the state of Florida
20 to write Chairman Clark and the Commissioners a
21 letter, correct?

22 A I'm sorry?

23 Q You asked the Lieutenant Governor to write a
24 letter to the Public Service Commission as well as
25 Secretary Dusseau, correct?

1 A Yes.

2 Q And just as a point of interest, perhaps,
3 the letter that the Lieutenant Governor ultimately
4 sent to Chairman Clark was modified only to a slight
5 degree. Would you accept that as being true?

6 A Yes. I was quite surprised.

7 Q Mr. Sharkey, did you solicit anyone else in
8 county governments or state officials or city
9 officials to write similar letters to the Public
10 Service Commission?

11 A Not that I remember, no.

12 Q By similar, I mean on the economic status of
13 SSU.

14 A No. The letter was directed from
15 Mr. Sandbulte to the Governor.

16 Q I ask you to turn to Page 6 of the exhibit,
17 please. And it is the page that follows the last page
18 of invitees to your dinner. And it's a memo to Buddy
19 MacKay from you dated December 3rd, 1993. Okay.

20 A Yes.

21 Q And you indicate, and the letter will speak
22 for itself, but you indicate in there that you believe
23 the Lieutenant Governor was going to appear before the
24 PSC. And you say "I believe what has prompted the
25 dialogue is an interest in fully exploring the impact

1 of the uniform rate decision granted to Southern
2 States Utilities several months ago; is that correct?

3 A That's what it says, yes.

4 Q So it's clear, is it not, that you
5 understood what the uniform rate decision involved, at
6 least as of December 3rd, 1993, correct?

7 A The question is what?

8 Q Did you understand the significance or the
9 impact of the uniform rate decision as of December
10 3rd, 1993?

11 A I didn't fully understand the impact of it
12 but I certainly knew it was going to adversely affect
13 small, rural customers.

14 Q I'm sorry. Impact them how?

15 A I think their rates were going to -- large
16 customers, I think the rates were going to shift in a
17 variety of different ways. In light of the Lieutenant
18 Governor's interest in a statewide comprehensive water
19 policy, I thought it was important he understood what
20 that decision was. I never heard back from him on any
21 of this stuff. I have no idea what they did with this
22 particular memo at all.

23 Q Irrespective of whether you heard back on
24 this memo, have you ever had discussions with the
25 Lieutenant Governor about uniform rates?

1 A No.

2 Q The background paper that was attached --
3 and I apologize, I didn't have that at the time to
4 include -- where did you get the background paper, if
5 you recall?

6 A Probably from SSU.

7 Q Okay. The next page, Mr. Sharkey, Page 7 is
8 dated June 14th, 1994, and it's from you to
9 Sam Roberts, who we know is also Ida Roberts, correct?

10 A Yes.

11 Q You recommend certain legislative
12 contributions;, campaign contributions I assume. And
13 you say "as per your request." Now, is that correct,
14 that she asked you to recommend politicians or
15 campaigns to make contributions to?

16 A I don't remember. But possibly that's the
17 case. It's three years ago.

18 Q That's certainly an acceptable function of a
19 regulatory -- I mean, I'm sorry --

20 A Any citizen, business, interested individual
21 can make a contribution to an elected official of
22 their choice.

23 Q Yes, sir. And likewise it's certainly
24 appropriate, is it not, for someone in a position of a
25 lobbyist or governmental affairs person to point out

1 where such contributions would be best made, right?

2 A For constituent issues, yes. People who
3 live in those districts where they have a system.

4 Q Now, one of the reasons you selected these
5 people apparently was because of their positions in
6 leadership on committees with jurisdiction over SSU's
7 issues, right?

8 A And their interest in water policy issues,
9 yes.

10 Q Do you know, Mr. Sharkey, whether SSU made
11 campaign contributions to any or all of these people?

12 A I do not know.

13 Q Were there any other opportunities, were
14 there any other occasions where you made similar
15 suggestions, either in writing or verbally?

16 A Not to my recollection.

17 Q Do you know whether they made contributions
18 to the Governor?

19 A You'd have to ask them.

20 Q Let me ask you to turn to the next page,
21 please. As indicated by Mr. Sandbulte in his letter
22 to Governor Chiles, he recounted, as I recall, that he
23 met the Governor at the Council of 100. Do you recall
24 that?

25 A Yes.

1 Q Okay. This document which shows the
2 Lieutenant Governor's schedule for Friday, November
3 10th, shows apparently that same meeting. Would you
4 agree?

5 A I don't know when the Council of 100 meeting
6 was.

7 Q Were you finished?

8 It shows that the Staff assigned was Karl
9 Koch. Is that the same Karl Koch who would be the
10 Lieutenant Governor's Chief of Staff?

11 A Yes.

12 Q My question to you, Mr. Sharkey, is did you
13 play any role with Karl Koch in establishing the
14 meeting or arranging for Mr. Sandbulte to be present
15 at the meeting?

16 A Of arranging what meeting? The Lieutenant
17 Governor participating in this?

18 Q Yes, sir?

19 A Mr. Twomey, the Lieutenant Governor for
20 three years has expressed an amazing interest in a
21 statewide water policy. It's a major issue
22 confronting the state. I had no input in having him
23 go to the Council of 100 meeting nor in meeting
24 Mr. Sandbulte.

25 Q So you didn't have any input to

1 Mr. Sandbulte's opinion?

2 A I've never met the man.

3 Q Okay. Are you aware of who at SSU, if
4 anybody, arranged for his participation in the Council
5 of 100?

6 A No. I think his letter suggests it was a
7 friend of his.

8 Q Okay.

9 A Mr. Apthorp, I think. I don't know.

10 Q Let me ask you to turn to the next page,
11 Mr. Sharkey. I want to ask you if the check,
12 cancelled check reflected there to TMB and Associates
13 doesn't refer to a company operated by Tom Beard.

14 MR. RICHARD: Excuse me --

15 A I'm sorry. -- yes.

16 Q (By Mr. Twomey) And that instrument is
17 signed by you, right?

18 A Yes.

19 Q The organization reflected at the top of the
20 check, International Education Consultants, Inc.
21 Florida Interamerica Scholarship, is that a company
22 that you run?

23 A Yes.

24 Q Could you tell us why you were writing
25 checks to Tom Beard in January of 1994 and as

1 reflected on the next page in December of '93.

2 MR. RICHARD: Excuse me. Madam Chairman, I
3 realize that the Commission has granted considerable
4 leeway to the parties here with regard to these lines
5 of questioning, but I'm having some difficulty
6 conceiving what possible relevance -- as a matter of
7 fact, most of the questions that have been asked has
8 to the issue before this Commission. And I certainly
9 can see no relevance of the questions now being asked
10 given that the checks that counsel is referring to
11 were sent after Mr. Beard was no longer a member of
12 this Commission, and during no period that had
13 anything to do with a single communication that has
14 been raised.

15 I've already told you I don't even think
16 that communication as relevant once it was published
17 by this Commission. But I've not said anything
18 because my client is not a party. But it's now
19 becoming an undue invasion into my client's
20 proprietary interests and it's not relevant to
21 anything and I would object. And, in fact, instruct
22 my client not to answer these questions unless ordered
23 to do so by the Commission.

24 CHAIRMAN CLARK: Mr. Twomey, I think that is
25 an objection on the grounds of relevancy.

1 MR. TWOMEY: It sounded like it, yes, ma'am.
2 The issue is whether -- pardon me. (Pause)
3 Issue 5, "Has there been misconduct or
4 mismanagement on the part of SSU? And if so, what is
5 the appropriate sanction or remedy?"

6 Now, we're involved -- and by that it's
7 broader, I think, than the one letter that Mr. Richard
8 would have you focus on, or the two letters, actually.
9 We're involved in a series of cases.

10 CHAIRMAN CLARK: Two letters, Mr. Twomey? I
11 thought we were talking about the checks.

12 MR. TWOMEY: I'm saying I think Mr. Richard
13 asked you to focus this issue --

14 CHAIRMAN CLARK: Oh, okay, got you.

15 MR. TWOMEY: -- on the letters that were the
16 subject --

17 CHAIRMAN CLARK: Got you.

18 MR. TWOMEY: -- that you sent out ex parte
19 notices on. The letter from the Lieutenant Governor
20 and Secretary Dusseau.

21 And I'm suggesting to you that we're
22 involved in a series of cases here involving SSU that
23 are more expansive than just that issue. And the sole
24 purpose -- actually the sole question I wanted to ask
25 him is whether any of these checks were written to

1 former Commissioner Beard had anything to do with his,
2 Mr. Sharky's, employment as an agent by SSU.

3 MR. RICHARD: Madam Chairman, I think
4 counsel missed my point. My point was I don't
5 understand what Mr. Sharky's relationship with the
6 Governor, with the Lieutenant Governor or with former
7 members of this Commission has to do with any issue
8 involving conduct or misconduct that could bear upon
9 the decision that this Commission has to make. That's
10 the relevancy I'm addressing.

