



JACK SHREVE
PUBLIC COUNSEL

STATE OF FLORIDA
OFFICE OF THE PUBLIC COUNSEL

c/o The Florida Legislature
111 West Madison Street
Room 812
Tallahassee, Florida 32399-1400
904-488-9330

October 30, 1995

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

ORIGINAL
FILE COPY

Re: Docket No. 950495-WS

Dear Ms. Bayo:

Enclosed for filing in the above-referenced docket are the original and 15 copies of Citizens' Petition for Special Appearance -and- Motion to Strike.

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

Sincerely,

Harold McLean
Associate Public Counsel

- ACK ✓
- AFA 2
- APP _____
- CAF _____
- CMU _____
- CTR _____
- EAG HM/bgm
- LEG / Enclosures
- LIN 5
- OPC _____
- ROH _____
- SEC 1
- WAS Wills
- OTH _____

RECEIVED & FILED

EPSC-BUREAU OF RECORDS

DOCUMENT NUMBER-DATE

10643 OCT 30 95

FPSC-RECORDS/REPORTING

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.

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FILE COPY

Docket No. 950495-WS

Filed: October 30, 1995

PETITION FOR SPECIAL APPEARANCE

-and-

MOTION TO STRIKE

The Florida Public Counsel petitions the Florida Public Service Commission (Commission) to permit a special appearance for the limited purpose of moving to strike Southern States Utilities, Inc's (SSU) First Set of Interrogatories to the Office of Public Counsel and the Office of Public Counsel hereby moves the referenced interrogatories stricken and as grounds therefore says:

1. On October 10, 1995, SSU served numerous interrogatories on, and directed to, the Office of Public Counsel;
2. The Office of Public Counsel has not intervened in this docket;
3. The Office of Public Counsel is not party to this docket;
4. The Office of Public Counsel is not a litigant before this commission;
5. On July 14th, 1995, the Citizens of the State of Florida intervened in this docket, and the Commission acknowledged receipt of

the Citizens' Notice of Intervention; (See Composite Exhibit A);¹

6. The Office of Public Counsel has hitherto appeared in this docket solely as a legal representative on behalf of the Citizens of the State of Florida pursuant to Section 350.0611(1) Florida Statutes (1993);²

7. By means of the instant pleading, the Office of Public Counsel petitions the Commission to permit the office a special appearance for the sole purpose of moving the interrogatories served upon, and directed to, this office stricken;³

8. The Commission rules of practice authorize essentially the same discovery permitted in civil practice. Rule 25-22.034 provides in part:

Discovery. Parties may obtain discovery through the means and in the manner provided in Rules 1.280 through 1.400, Florida Rules of Civil Procedure.

9. The Florida Rules of Civil Procedure referenced in the Commission rule provide for discovery among parties, including the right of interrogatories to parties. Rule 1.340(a), provides in part:

¹ The responding commission order acknowledging intervention erroneously notes the intervention of the Office of Public Counsel, even though it references the notice filed on behalf of the Citizens of the State of Florida.

² Much as Rutlege, Ecenia, Underwood, Purnell & Hoffman have appeared in a representative capacity on behalf of SSU.

³ Since Order PSC-95-0943-PCO is presumably addressed to the parties in the case, the Office of Public Counsel (a non-party) here voluntarily complies with the provisions of Order PSC-95-0943-PCO, which provides, among other things, that objections to discovery should be raised within ten days of their service.

INTERROGATORIES TO PARTIES

(a) **Procedure for Use.** Without leave of court, any party may serve upon any other party written interrogatories . . .

No provision of the Florida Rules of Civil Procedure referenced in Commission Rule 25-22.034 provides authority for interrogatories to non-parties;

10. Neither the Florida Administrative Code nor the Florida Rules of Civil Procedure provide any authority whatsoever for the direction of interrogatories to the Office of Public Counsel where that office is not a party before the Commission;

11. The Office of Public Counsel moves the Commission to strike the interrogatories directed to its office by SSU;

12. The Office of Public Counsel, by its special appearance here, does not waive any infirmity, defect, or other objection, on behalf of, or available to the Citizens of the State of Florida, should this or any other discovery eventually be directed to the Citizens of the State of Florida by any party;⁴

13. The Office of Public Counsel here offers neither waiver and nor consent to any further appearance in this docket by this office, other than their appearance in a representative capacity on behalf of

⁴ Although the tendered interrogatories contain 1) requests which SSU itself in this docket has argued privileged; 2) voluminous requests for materials of dubious relevance neither admissible at hearing nor reasonably calculated to lead to admissible evidence; 3) requests for which the Citizens of the State of Florida are in no better position to answer than SSU is; 4) numerous requests which require allegation and proof of special burden for SSU to obtain; and 5) numerous other valid objections; their assertion here would be premature since no discovery has been directed to the Citizens of the State of Florida, and no objection is here appropriate.

the Citizens of the State of Florida.

