



JACK SHREVE
PUBLIC COUNSEL

STATE OF FLORIDA
OFFICE OF THE PUBLIC COUNSEL

c/o The Florida Legislature
111 West Madison Street
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September 19, 1995

Blanca S. Bayo, Director
Division of Records and Reporting
Florida Public Service Commission
2540 Shumard Oak Blvd.
Tallahassee, FL 32399-0850

Re: Docket No. 950495-WS

Dear Ms. Bayo:

Enclosed for filing in the above-referenced docket are the original and 15 copies of Citizens Motion for Appointment of Counsel.

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

Sincerely,

Jack Shreve
Jack Shreve
Public Counsel

- ACK
- FA 3
- APP _____
- CAF _____
- DMU _____ JS:bsr
- CTR _____
- EAG _____ Enclosures
- LEG 1
- LIN 5
- OPC _____
- RCH _____
- SEC 1
- WAS Wills
- OTH per

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DOCUMENT NUMBER-DATE
09234 SEP 19 95
FPSC-RECORDS/REPORTING

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

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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

Filed: September 18, 1995

CITIZENS MOTION FOR APPOINTMENT OF COUNSEL

The Citizens of the State of Florida, by and through JACK SHREVE, Public Counsel, (Citizens) intervenors herein, move the Florida Public Service Commission (commission) to compel Southern States Utilities, Inc. (SSU) to provide reasonable funds for the appointment of alternate customer counsel, and as grounds therefore say:

1. Florida Statutes establish the Office of Public Counsel (OPC) to provide legal representation for the Citizens of the state in proceedings before the commission¹;
2. OPC has extensively participated in the instant case through hearing before the commission and subsequent appeal;
3. The commission resolution of this case provides for a state wide uniform rate design which has generated controversy.

¹ Section 350.0611, Florida Statutes (1993)

Statewide rates allegedly cause a flow of value between customer groups, to wit, from customers for which the state wide rates cause recovery of more than SSU's stand alone costs to customers for whom the state wide rates cause recovery of less than SSU's stand alone costs;

4. Rule 4-1.7, Rules of Professional Conduct provides:

CONFLICT OF INTEREST; GENERAL RULE

(a) **Representing Adverse Interests.** A lawyer shall not represent a client if the representation of that client will be directly adverse to the interests of another client, unless:

(1) the lawyer reasonably believes that representation will not adversely affect the lawyer's responsibilities to and relationship with the other client; and

(2) each client consents after consultation.

Upon information and belief, undersigned counsel finds that the two generally defined customer groups' interests are adverse, each to the other, and that his representation of either one or the other is inimical to the interests of both;²

5. The complexity, if not the overwhelming volume of the current dispute concerning rate design, necessitates competent legal representation of the customers of SSU before the commission and before the courts;

² While the rate design issue has eclipsed the rate level issues, OPC has zealously represented each generally defined customer group in all such instances where there interests were virtually identical. However, OPC has scrupulously avoided advocating any position respecting rate design in this case.

6. The current dispute is manifested in the above referenced docket, and the various phases of its appeal; in cases 95-00425 and 95-00457, currently before the District Court of Appeal, First District; (1st. DCA) and potentially in other dockets, both commission and court as well;

7. As set forth above, customers appear to be aligned into two groups: On the one hand, customers for which the state wide rates cause recovery of more than SSU's stand alone costs; and on the other, customers for whom the state wide rates cause recovery of less than SSU's stand alone costs;

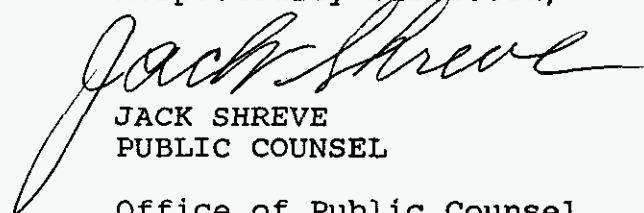
8. Each group's substantial interests are affected by commission adjudication of this issue;

9. Were the commission to compel SSU to provide reasonable funds for competent representation of the customers' interests, the Citizens believe that the attending expense to SSU would be prudently incurred in the prosecution of its case and should be considered rate case expense;

10. Were the commission to grant the instant motion, counsel should be selected by each of the two customer groups independently of SSU, of the commission, the commission staff and of OPC.

WHEREFORE the Citizens move the commission to compel SSU to provide a reasonable funds for the purpose of securing competent representation of the customers identified above.

Respectfully submitted,

A handwritten signature in cursive script that reads "Jack Shreve". The signature is written in black ink and is positioned to the left of the typed name and title.

JACK SHREVE
PUBLIC COUNSEL

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Tallahassee, FL 32399-
1400

Attorney for the Citizens
of the State of Florida

CERTIFICATE OF SERVICE
DOCKET NO. 950495-WS

I HEREBY CERTIFY that a correct copy of the foregoing has been furnished by U.S. Mail or hand-delivery to the following parties on this 19th day of September, 1995.


Ken Hoffman, Esq.
William B. Willingham, Esq.
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Jack Shreve
Public Counsel