11 COMMISSIONER KIESLING: Madam Chairman,
12 could I add something?

13 At the prehearing conference we had a
14 discussion on this issue and it was both the position
15 of Marco and OPC that the allegations and misconduct
16 or mismanagement were limited to the three areas that
17 were raised in OPC's motion to dismiss, which if you
18 read their positions on this issue, both Marco and OPC
19 raise only the ex parte communication interference
20 with notice to customers and interference with
21 citizens' right to counsel as issues which were going
22 to be raised as to misconduct. And that was
23 specifically discussed because it was my view, and I
24 think the view of our Staff anyway, that we were not
25 going to conduct a trial by ambush and raise new

1 issues at the hearing under the guise of some
2 additional misconduct.

3 MR. TWOMEY: Well, that wasn't my intent,
4 Madam Chair, or Commissioner Kiesling, and I don't
5 desire to do that. If that's your pleasure then I'll
6 stop here.

7 CHAIRMAN CLARK: I think you need to stop
8 here and move on, Mr. Twomey.

9 MR. TWOMEY: I'm finished.

10 CHAIRMAN CLARK: Oh, all right.

11 MS. JABER: Madam Chairman, we have just a
12 few questions.

13 CHAIRMAN CLARK: Ms. Jaber.

14 **CROSS EXAMINATION**

15 BY MS. JABER:

16 Q Mr. Sharkey, if you've answered this already
17 I apologize, but we're not real clear about whether
18 Ms. Roberts reviewed the two draft letters, one to the
19 Lieutenant Governor -- from the Lieutenant Governor to
20 Chairman Clark, and the one to Secretary Dusseau. Did
21 she review those letters?

22 A Mymemory is no, she did not.

23 Q Your testimony has been that the intent in
24 sending those letters was to provide information to
25 the Lieutenant Governor and to the Secretary to have

1 those two individuals gain information from the
2 entities involved, and I believe in summarizing your
3 testimony, also to bring forth the concerns that SSU
4 had or and maybe you had over the regulatory
5 environment; is that correct?

6 A Yes.

7 Q In doing that would you agree that SSU did
8 not provide the Lieutenant Governor with a copy of the
9 First District Court of Appeal court opinion?

10 A I'm sorry, what was the question?

11 Q Would you agree with me that those letters
12 do not contain a copy of the District Court of Appeal
13 court opinion?

14 A That my letters don't?

15 Q Yes.

16 A I don't think they do. I don't know what
17 the First District Court of Appeal opinion is. No,
18 not that I know of, no.

19 Q Would you agree with me that those letters
20 don't contain a copy of the Commission's order denying
21 the Utility's first request for interim rates?

22 A Yes, I agree with you, I think.

23 Q Would you agree with me that the agenda
24 conference you attended was in October, and it was the
25 agenda conference that the Commission denied the

1 Utility's first request for interim rates?

2 A Would I agree with you? I was there at the
3 meeting. I cannot recall really what the decision or
4 the issue was in front of them at the time.

5 Q That was the agenda conference in October?

6 A Okay. If you -- yes.

7 Q Would you agree with me that prior to August
8 1995 that neither you nor SSU attempted to contact the
9 Lieutenant Governor or Secretary Dusseau in a effort
10 to introduce Mr. Cirello or bring those two
11 individuals up to speed on the regulatory environment
12 or any water issues?

13 A Do I agree before that I had not done that?

14 Q Yes.

15 A I'm pretty sure that is the case. I don't
16 think I attempted to do that before then.

17 Q Would you agree with me, subject to check,
18 that this rate case was filed at the end of July?

19 A I'll agree with you if that's the case. I
20 have no personal knowledge of that.

21 MS. JABER: We have nothing further.

22 MR. ARMSTRONG: We have no questions.

23 CHAIRMAN CLARK: Mr. Beck.

24 MR. BECK: No redirect.

25 CHAIRMAN CLARK: Okay. Redirect is

1 appropriate even of an adverse witness.

2 MR. BECK: I believe so but I don't have
3 any.

4 CHAIRMAN CLARK: Thank you, Mr. Sharkey.
5 You're excused. He is excused for the rest of the
6 proceeding; is that correct?

7 MR. BECK: Yes.

8 CHAIRMAN CLARK: Thank you very much.

9 Before you leave, Mr. Sharkey, we do have to
10 get the exhibits entered into the record. I always
11 seem to forget that.

12 Mr. Beck, I need to get the exhibits in the
13 record.

14 MR. BECK: We would move 84 through 88.

15 CHAIRMAN CLARK: 84 through 88 will be
16 entered in the record without objection.

17 MR. TWOMEY: I move 89.

18 CHAIRMAN CLARK: Exhibit 89 will be entered
19 into the record without objection.

20 COMMISSIONER KIESLING: I have a question
21 about 89. To the extent that it contains information
22 that is beyond what was at issue, are we admitting the
23 entire exhibit?

24 CHAIRMAN CLARK: There's been no objection
25 to it.

1 Mr. Twomey brings up a good point. I'll
2 admit I'm not as avid as some other Commissioners
3 were, but it is very helpful to have the exhibits
4 consecutively numbered so when you are referring to a
5 page we can all get to it. So I would ask you all to
6 look at your exhibits and make sure you have
7 consecutively numbered the pages so we can look at it.

8 MR. RICHARD: Madam Chairmn -- I'm sorry I
9 thought you were finished.

10 CHAIRMAN CLARK: Yes.

11 MR. RICHARD: With respect to the last
12 exhibit, Exhibit 89, I would request that the pages
13 that include copies of checks and check stubs written
14 by my client and his company which the Commission
15 determined were irrelevant and are his personal and
16 proprietary documents be deleted from the document
17 which is introduced in the record.

18 CHAIRMAN CLARK: Mr. Richard, can you tell
19 me exactly?

20 MR. RICHARD: It begins with the -- after
21 the Lieutenant Governor schedules, Document 89, the
22 remaining pages were not referred to in testimony
23 because of the Commission's determination that the
24 line of questioning was irrelevant and because they
25 are personal documents of my client relating to

1 financial information, I would request that they be
2 extracted before this document is placed in the
3 record.

4 CHAIRMAN CLARK: Mr. Twomey.

5 MR. TWOMEY: It may be appropriate, I don't
6 know. Let me make this comment to you, that the
7 documents were taken from public records at the Leon
8 County Courthouse, to that extent, I don't believe
9 they are personal or proprietary; taken from a court
10 file.

11 CHAIRMAN CLARK: I think he's objecting on
12 relevancy. And, Mr. Twomey, I would say that if we,
13 based on consideration of what the issue is and the
14 fact that we did not allow the testimony, I would find
15 these are also not relevant and exclude them from the
16 exhibit. Okay?

17 MR. TWOMEY: Sure.

18 CHAIRMAN CLARK: Just so it's clear, it is
19 from the page that starts with a check, and includes
20 the rest of the exhibit to the last page.

21 (Exhibit Nos. 84 through 89 received in
22 evidence.)

23 CHAIRMAN CLARK: Thank you. We're going to
24 continue for a bit before we take a lunch break. I
25 think the next order of business is Mr. Hartman.

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(Witness Sharkey excused.)

(Transcript continues in Volume 7.)

DOCKET 950495-WIS
EXHIBIT NO. 83
CASE NO. 96-04227

FLORIDA PUBLIC SERVICE COMMISSION
DOCKET NO. 950495 EXHIBIT NO. 83
COMPANY!
WITNESS: 7/23/96
DATE: 7/23/96

To: The Florida Public Service Commission, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, Telephone 1-800-342-3552

We, the customers of Southern States Utilities at Intercession City, Florida, petition the Florida Public Service Commission to return as soon as possible to uniform rates for SSU and its customers. The interim modified stand alone rates have almost tripled our monthly bills placing many of our residents in severe financial jeopardy. Of SSU's 8 service areas in Osceola County, no customers benefit from this latest change. Because customers in a few of SSU's other service areas did not want to pay a few dollars more, they have caused increases creating many hardships to all of SSU's Osceola County customers.

Beverly D. Upton

Name & Address

Telephone Number

35515 Osceola Ave.

407-931-4832

Intercession city FL 33848

Name & Address

Telephone Number

Idella Davis

—

P.O. Box 310 Intercession Cy, FL

33848

Name & Address

Telephone Number

Holly Ann White

407-846-8525

5552 Nyakka Ave

Name & Address

Telephone Number

Julie Anne Raymond

(407)935-0736

1495 Nocatee St

Name & Address

Telephone Number

Greg Hicks

(407)935-0736

1495 Nocatee St

Name & Address

Telephone Number

Elaine Bates

none

5561 Osceola Ave

Name & Address

By Power of
MARK CROSS attorney BGR
5556 MYAKKA (OWNER)

Telephone Number

870-5111

Name & Address

BETTY Poynter
5556 Bx 133 MYAKKA

Telephone Number

846-6629

Name & Address

JAMES Addison
1464 MANATEE ST. P.O. BOX #5

Telephone Number

407
847-3557

Name & Address

Lora Hayes
1481 Nocatee St P.O. Box 303

Telephone Number

933-1398

Name & Address

James P. Valdez
5509 Tomoka Ave

Telephone Number

N/A

Name & Address

Ivey Duke
1492 Manatee St Intercession Fl

Telephone Number

933-4707

Name & Address

Hjordis Culbertson
5574 Myakka St Intercession Fl

Telephone Number

N/A

Name & Address

Geraldine Howard
1469 Manatee St. Intercession Fl.