WHEREFORE, The Florida Office of Public Counsel moves the Florida Public Service Commission to permit a special appearance for the limited purpose of moving to strike Southern States Utilities, Inc's (SSU) First Set of Interrogatories to the Office of Public Counsel and the Office of Public Counsel hereby moves to strike the referenced interrogatories for the reasons set forth above.

Respectfully submitted,



Harold McLean
Associate Public Counsel

Office of Public Counsel
c/o The Florida Legislature
111 West Madison Street
Room 812
Tallahassee, FL 32399-1400

Attorney for the Office of
Public Counsel appearing
specially

RUTLEDGE, ECENIA, UNDERWOOD, PURNELL & HOFFMAN

PROFESSIONAL ASSOCIATION
ATTORNEYS AND COUNSELORS AT LAW

STEPHEN A. ECENIA
KENNETH A. HOFFMAN
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GOVERNMENTAL CONSULTANTS:
PATRICK R. MALOY
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TELEPHONE (904) 681-6788
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October 30, 1995

Ms. Blanca S. Bayo, Director
Division of Records and Reporting
Florida Public Service Commission
2540 Shumard Oak Boulevard
Betty Easley Conference Center
Room 110
Tallahassee, Florida 32399-0850

HAND DELIVERY

ORIGINAL
FILE COPY

Re: Docket No. **950495-WS**

Dear Ms. Bayo:

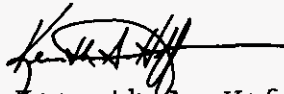
Enclosed herewith for filing in the above-referenced docket on behalf of Southern States Utilities, Inc. are the following documents:

1. Original and one copy of Southern States Utilities, Inc.'s Notice of Service of First Set of Interrogatories to the Citizens of the State of Florida; and ~~10658-95~~
2. Original and one copy of Southern States Utilities, Inc.'s Notice of Service of First Set of Requests for Production of Documents to the Citizens of the State of Florida. 10658-95

Please acknowledge receipt of these documents by stamping the extra copy of this letter "filed" and returning the same to me.

Thank you for your assistance with this filing.

Sincerely,



Kenneth A. Hoffman

REC'D
NOV 1 1995
SEC 1- KAH/rl

cc: All Parties of Record

OTH Trib.3

RECEIVED & FILED
28
RECORDS

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.

ORIGINAL FILE COPY

Docket No. 950495-WS

Filed: October 30, 1995

SOUTHERN STATES UTILITIES, INC.'S NOTICE OF SERVICE OF FIRST SET OF INTERROGATORIES TO THE CITIZENS OF THE STATE OF FLORIDA

Southern States Utilities, Inc. ("SSU"), by and through its undersigned counsel, hereby files its Notice that it has served an original and one copy of its First Set of Interrogatories to the Citizens of the State of Florida ("Citizens") by hand delivery on Charles J. Beck, Esq., 111 West Madison Street, Room 812, Tallahassee, Florida 32399-1400, on this 30th day of October, 1995. Copies of SSU's First Set of Interrogatories to the Citizens have been served on the other parties of record in the manner set forth in the attached Certificate of Service.

Respectfully submitted,

[Signature] KENNETH A. HOFFMAN, ESQ. WILLIAM B. WILLINGHAM, ESQ. Rutledge, Ecenia, Underwood, Purnell & Hoffman, P.A. P. O. Box 551 Tallahassee, FL 32302-0551 (904) 681-6788

and

DOCUMENT NUMBER-DATE 10657 OCT 30 1995 FPSC-RECORDS/REPORTING

BRIAN P. ARMSTRONG, ESQ.
MATTHEW FEIL, ESQ.
Southern States Utilities, Inc.
1000 Color Place
Apopka, Florida 32703
(407) 880-0058

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing Southern States Utilities, Inc.'s Notice of Service of First Set of Interrogatories to the Citizens of the State of Florida was furnished by hand delivery (*) and U. S. Mail to the following 20th day of October, 1995:

Lila Jaber, Esq.
Division of Legal Services
2540 Shumard Oak Boulevard
Gerald L. Gunter Building
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Charles J. Beck, Esq.*
Office of Public Counsel
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Michael B. Twomey, Esq.
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Tallahassee, FL 32314-5256

Mr. Kjell Pettersen
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Donald Odom, Esq.
P. O. Box 1110
Tampa, FL 33601


KENNETH A. HOFFMAN, ESQ.