Telephone Number

933-5374

Name & Address

W. L. Diddle
1460 Manatee

Telephone Number

933-4520

Name & Address

Louise Dapp
1460 Manatee, Intercession City
Fla.

Telephone Number

933-4520

Name & Address

Mary Jaye Conway
1470 Manatee St.

Telephone Number

870-0503

Name & Address

Helen Simonow
1477 Manatee St. Intercession City
Fl.

Telephone Number

933-2936

Name & Address

Hubert Graves
1477 1/2 Manatee St Intercession City
Fl.

Telephone Number

933-2936

Name & Address

Mike Ferraiolo
1487 MANATEE St.

Telephone Number

—

Name & Address

Telephone Number

Name & Address

Telephone Number

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Richard High
Name & Address Telephone Number
P.O. Box 678 933-1843
Intercession City FL

Kathy E Pierce
Name & Address Telephone Number
6175 SO. D.B.T. Intercession City FL 847-5840

James K. Evans
Name & Address Telephone Number
6171 SOBT Intercession City FL 935-0541

William Nardolphi
Name & Address Telephone Number
1624 Shepherd Lane 847-0563

Name & Address Telephone Number

Name & Address Telephone Number

Name & Address

Karen H. Hurdasty
1575 Nocatee St

Telephone Number

932-2549

Name & Address

~~Sharon Hurdasty~~
5060 Myrtle

Telephone Number

932-1575

Name & Address

1. Diane M. White
1581 Nocatee

Telephone Number

933-6827

Name & Address

Nancy Smith
1570 Nocatee

Telephone Number

847-2476

Name & Address

Nette J. Bell
1570 Nocatee St, Intercession City, Fla. 33818

Telephone Number

(407) 847-2476

Name & Address

Carroll + Lynn Parady

Telephone Number

944-9960

Name & Address

Telephone Number

Name & Address

Telephone Number

To: The Florida Public Service Commission, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, Telephone 1-800-342-3552

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Name & Address	Telephone Number
<u>Mrs. Glenda R. Scott</u> <u>P.O. Box 189 (1548 Manatee St)</u> <u>Intercession City, Fla. 33848</u>	<u>407-933-4925</u>

Name & Address	Telephone Number
<u>Mr. Joseph P. Scott</u> <u>P.O. Box 189 (1548 Manatee St)</u> <u>Intercession City, Fla. 33848</u>	<u>407-933-4925</u>

Name & Address	Telephone Number
<u>Mrs. Sue Alderman</u> <u>1549 Manatee St, Intercession</u> <u>PO Box 217, Intercession 33848</u>	<u>407-933-7051</u>

Name & Address	Telephone Number
<u>Maggi Halber</u> <u>1544 Manatee St PO Box 288</u> <u>Intercession, Fla, 33848</u>	<u>407-931-1921</u>

Name & Address	Telephone Number
<u>Michael Thurber</u> <u>1360 Sumner Ave</u> <u>INTERCESSION CITY, FLA 33848</u>	

Name & Address	Telephone Number
<u>Richard E. Butler Jr.</u> <u>1550 Manatee St. Intercession city</u> <u>Fl. 33848</u>	<u>407-896-6077</u>

Chong O. Butler
Name & Address

1550 Manatee St. Intercession city
Fl. 33848

Telephone Number

407-846-6072

Name & Address

Edith Wilson
5575 Myakka

Telephone Number

407-933-4914

Name & Address

Orlew & Imogene Rosebush
5575 Myakka

Telephone Number

407-933-4914

Name & Address

Hubert M. Martes
5598 Myakka P.O. Box 506

Telephone Number

933 5826

Name & Address

Gertrude J. Martell
5598 Myakka P.O. Box 506

Telephone Number

933 5826

Name & Address

Paul A. Lill
1540 Manatee Po Box 130

Telephone Number

932-2484

Name & Address

Carl M. Adkin
~~1536~~ 1536 MANATEE ST.

Telephone Number

933-1304

Name & Address

Scott Adkins
5588 OLD TAMPA
HYW

Telephone Number

932 0749

To: The Florida Public Service Commission, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, Telephone 1-800-342-3552

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Ina Swaney
Name & Address Telephone Number
P.O. Box 82 (407) 933-5805

Intercession City, Fl. 1501 Tallahassee Blvd.
Name & Address Telephone Number

Sharon Manned
Name & Address Telephone Number
407-933-3856

P.O. Box 785 Intercession City, Fl.
33848
Name & Address Telephone Number
8611

Shannon + Daniel Stone
Name & Address Telephone Number
407-933-~~XXXX~~

P.O. Box 90 Intercession City FL
Name & Address Telephone Number

NOEL NAMEE
Name & Address Telephone Number
407-933-1286

PO BOX 761 INTERCESSION CITY FL
Name & Address Telephone Number

Bulah Wright
Name & Address Telephone Number
407-933-4739

5567 Osceola Ave. Intercession City
Name & Address Telephone Number

Louise Day
Name & Address Telephone Number
933-4520

1460 Manatee Sh. Intercession City
Name & Address Telephone Number

Name & Address

W. L. Diller
1460 Manatee St.

Telephone Number

933-4520

Name & Address

Charles E Murphy
5535 Okaloosa Ave

Telephone Number

847-4307

Name & Address

Betty Brown
5561 Okaloosa Ave

Telephone Number

933-1401

Name & Address

Helena J. Namee
5513 Okaloosa Ave

Telephone Number

933-4905

Name & Address

STEVEN G. MUSTAD
5520-A OKALOOSA AVE.

Telephone Number

847-7057

Name & Address

Donna R. Barbarise
5520-B Okaloosa Ave

Telephone Number

944-4096

Name & Address

Mr Daniel Pizzelli
1451 Nocatee St

Telephone Number

933-5704

Name & Address

Marcy Pizzelli
1451B Nocatee St.

Telephone Number

933-5704

Name & Address

JAMES P. SULLIVAN

1447 NOCATHE ST.

Telephone Number

847-9776

Name & Address

Theresa Atkins

1449 Nocatee St

Telephone Number

932-1188

Name & Address

Cathy McCoy

5555 Odessa Ave.

Telephone Number

847-2581

Name & Address

John Tucker

1024 Charity St

Telephone Number

933-5125

Name & Address

John C. Teresbie

Innocent St.

Telephone Number

933-5647

Name & Address

Cathina Sweett Po Box 536

Need fire hydr intercession city

Telephone Number

935 9596

Name & Address

Maryorie Frushie

1650 Hope St

Telephone Number

846-9142

Need fire hydr.

Name & Address

Paul W. Sawyer

1641 Shepherd Lane

Telephone Number

933-5662

Name & Address

112nd W. Lester
Box 636 - Intercession City

Telephone Number

933 2213
med fire hydr.

Name & Address

Sara Lockwood
Box 415 - Intercession City

Telephone Number

933-45-35
med fire hydrant.

Name & Address

Rueh Oakley
PB 155 Intercession City

Telephone Number

437-5257
fire hydrant

Name & Address

Daniel Thompson
1631 Charity IC

Telephone Number

fire hydrant

Name & Address

Richard & Mildred Butler
5585 Orceolast IC. ⁹³³⁸⁴⁶ P.O. Box 224

Telephone Number

933-4603

Name & Address

Telephone Number

Name & Address

Telephone Number

Name & Address

Telephone Number

26

To: The Florida Public Service Commission, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, Telephone 1-800-342-3552

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Dana G. Swingle
Name & Address

1666 Hope St
Intercession

Telephone Number

846-6495

Name & Address

Winfred Swingle
P. 146 Intercession City Fla
33849

Telephone Number

933-4403

Name & Address

Berry Lee Malson
5510 Sharon Ave Intercession
City

Telephone Number

933-2069

Name & Address

Carol Lellis
1615 Charity Intercession
City

Telephone Number

933-5198

Name & Address

Daniel Thompson
1631 Charity

Telephone Number

Name & Address

Robert Allen
1640 Hope St

Telephone Number

Name & Address

Maurin A Vanfang Larz
1563 Tallahassee Blvd

Telephone Number

847-2902

Name & Address

Ronald Munson
5552 Old Tampa Hwy. Intercession City
33848

Telephone Number

933-5139

Name & Address

Helenana Kemna
PO Box 176, Intercession, FL
33848

Telephone Number

407-933-5797
Need new pipes installed + better pressure.

Name & Address

Denny W. Bundy
PO Box 200 Intercession City Fl. 33848

Telephone Number

Name & Address

Lawrence Watson
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Intercession, Fl. 33848

Telephone Number

407-846-1943

Name & Address

Ronald K Harmon
1561 IMMOKALEE I.C. 33848

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Name & Address

Albert E. Damy
Intercession City

Telephone Number

407 846 6103
~~5254~~

Name & Address

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Name & Address

James Landini
Intercession City Fla.

Telephone Number

Name & Address

Andy R. Moffet
Intercession City Fla.

Telephone Number

932-2403

Name & Address

Carline Toft
Homerway St. Kissimmee Fl.

Telephone Number

Name & Address

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Telephone Number

932-1188

Name & Address

Harold A. Middleton
Intercession City, Fla.

Telephone Number

933-5384

Name & Address

David + Pam Moot
Box 576 Intercession City Fla.

Telephone Number

870-8982

Name & Address

Gladyz Thomas
Corners 683 Myrtle Ka Ave + Wilkerson Ave

Telephone Number

Name & Address

Hope + Gene Andrews
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Intercession City, Fl.
33848

Telephone Number

800

Name & Address

Tom & Lena Embrey
1551 Manatee St or P.O. Box 332

Telephone Number

870-8068

Name & Address

Evelyn & LIZARDO VALERIO
5537 O.B.T. P.O. Box 79
Intercession City

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944-9769

Name & Address

Albert & Margaret Heel
Intercession City

Telephone Number

847-6871

Name & Address

Edward Reynolds
5516 S. OBT Intercession City Fla 33848

Telephone Number

Name & Address

Judy Adams
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Intercession City FL 33848

Telephone Number

944-0977

Name & Address

Marilyn J. Parrier
5533 Sharon Ave. Intercession City FL 33848

Telephone Number

932-4641

Name & Address

Raymond Marble
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Telephone Number

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Name & Address

Virginia Kent
1404 Okaloosa Ct Intercession

Telephone Number

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Name & Address

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Name & Address

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INTERCESSION CITY
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Telephone Number

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Name & Address

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847-3642

Name & Address

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Telephone Number

395-9600

Name & Address

Dames Lawrence Jr
Po Box 602 1613 Topo St

Telephone Number

933-2295

Name & Address

Linda Coate
P.O. Box 37 Intercession City FL

Telephone Number

Name & Address

Charles Smith
Po Box 442 or 1611 Charity St
INTERCESSION CITY FL
33848

Telephone Number

847 8033

Name & Address

Thyllis M. Finney
2614 McDaniel Dr. Leesville, S.C.

Telephone Number

407-870-9510

Name & Address

Jim McINTIRE
P.O. Box 680 Intercrossin City

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847-9369

Name & Address

Edith Stafford
5660 Myakka St,

Telephone Number

Name & Address

Pauline O'Hull
Box 52 Intercrossin City

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933-5136

Name & Address

Jack & Doris Higgins
Box 270 Intercrossin City, Fla.

Telephone Number

933-5670

Name & Address

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933-5143

Name & Address

Telephone Number

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933 5976

Name & Address

Telephone Number

Virgin Lee Newton
INTERMISSION EY. FL. 33848
P.O. Box 575-1608 CHRY. ST.

407-846-0248

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Name & Address

Telephone Number

Adrian Walraven
1641 Hope st Intermission City

Name & Address

Telephone Number

Argie Hodges
1525 Immokalee Street Intermission City

407-931-4350

Name & Address

Telephone Number

Wonna Colby
5551 S.O.B.T
~~5050 Grandwood~~ Intermission City

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Name & Address

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n/a

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933-1075

5620 Wile Ave, Intercession City, FL
33848

Name & Address

Telephone Number

Dyn Berg Adkins
5588 OLD TAMPA
HWY

Name & Address

Telephone Number

Chris Alexander
1571 Manatee

932-3448

Name & Address

Telephone Number

Chris Sarnatt
5691 SOBT

847-3905

Name & Address

Telephone Number

Paul C. Roberts
5614 SOBT

846-4093

Name & Address

Telephone Number

BRYAN TRAZIER
5614 SOBT

846-4093

Name & Address

Telephone Number

Barbara M. Scott
5515 SOBT

847-5434

Intercession City, Fla 33848

Name & Address

~~Joyce N. Sharp~~
Joyce N. Sharp
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Telephone Number

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Name & Address

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¹⁴⁶⁸

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Name & Address

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Name & Address

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Telephone Number

(407)944-4523

Name & Address

Lois M. Whited Lois M. Whited

Telephone Number

407-870-0158

1405 OKALOOSA ct INTERcession city FL 33848

P.O. Box 772
Name & Address

Telephone Number

John + Donna Whiting

933-5942

1427 MANATEE St Intercession

PO Box 6
Name & Address

Telephone Number

Charlotte Crowley

(941)421-9509

380 Carlene Rd
Sebring City, FL 33844
Name & Address

Telephone Number

Tom Hoff

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3254 Cobble Ct

Kissimmee Fl 34746

Name & Address

Telephone Number

Mr + Mrs L.W. Griggs
1630 School St Intercension city FL

1-407-931-1569
33848

Name & Address

Telephone Number

~~_____~~ Louis RIVERA
5620 ORANGE AVE. INTER-CITY

870-5560

Name & Address

Telephone Number

Berninio Pabon
5548 orange ave intercession

847 5408

Name & Address

Telephone Number

Nelyn Rivera
5620 ORANGE AVE. INTERCITY

870-5560

Name & Address

Telephone Number

Steve E. Nancy Saller

P.O. Box 433

933-0489

Name & Address

Telephone Number

Sandy Vincent
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944-9847

Name & Address

Telephone Number

Name & Address

Telephone Number

Name & Address

Alice Mae Snow
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Intercession Fl. 33848

Telephone Number

407-931-2736

Name & Address

Mr + Mrs J M Gregor
5562 Old Tampa Hwy

Telephone Number

933-9147

Name & Address

Angie Stout
5560 Myakka St

Telephone Number

944-4657

Name & Address

Wendall J Dobson Sr
1535 Tallahassee Bl
Intercession City Fl 33848

Telephone Number

407-847-2586

Name & Address

WALLACE - TERRY FENEY
5566 MYAKKA INTERCESSION

Telephone Number

846-4383

Name & Address

Alice Feneck
5566 Myakka Intercession

Telephone Number

846-4383

Name & Address

Ingeborg Adkins
5588 Old Ft M Rd Hwy 12

Telephone Number

Name & Address

Genilda Dominguez
1530 Tunicafee Street
Intercession City, Fl. 33848

Telephone Number

Name & Address

Telephone Number

Napoleon Nunez

1560 Tallahassee Blvd

Intercession City, FL 33848

Name & Address

Telephone Number

JOHN ALLEN

931-0937

P.O. Box 161
1555 Manatee St Intercession City 33848

Name & Address

Telephone Number

Margo Allen

(407) 931-0937

1555 Manatee St Intercession City 33848

Name & Address

Telephone Number

Harold C. Middleton

933-5384

P.O. Box 299
1635 Hope St. I.C. FL 33848

Name & Address

Telephone Number

Robert J. Smith, Sr.

(407) 944-0895

1651 HOPE ST P.O. Box 11
INTERCESSION CITY, FL 33848

Name & Address

Telephone Number

Jack Huggins

933 5670

5670 30BT Intercession Fl 33848

Name & Address

Telephone Number

Larry Miller

933 5976

5698 30BT Intercession Fl. 33848

Name & Address

Telephone Number

MILFORD PUTNEY

933-5576

1548 IMMOKALEE ST.

POCKET 890495-WS
EXHIBIT NO. 84
CASE NO. 96-04227

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application for a rate)
increase for Orange-Osceola)
Utilities, Inc. in Osceola County,)
and in Bradford, Brevard, Charlotte,)
Citrus, Clay, Collier, Duval,)
Highlands, Lake, Lee, Marion,)
Martin, Nassau, Orange, Osceola,)
Pasco, Putnam, Seminole, St. Johns,)
St. Lucie, Volusia, and Washington)
Counties by Southern States)
Utilities, Inc.)
_____)

Docket No. 950495-WS

Cross Examination Exhibit _____

FAX dated August 24, 1995, to Tracy Smith
from Janet Howarth at Capital Strategies

FLORIDA PUBLIC SERVICE COMMISSION
DOCKET
NO. 950495 EXHIBIT NO. 84
COMPANY/
WITNESS: _____
DATE: 7/24/96

84

08/24/95 15:35 CAPITAL STRATEGIES INC. → 888 1395

NO.567 P001/002

Capital Strategies

116 South Monroe Street Tallahassee, Florida 32301

Phone: (904) 224-6789 FAX (904) 222-6981

FACSIMILE

To

Tracy Smith

407 880-1395

Date

August 24, 1995

For your information

For your signature

For your response

Urgent

Message

Attached is an agenda for the meetings in Tallahassee next week. I have ascertained that the Governor is in town on the 30th and have requested a "courtesy visit" with him. His scheduling office will let me know tomorrow. I will call you.

2

Page(s) including cover from

Janet Howarth

08/24/95 15:35 CAPITAL STRATEGIES INC. + 660 1395

NO. 567 P002/002

AGENDA
August 29, 30
Tallahassee

Tuesday, August 29 (~~Brian Armstrong~~, Tracy Smith, Karla Olson Teasley)

- 10:00 AM Meet with Jeff Sharky
116 S. Monroe Street
904/224-6789
- 10:30 AM Keith Herrick
Florida Home Builders Association
201 East Park Avenue
904/224-4316

Wednesday, August 30 (Dr. John Cirallo, Brian Armstrong, Tracy Smith)

- 11:30 AM Representative Marjorie Turnbull
211 House Office Building
- 3:00 PM Lt. Governor Buddy MacKay
PL 05 The Capitol
- 4:00 PM Virginia Wetherell, Secretary
Department of Environmental Protection
Douglas Building
3900 Commonwealth Boulevard

DOCKET 950495-WS
EXHIBIT NO. 85
CASE NO. 96-04227

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application for a rate)
increase for Orange-Osceola)
Utilities, Inc. in Osceola County,)
and in Bradford, Brevard, Charlotte,)
Citrus, Clay, Collier, Duval,)
Highlands, Lake, Lee, Marion,)
Martin, Nassau, Orange, Osceola,)
Pasco, Putnam, Seminole, St. Johns,)
St. Lucie, Volusia, and Washington)
Counties by Southern States)
Utilities, Inc.)
_____)

Docket No. 950495-WS

Cross Examination Exhibit _____

November 29, 1995 FAX from Sharkey at Capital Strategies
to Tracy Smith/Sam Roberts

FLORIDA PUBLIC SERVICE COMMISSION
DOCKET
NO. 950495 EXHIBIT NO 85
COMPANY/
WITNESS: _____
DATE: 11/29/95

85

Capital Strategies

116 South Monroe Street Tallahassee, Florida 32301

Phone: (904) 224-6789 FAX (904) 222-6981

FACSIMILE

To	TRACY SMITH/SAM ROBERTS	<input checked="" type="radio"/> For your information
	SSU	<input type="radio"/> For your signature
Date	407 884-7740	<input type="radio"/> For your response
	November 29, 1995	<input type="radio"/> Urgent

Message

Tracy/Sam:

Attached is the info from the FAC Select Water Policy Committee meeting. I spoke with Commissioners Dunnick and Novee about the SSU issues. Novee was interesting.... Still waiting for the bullet sheet to distribute. The letter from Minnesota power was good. I talked with Buddy MacKay and Estis about it today. Also I talked with Sec. Wetherell about the PSC issues. She was amazed. Let's talk tomorrow.

-Jeff

6 Page(s) including cover from **SHARKEY**

EXHIBIT
3
31.96 CLKW

FAC SELECT COMMITTEE ON WATER POLICY
Draft Legislative Policy Statements

1. **Support** the Legislature creating standing committees on water resources in both the House and Senate to provide legislative oversight and guide the water management districts in their budgetary and operational priorities.
2. **Support** the formation of an "impartial" scientific peer review for district rules, water management concepts, plans and other district documents.
3. **Support** inter-basin or inter-district transfers of water between consenting affected local governments when implemented in accordance with water management measures.
4. **Support** state funding for the Surface Water and Improvement Management (SWIM) program.
5. **Support** a "local sources first" policy implemented by the water management districts that is based on the economic, environmental and technical feasibility as determined by the affected local government.

7. The standing committees should provide legislative oversight on water policy, but should not review proposed board appointees and executive directors prior to Senate confirmation.
8. The Joint Administrative Procedures Committee (JAPC) is a more appropriate body to review administrative rules of the districts, rather than the standing committees.
9. Counties support retaining the current coordinating role of the Water Resources Coordinating Council.

II. Rulemaking by Water Management Districts

1. Counties support the formation of an "impartial" scientific peer review for district rules, water management concepts, plans and other district documents. Such a system should involve local staff that understand local conditions as well as staff from the State University System and federal agencies where appropriate.
2. The governing boards' power to adopt administrative rules should be limited to rules substantially related to water supply, water quality protection, flood control and natural resource protection.
3. Counties oppose the creation of a state water commission to review and approve district rules.
4. Counties believe mechanisms for mediation and alternative dispute resolution processes to solve disputes between water management districts and permit applicants already exist: informal hearings in Chapter 120.57(2), F.S.; regional planning councils dispute resolution processes; and the Florida Environmental and Land Use Dispute Resolution Act of 1995 (private property rights legislation). Applicants can avail themselves of mediation processes if they so desire. If the Legislature does statutorily create another mechanism for mediation or alternative dispute resolution, such a process should be voluntary.

III. Functions, Responsibilities & Mission of Water Management Districts

1. The water management districts should focus on water management and water supply. The Department of Environmental Protection should retain authority for ecosystem management on a regional basis. (No closure on Question #1 on discussion paper; See recommendation #4).

2. With respect to flood control, there should be increased coordination with the water control districts under Chapter 298, Florida Statutes.
3. The water management districts should be encouraged to focus more on enhancing long-term water supply through such means as aquifer recovery and storage.
4. The primary mission of the water management districts should be water supply planning, development and allocation and this primary mission should be emphasized statutorily.
5. In relationship to county government, the districts role should be one of providing technical assistance, sharing information and expertise and cost-sharing.
6. Counties believe water management districts have a viable role to play in land acquisition and land management. However, any new statewide acquisition program must maintain the local desires of the community and include local decision-making processes (i.e., local referendum) as to which lands to acquire.

IV. Water Planning

1. In light of the fact that counties are in the midst of preparing their Evaluation and Appraisal Reports and awaiting further revisions to the Intergovernmental Coordination Element rule, counties believe that the Legislature should not impose any additional requirements for inclusion in the local comprehensive plan at this time. This is consistent with Recommendation #20 of the Governor's Task Force on Land Use & Water Planning.
2. Counties support requiring the water management districts to provide a Water Resources and Facilities Report to local governments for use in the Evaluation and Appraisal Report process.
3. Counties support requiring submission of the State Water Policy rule and the Florida Water Plan to the legislative standing committees on water resources.
4. Counties recommend that those portions of the District Water Management Plans that have a binding effect on other entities be adopted by rule.
5. District Water Management Plans should not be allowed to require local expenditures in order to assure availability of water.
6. Counties *do not* accept the premise that the water management districts' data is "the best available data" on comprehensive planning water-related issues.

7. Counties believe that implementation of a statewide water use fee is premature at this time. The state must have a plan prior to implementing such a fee system in order to clearly identify what is being financed and to achieve a dollar-to-dollar benefit for such a fee. Instead, counties believe that the state needs to better manage and maximize existing resources.
8. Counties believe that the water management districts should issue the longest duration consumptive use permits possible, considering economic factors as well as water resource and natural resource protection. Longer permit duration will provide higher bond ratings and more certainty for those local governments that utilize the bond process to finance water supply projects/infrastructure.
9. Inter-basin or inter-district transfers of water should occur between consenting affected local governments when implemented in accordance with water management measures.
10. Any "local sources first" policy implemented by the water management districts should be based on the economic, environmental and technical feasibility as determined by the affected local government.
11. Counties recognize water reuse as one water conservation tool, not the panacea for all the water woes.
12. The Environmental Regulation Commission should retain responsibility and authority for establishing the state's water quality standards.
13. Counties support requiring the water management districts to annually prepare a priority list and a scheduled five-year plan for establishing minimum flows and levels.
14. Counties support state funding for the Surface Water and Improvement Management (SWIM) program.

DOCKET 950495-WS
EXHIBIT NO. 86
CASE NO. 96-04227

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application for a rate)
increase for Orange-Osceola)
Utilities, Inc. in Osceola County,)
and in Bradford, Brevard, Charlotte,)
Citrus, Clay, Collier, Duval,)
Highlands, Lake, Lee, Marion,)
Martin, Nassau, Orange, Osceola,)
Pasco, Putnam, Seminole, St. Johns,)
St. Lucie, Volusia, and Washington)
Counties by Southern States)
Utilities, Inc.)
_____)

Docket No. 950495-WS

Cross Examination Exhibit _____

**Six page FAX dated December 13, 1995, to Karl Koch
from Sharkey at Capital Strategies**

FLORIDA PUBLIC SERVICE COMMISSION
DOCKET
NO. 950495 EXHIBIT NO 86
COMPANY/
WITNESS: _____
DATE: 4/29/96 86

Capital Strategies

116 South Monroe Street Tallahassee, Florida 32301

Phone: (904) 224-6789 FAX (904) 222-6981

FACSIMILE

To	Karl V	<input checked="" type="radio"/> For your information
	Lt Govt	
Date	921	<input type="radio"/> For your response
	December 1.	<input type="radio"/> Urgent

KCSM

Message

Karl:

I would like to see if the Lt Governor would send a letter to this effect to Susan Clark in response to the attached letter from the CEO of Minnesota Power and SSU's financial difficulties. I will talk with you. Thanks

- Jeff

SHARKEY

December 13, 1995

Susan F. Clark, Chairman
Public Service Commission
Gunther Building
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0855

Dear Commissioner Clark:

I have had several discussions recently on the direction of the state's water with the President of Southern State Utilities. They are very interested in being part of the dialogue we are facilitating to protect and preserve one of our most valuable resources. Although they are not a large player in the overall water management policy discussions presently underway through various legislative and executive office forums, as the state's largest private water utility they play a valuable role in preserving the quality of Florida's water by purchasing and upgrading small, often rural, failed water and wastewater systems.

In addition, I have received a copy of a letter sent to Governor Chiles by Mr. Arend Sandbulte, Chairman and CEO of Minnesota Power, that details the current economic impact of recent Public Service Commission decisions on Southern States Utilities.

Mr. Sandbulte, who has joined the Florida Council of 100, because of his interest in supporting our efforts to generate a positive economic development and jobs climate in Florida for businesses and citizens is very concerned about the regulatory environment at the PSC which over the last year have resulted in a year-to-date loss of \$453,749 and reduced the utilities rate of return on investment to -43%.

I realize that your rate making decisions are very complicated and our office would not question those detailed, case specific decisions. However, I would be very concerned if we were to place in serious financial jeopardy a unique private water utility that is providing quality water and wastewater treatment facilities throughout the state.

I would appreciate any information you might be able to provide me on the overall economic and financial consequences facing SSU as outlined in the attached letter so I can respond to Mr. Sandbulte's concerns.

Thank you.

Sincerely,

Buddy MacKay, Lt. Governor

12/13/95 10:35

CAPITAL STRATEGIES INC. + 904 921 6114

NO. 825 P003/006

11/28/95 WED 15:00 FAX 407 884 7740

407 884 7740
SSU

0002

Lida Roberts



minnesota power / 30 west superior street / duluth, minnesota 55802-2093 / telephone 218-722-2641

Arend J. Sandbulte - chairman and chief executive officer

November 21, 1995

The Honorable Lawton Chiles
Governor, State of Florida
The Capitol
Tallahassee, Florida 32399-0001

Dear Governor Chiles:

I appreciated the chance to see and hear you and Lt. Gov. McKay at the recent Florida Council of 100 meeting at The Breakers. Jim Aphorhp originally sponsored my membership in this group so that my company could be represented and participate in activities to help Florida achieve its goals. As an out-of-state member of the Council, I appreciate your interest in public-private partnerships and creating win-win situations for the betterment of Florida and its stakeholders. The topic chosen for the Council of 100 meeting, water resources, was of particular interest to me.

Minnesota Power (MP) is a major stakeholder in Florida through ownership since 1984 of Southern States Utilities (SSU) of Apopka which, with about 150 plants stretching from The Panhandle to Collier County, is the largest investor-owned water and wastewater utility in Florida and follows only the municipal systems of Miami and Jacksonville in overall size. We also own 80 percent of Lehigh Acquisition Corporation, which is in the real estate sales business at Lehigh Acres (near Fort Myers) and Sugar Mill Woods, located north of Tampa. Our Florida utility and real estate assets total some \$408 million, not the largest corporate investor in the state, but by no means the smallest. About 21 percent of Minnesota Power's corporate assets are located in Florida, and we'd like to grow that percentage. Our investment strategy -- earning fair and reasonable profits in Florida -- is based on a vibrant marketplace, with respect to real estate, and based on fair regulatory treatment from the Florida Public Service Commission (FPSC). With respect to the latter, we have a serious problem. Please allow me to explain.

SSU is a vital partner with the State of Florida, the Department of Environmental Protection (DEP) in particular, in not only providing safe drinking water to the company's water customers, but in protecting the state's precious water resources and aquifer through proper wastewater treatment and re-use of reclaimed water. The latter has been and is being accomplished through special reclaimed water projects, aquifer storage and recovery wells, and award-winning conservation programs and, in some instances, by taking over failing systems at the request of Florida regulators and bringing them into compliance because there was no adjacent or willing municipality ready to perform that state purpose.

ALWAYS AT YOUR **SERVICE**

minnesota power

Governor Chiles
November 21, 1995
Page 2

Recently the Florida Public Service Commission reversed a 1993 decision in which they had approved additional revenues for SSU of \$6.7 million to be collected under uniform water and wastewater rates for SSU's customers, a practice used by the majority of states which have considered the issue and by many Florida counties, and one which the Commission long has followed for electric and telephone company customers. The 1993 uniform rate decision was reaffirmed after a year's worth of statewide hearings considering conservation, aquifer protection, centralized SSU services and the affordability issues of "rate shock," which occurs when large capital expenditures are required for environmental reasons on plants with a small number of customers. That is why the Commission's recent order which would require Southern States to revert to so-called "stand-alone" rates is so disconcerting.

One group of customers (whose water usage, by the way, is significantly higher than the state's average usage and whose rates were higher on a uniform versus stand-alone basis) appealed the 1993 decision. The recent FPSC reversal was in response to an order issued by the First District Court of Appeals on that appeal. The appellate court said that the FPSC needed to make a specific legal finding that SSU's operations were "functionally-related" before ordering a uniform rate structure. That finding was made by the FPSC in June 1995 following another year-long proceeding.

However, when the mandate came down from the courts, the FPSC decided not to reopen the original case and incorporate the "functionally-related" finding, stating they were declining to do so "as a matter of policy," without any further explanation. They then proceeded to order retroactive "stand-alone rates" (which could raise water and wastewater bills for many retirees to over \$100 a month), ordered SSU to make refunds of \$8 million to customers of a small number of plants, and said we could not collect any underpaid amounts from other customers resulting from a rate structure the Commission ordered us to institute in 1993.

The impact of this decision on SSU is staggering. If it stands, the financial result will be devastating on SSU's ability to attract financing and continue to make investments in Florida's future. The Commission awarded SSU \$6.7 million in additional revenue in 1993, and now they are asking that \$8 million be refunded. This will create mass confusion and severe financial ramifications with our customers. Monthly bills for homeowners in nearly 100 communities throughout the state will increase, some by as much as 300 percent. And the rates of the high-use water customers who appealed will drop even further, encouraging less conservation concern than ever among these high-use customers.

minnesota power

Governor Chiles
November 21, 1995
Page 3

Governor, I don't believe we are whiners. If you believe we're at fault somehow, I hope you'll tell us what we've done wrong so that we have a chance to consider doing things differently. We want to do the right things and do those things right. If you have any questions about our corporate citizenship record, I invite you to talk to Arne Carlson, Governor of Minnesota. I'm sure he'll tell you Minnesota Power is one of the top corporate citizens in the State of Minnesota, from the multi-faceted standard of dedication to economic development, to outstanding service to utility customers and honesty and integrity in all our business activities.

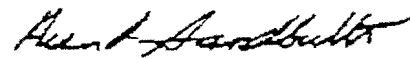
The FPSC actions of late require us to pursue fair treatment through asking the Commission to reconsider its decisions which affect us so negatively or, if necessary, through the courts. Court action may engender negative publicity for MP; however, we have no choice but to seek fair treatment. We'll not be driven from Florida without a fight, a fight thrust on us by an inconsistent and problematical FPSC decision-making process and record.

We want to help solve Florida's water-related issues, but we can't do so when FPSC decisions create for us violations of loan covenants with our lenders. With the loss of income this FPSC order would produce, our coverage ratio would be well below the minimum required by the loan documents. We simply cannot continue putting \$20 million or more annually into water utility investments, most of it to meet environmental and customer-needs demands, unless we can make a reasonable profit. We certainly can't do so if we are in default with our lenders! This is not a rocket-science issue, but rather one of simple equity and fairness. The public-private partnership is just not working, and it needs to be fixed!

We will continue our efforts to get fair treatment from the FPSC directly or, if it's not forthcoming from them, through the courts. Any advice, guidance, counsel or constructive criticism you can offer to normalize the current unfortunate situation will be appreciated and seriously considered. We are willing to meet anytime, anyplace, with anyone for that purpose.

I hope to hear from you soon.

Sincerely,



Arend Sandbulte

mjk

copy: Lt. Gov. Buddy McKay

cc: Ed Russell; Jim Roberts; John Cirello; Brian Armstrong; Ida Roberts

**FINANCIAL IMPACT OF FPSC ORDER
Reversing Uniform Rates and Ordering Refund**

SSU faces potentially severe financial consequences as a result of the FPSC order (PSC-95-1292-FOF-WS, 10/19/95) which reverses its order on uniform rates for SSU (docket number 920199-WS).

- In its final 1993 uniform rate order (docket number 920199-WS) the FPSC authorized additional revenues for SSU of \$6,670,033. On October 19, 1995, the Commission reversed itself on uniform rates and ordered SSU to refund \$8,677,803 to certain customers without providing any provision for recovery of these monies.
- The FPSC authorized return on equity in the 1993 rate order was 12.14 percent. Due to required investments in new plant, rising expenses, and reduced revenues, SSU projects a 1995 return of -0.43 percent. *SSU is losing money at current authorized rates even before considering the impact of an \$8.68 million refund.*
- Through October 1995, SSU has incurred a year-to-date loss of \$453,749. If the FPSC does not reconsider its 10/19/95 order, including the refund, SSU will book an aggregated after-tax loss in excess of \$5 million in 1995. *The company's retained earnings will be wiped out.*
- The following financial and operational consequences have occurred as a result of recent Commission decisions:
 - ◊ SSU has been placed on a credit watch by its principal lenders SunBank, N.A. and CoBank.
 - ◊ SSU's pretax interest coverage is below 1, a level classified as non-investment grade by rating agencies.
 - ◊ The company's primary bonding company, SafeCo Surety, has advised that SSU will be unable to obtain performance bonding for the ordered refund, without parent company indemnification.
 - ◊ The company's liquidity uncertainties are significant and there are serious doubts as to whether SSU can continue to meet operating, construction, and debt service requirements from current revenue.
 - ◊ A proposal for a back-up credit line was withdrawn by a prospective lender.
- SSU is being forced to *relinquish* its role as receiver of Enterprise Utilities Corporation because of the approximately \$1 million needed to provide a new adequate means for effluent disposal and the impact such an investment would have on customers.
- SSU is having to decline a request from the Florida Department of Environmental Protection that SSU take over troubled water and wastewater plants in Tampa.

DOCKET 950495-WS
EXHIBIT NO. 87
FILE NO. 96-04227

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application for a rate)
increase for Orange-Osceola)
Utilities, Inc. in Osceola County,)
and in Bradford, Brevard, Charlotte,)
Citrus, Clay, Collier, Duval,)
Highlands, Lake, Lee, Marion,)
Martin, Nassau, Orange, Osceola,)
Pasco, Putnam, Seminole, St. Johns,)
St. Lucie, Volusia, and Washington)
Counties by Southern States)
Utilities, Inc.)
_____)

Docket No. 950495-WS

Cross Examination Exhibit 87

**Two page FAX dated December 13, 1995, to Secretary Charles Dusseau
from Sharkey at Capital Strategies**

FLORIDA PUBLIC SERVICE COMMISSION
DOCKET
NO. 950495 EXHIBIT NO. 87
COMPANY: _____
WITNESS: _____
DATE: 4/29/96

File: Twomey

RECEIVED

Capital Strategies

JAN 17 1996

116 South Monroe Street Tallahassee, Florida

32301

Phone: (904) 224-6789 FAX (904) 222-6981

OFFICE OF THE GOVERNOR

FACSIMILE

To

Secretary Charles Dusseau
Department of Commerce
922-9150

For your information

For your signature

For your response

Urgent

Date

December 15, 1995

Message

Charles:

Here is the letter for the PSC regarding the financial situation of Southern States Utilities. The situation is critical. Please let me know if you can send it. I have provided the backup letter from the CEO. Thanks

-Jeff

SHARKEY

6

Page(s) w/ cover

December 12, 1995

Ms Susan F. Clark, ~~Chairman~~ ^{Chairperson}
Public Service Commission
Gunther Building
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0855

Dear Commissioner Clark:

I ~~have~~ recently received a copy of a letter sent to Governor Chiles by Mr. Arend Sandbulte, Chairman and CEO of Minnesota Power, that details the current economic impact of recent Public Service Commission decisions on Southern States Utilities. Minnesota Power is a major stakeholder in SSU and is very concerned about the regulatory conditions which ~~over the last year~~ have resulted in a year-to-date loss of \$453,749 and reduced the utilities rate of return on investment to -.43%.

they claim to

delete [It appears from Mr. Sandbulte's letter that Southern States Utilities has played a valuable role in preserving the quality of Florida's water by purchasing and upgrading small, often rural, failed water and wastewater systems but now, due to the Commission's reversal of its own 1993 uniform rates ruling, faces tremendous financial uncertainties.]

I realize ~~that~~ there are many complicated issues involved in the rate making decisions undertaken by the staff and commissioners of the PSC and I don't want to suggest that the Florida Department of Commerce interfere or question those decisions. I am concerned, however, about the economic status of Florida's largest private sector water utility. As you well realize, Governor Chiles and Lt. Governor MacKay are attempting to streamline government regulation to ensure that businesses can operate productively and efficiently in the best interest of Florida consumers. My Department's interest is in ensuring that government provide a climate for businesses to compete and prosper in the marketplace ~~and for those within a more regulated environment to be allowed a reasonable rate of return on their investments~~. Otherwise, businesses will refuse to invest in the state's infrastructure, markets and human resources. Consequently, I get concerned when the regulatory process has the serious potential to jeopardize any investment in jobs and revenue for the State.

I would assume that in your deliberations about rate structures and rate of return for SSU, that staff has adequately informed Commission members of the overall economic impact your decisions are having on the company. I would appreciate any information you might be able to provide me on the overall economic and financial consequences facing SSU so I can respond to Mr. Sandbulte's letter to Governor Chiles.

In light of the area code debates in Broward County that embroiled the economic development and international trade communities in the region, it may be helpful for us to discuss what issues we share in common that affect the overall economic welfare of the state. I hope ~~that~~ we can continue ~~the~~ discussions to create a positive business climate and quality of life for Florida consumers in Florida. ~~Best regards~~.

Sincerely,

Charles Dusseau, Secretary

Secretary of Commerce

DOCKET 950495-WS
EXHIBIT NO. 88
CASE NO. 96-04227

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application for a rate
increase for Orange-Osceola
Utilities, Inc. in Osceola County,
and in Bradford, Brevard, Charlotte,
Citrus, Clay, Collier, Duval,
Highlands, Lake, Lee, Marion,
Martin, Nassau, Orange, Osceola,
Pasco, Putnam, Seminole, St. Johns,
St. Lucie, Volusia, and Washington
Counties by Southern States
Utilities, Inc.
_____)

Docket No. 950495-WS

Cross Examination Exhibit 88

**Two page FAX dated December 21, 1995, to Secretary Charles Dusseau
from Sharkey at Capital Strategies**

FLORIDA PUBLIC SERVICE COMMISSION
DOCKET
NO. 950495-WS EXHIBIT NO 88
COMPANY/
WITNESS: _____
DATE: 4/25/96

Capital Strategies

116 South Monroe Street Tallahassee, Florida 32301

Phone: (904) 224-6789 FAX (904) 222-6981

FACSIMILE

To **Secretary Charles Dusseau**
Department of Commerce
 922-9150

Date **December 21, 1995**

- For your information
- For your signature
- For your response
- Urgent

Message

Charles:

Here is the revised letter for Southern States Utilities as we discussed. Let me know if this is ok. Have a good holiday. Thanks

-Jeff

*Stephano - good print is new section
 Thanks - [Signature]*

Deadline is Jan 3rd

SHARKEY

December 18, 1995

Susan F. Clark, Chairperson
Florida Public Service Commission
Gunther Building
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0855

Dear Commissioner Clark:

I recently received a copy of a letter sent to Governor Chiles by Mr. Arend Sandbulte, Chairman and CEO of Minnesota Power in Duluth, Minnesota. As you are aware, Minnesota Power owns Southern States Utilities, a water and wastewater utility company based in Apopka. This letter outlined his corporation's concerns regarding the PSC's recent uniform rate ruling pertaining to Minnesota Power (PSC-95-1292-POF-WS).

Businesses frequently contact this Department with concerns about regulatory decisions, and the PSC under your leadership has been very supportive of our efforts to ensure a fair and favorable setting for economic development in Florida. Your recent cooperation on the economic development expenditures issue and the telephone area code issue are good examples. However, as you can imagine, one of the basic elements for business survival in any marketplace is a predictable and stable business climate. Without it, business managers are unable to make informed decisions which can often make the difference between business survival and failure. An unpredictable environment, even in a regulated setting, can put tremendous financial pressure on firms such as SSU, which may lead them to rethink their investment in Florida. *could*
and cause businesses considering FL as a site for expansion to go elsewhere.

In this case, I have asked a member of our staff, Nick Leslie, to consult with your staff and with the Water Policy Office in the Department of Environmental Protections. Nick will advise me on the reasoning behind the Commission's order and on what, if any, recourse might be available to Southern States Utilities. Nick can be reached at 487-2568.

As always, I appreciate the cooperation of the Commission and thank you for your attention to this issue.

Sincerely,

Charles Dusseau
Secretary of Commerce

cc: Governor Chiles
Jeff Sharkey

DOCKET 950495-WS

EXHIBIT NO. 89

CASE NO. 96-04227

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application by Southern States Utilities)
 Inc. for rate increase and increase in service)
 availability charges for Orange-Osceola Utilities,)
 Inc. in Osceola County, and in Bradford, Brevard,)
 Charlotte, Citrus, Clay, Collier, Duval, Hernando,)
 Highlands, Hillsborough, Lake, Lee, Marion,)
 Martin, Nassau, Orange, Osceola, Pasco, Polk,)
 Putnam, Seminole, St. Johns, St. Lucie, Volusia,)
 and Washington Counties.)

DOCKET NO. 950495-WS

CUSTOMER CROSS-EXAMINATION EXHIBIT NUMBER

89

FLORIDA PUBLIC SERVICE COMMISSION

DOCKET
NO. 950495-WS EXHIBIT NO 89

COMPANY

DATE: 4/29/56

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Application for a Rate) DOCKET NO. 91188-WS
Increase in Lee County by Lehigh) ORDER NO. PSC-93-0301-FOF-WS
Utilities, Inc.) ISSUED: 02/25/93

The following Commissioners participated in the disposition of
this matter:

THOMAS M. BEARD
SUSAN F. CLARK

APPEARANCES: KENNETH A. HOFFMAN, Esquire, Messer, Vickers,
Caparello, Madsen, Lewis, Goldman, & Metz, P.A.,
215 South Monroe Street, First Bank Building,
Suite 701, Tallahassee, Florida 32301, and
BRIAN P. ARMSTRONG, Esquire, Southern States
Utilities, Inc., 100 Color Place
Apopka, Florida
On behalf of Lehigh Utilities, Inc.

PATRICK K. WIGGINS, Esquire, Wiggins & Villacorta,
P.A., 501 East Tennessee Street,
Tallahassee, Florida 32302
On behalf of the Lehigh Acres Fire Control and
Rescue District

JACK SHREVE, Esquire, and HAROLD McLEAN, Esquire,
Office of Public Counsel, The Claude Pepper
Building, 111 West Madison Street, Tallahassee,
Florida 32399-1400
On behalf of the Citizens of the State of
Florida

CATHERINE BEDELL, Esquire, and LEEANN KNOWLES,
Esquire, Florida Public Service Commission
101 East Gaines Street
Tallahassee, Florida 32399-0863
On behalf of Commission Staff

WILLIAM WYROUGH, Esquire, Florida Public Service
Commission, 101 East Gaines Street
Tallahassee, Florida 32399-0861
Counsel to the Commissioners

DOCUMENT NUMBER-DATE

02202 FEB 25 93

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Application for a rate) DOCKET NO. 911188-WS
increase in Lee County by Lehigh) ORDER NO. PSC-93-1023-FOF-WS
Utilities, Inc.) ISSUED: 07-12-93

The following Commissioners participated in the disposition of
this matter:

J. TERRY DEASON, Chairman
SUSAN F. CLARK
THOMAS M. BEARD

ORDER ON RECONSIDERATION

BY THE COMMISSION:

BACKGROUND

Lehigh Utilities, Inc. (Lehigh or utility) is a class A water and wastewater utility providing service to approximately 10,000 customers in Lehigh Acres, Lee County, Florida. By Order No. PSC-93-0301-FOF-WS, issued on February 25, 1993, this Commission authorized an increase in the utility's rates and charges. On March 11, 1993, the Office of Public Counsel (OPC) timely filed a Petition for Reconsideration of Order No. PSC-93-0301-FOF-WS. On March 12, 1993, Lehigh timely filed a Motion for Reconsideration of Order No. PSC-93-0301-FOF-WS and a Request for Oral Argument. On March 22, 1993, Lehigh filed a Response to Public Counsel's Petition for Reconsideration.

ORAL ARGUMENT

The utility argues that oral argument should be granted because it would facilitate the Commission's understanding of the evidence and precedents and their relationship to the issues raised on reconsideration. We find that the pleadings filed on reconsideration have presented every possible argument and that oral argument is not necessary to further explicate the utility's view. Therefore, Lehigh's request for oral argument is denied.



Southern States Utilities • 1000 Color Place • Apopka, FL 32703 • 407/880-0058

February 9, 1995

Mr. Jeff Sharkey
Capital Strategies, Inc.
P.O. Box 1713
Tallahassee, Florida 32302

Dear Jeff:

Thank you again for including me on the guest list for dinner with the Governor and Mrs. Chiles. It was a most enjoyable and memorable evening. While the affair was intended as a tribute the excellent work you've done on behalf of the Governor, it was I who felt honored to be in attendance.

The praise and kind words of appreciation given you by Governor and Mrs. Chiles were obviously heartfelt. There is a special bond between you and the Chiles that can only be build through a long association of respect and love. I treasure having been able to witness that show of affection.

Again, thank you for inviting me.

Sincerely,

Tracy Smith
(apparently, not your newest client)



Jeff

Appreciation for Jeff Sharkey

Jeff's guest: Ms. Paula J. Ryan
Vice President

✓ The Richman Group of Florida
330 Clematis Street
Suite 211
West Palm Beach, Florida 33401

✓ (2) Jim Eaton and Martha Edenfield
Post Office Box 1713
Tallahassee, Florida 32302

both will attend

✓ (2) Tad and Chris Fisher
Post Office Box 1713
Tallahassee, Florida 32302

Both will attend

✓ (2) Michael and Linda Kyshtower
2325 Tour Eiffel Drive
Tallahassee, Florida 32308

Both will attend

✓ (2) Mr. and Mrs. Michael Raynor
Southern Bell
150 South Monroe Street
Suite 400
Tallahassee, Florida 32301

will both attend

will attend

✓ (1) Ms. Margaret LaRoe
The Florida Chamber of Commerce
Post Office Box 11309
Tallahassee, Florida 32302-3309

✓ (1) Mr. Sam D. Morrow
~~Executive Vice President~~
Affordable Housing Alliance, Inc.
533 Versailles Drive
Suite 105
Maitland, Florida 32751

Tom Sharkey - will attend

✓ (1) Mr. Tracy L. Smith
Manager of Government Relations and Communications
Southern States Utilities
1000 Color Place
Apopka, Florida 32703

will attend

✓ (1) Mr. Steve Murphy
Corporate Vice President of Government Relations
LifeFleet
5551 N.W. 9th Avenue
Ft. Lauderdale, Florida 33309

will attend

✓ (1) Ms. Donna Dowless
Ticketmaster of Florida
225 East Robinson Street
Suite 355
Orlando, Florida 32801

will attend

✓ (1) Mr. Al Barbani
30 Palm Avenue
Palm Island
Miami Beach, Florida 33139

will attend

✓ (1) Mrs. Pam Davis, Ph.D.
PRIDE of Florida
5540 Rio Vista Drive
Clearwater, Florida 34620-3107

will attend

✓ (1) Mr. Paul Kucis -- *regrets - not able to attend*
K-F Environmental Technologies, Inc.
210 West Parkway #5
P.O. Box 277
Pompton Plains, NJ 07444

✓ (1) Mr. Mike Hightower *will attend*
Vice President
Governmental and Legislative Relations
Blue Cross & Blue Shield of Florida
532 Riverside Avenue
P.O. Box 1798
Jacksonville, Florida 32231

✓ (1) Mr. H. Michael Dyc
Fst Buckley Schuh & Jernigan
2001 N.W. 107th Avenue
Miami, Florida 33172-2507

will attend

✓ (1) Mr. Robert McQueen
President
U.S. Corrections Corporation
2500 7th Street Road
Louisville, KY 40208

✓ (1) Ms. Anne Jolley Thomas
2026 East Forest Drive
Tallahassee, Florida 32303

will attend

Please mail an invitation to Jeff's Mom and Dad (they will not be able to attend):

✓ Mr. and Mrs. Tom Sharkey
1021 Oakdale Road
Augusta, Georgia 30904

will not attend

✓ Kay Sharkey Schlosser
HC-4 Abbieson Est.
Crosslake, MN 56442

and

✓ Mr. Ramon Campollo
c/o Campollo Edificio Trigul
7a Avenida 6-55 Zona 4
Guatemala City, Guatemala 324968

MEMO

TO: Buddy MacKay
FROM: Jeff Sharkey
DATE: December 3, 1993
RE: Water Policy Issues

I understand that you will be appearing before the Public Service Commission to discuss statewide water policy issues. I believe that what has prompted the dialogue is an interest in fully exploring the impact of the uniform rate decision granted to Southern States Utilities several months ago.

I thought that the background paper attached may provide you with an understanding of the rationale and implications of the decision. Southern States Utilities is interested in being a partner in the State's effort to develop a comprehensive water conservation control, and cost policy. Please let me know if I can provide you with additional information.

Thank you

MEMO

To: Sam Roberts
From: Jeff Sharkey
Date: June 14, 1994
Re: Recommended Legislative Contributions

As per your request, I would recommend considering financial support for the following legislators because of their interest in water policy issues or positions in leadership on committees with jurisdiction over your issues.

- Rep. Robert Sindler, (Apopka), House Business & Professional Regulation
- Rep. Jack Tobin, (Broward), Chair, House Business & Professional Regulation
- Rep. John Rayson, (Broward), Chair, Subcommittee on Public and Private Utilities
- Rep. Fred Lippman, (Broward), Chair, Subcommittee on Professional Regulation
- Rep. Greg Gay, (Marco Island), Natural Resources committee
- Rep. Lars Hafner, (St. Petersburg), Natural Resources & Business and Prof. Reg.
- Rep. Safley, (Clearwater), Business & Prof. Regulation

- Sen. Rick Dantzler, (Winter Haven), Chair, Natural Resources
- Sen. Buddy Dyer, (Orlando), Natural Resources
- Sen. Beard, (Plant City), Vice Chair, Natural Resources
- Sen. Childers, (Pensacola), Chair, Commerce Committee

- Governor Lawton Chiles

LT. GOVERNOR'S SCHEDULE

Wednesday, November 8, 1995

6:05 pm

Friday, November 10

8:00am Council of 100 - Prayer Breakfast

9:00am

The Breakers

Staff Assigned: Koch, Karl

9:00am Council of 100 - Welcome & Intro (Recap of Thursday) - Jack Wilson & Jake Varn

9:20am

The Breakers

Staff Assigned: Koch, Karl

West Palm Beach

9:20am Council of 100 - "Focus on South Florida" - Moderator - Dick Pettigrew

10:15am

The Breakers

Staff Assigned: Koch, Karl

West Palm Beach

10:15am Council of 100 - "Water, Water Everywhere - The Impact of Statewide Policy"

11:00am

The Breakers

Staff Assigned: Koch, Karl

West Palm Beach

11:30am Meeting - Broward Workshop

11:45am

The Breakers

Staff Assigned: Sadowski, Jean

Palm Beach

Lt. Governor, Mrs. MacKay & Charlie Creel

12:00pm

Wheels Up - Tallahassee

1:40pm

Staff Assigned: Sadowski, Jean

N107FL-State Airpool - 488-4605