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April 5, 1996

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

Re: Docket No. 950495-WS

Dear Ms. Bayo:

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

1. Original and fifteen copies of SSU's Response to OPC's Motion to Require Discovery Responses by April 22 and SSU's Objections to OPC Document Request Nos. 327 & 328 and Interrogatories 373, 379, 380, 381 and 382; and

2. A disk in Word Perfect 6.0 containing a copy of the document.

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,

Bill Willoghan for
Kenneth A. Hoffman

ACK
AFA 3
APP _____
CAF _____
CMU _____
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cc: All Parties of Record
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DOCUMENT NUMBER-DATE
04034 APR-5 96
FPSC-RECORDS/REPORTING

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

ORIGINAL
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In Re: Application by Southern)
States Utilities, Inc. for rate)
increase and increase in service)
availability charges for 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.)

Docket No. 950495-WS

Filed: April 5, 1996

SSU'S RESPONSE TO OPC'S MOTION TO
REQUIRE DISCOVERY RESPONSES BY APRIL 22

AND

SSU'S OBJECTIONS TO OPC DOCUMENT NOS. REQUEST 327 & 328
AND INTERROGATORIES 373, 379, 380, 381 & 382

SOUTHERN STATES UTILITIES, INC. ("SSU"), by and through its undersigned counsel, and pursuant to Rules 25-22.037(2)(b) and 25-22.060(1)(c), Florida Administrative Code, hereby files this Response to the Citizens' Motion to Require Discovery Responses by April 22, 1996 ("Motion") filed by the Office of Public Counsel ("OPC") on March 29, 1996. SSU also hereby files its objections to OPC's Document Requests 327 and 328 from OPC's 26th Set of Requests for Production of Documents and Interrogatories 373, 379, 380, 381, and 382 from OPC's 22nd Set of Interrogatories served on counsel for SSU by hand delivery March 29, 1996. In support of its Response and Objections, SSU states as follows:

Response to the Motion

1. Except as identified below, SSU does not object to responding to OPC's 26th Set of Request for Production of Documents

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and 22nd Set of Interrogatories within the time normally allowed for responding to said discovery. By the same token, SSU expects that OPC will respond to SSU's Second Set of Interrogatories to OPC, served on OPC by hand delivery on March 27, 1996, within the time normally allowed for same. Alternatively, SSU would agree to provide responses to the OPC discovery requests which SSU does not object to by the date OPC requests (April 22) if OPC responds by Wednesday, May 1 to any discovery SSU serves on OPC by Tuesday, April 9.

2. The issue OPC's Motion poses, but fails to address, is whether (1) the discovery completion date set by the Prehearing Officer militates a shorter response time to discovery so the discovery completion date may be met or (2) the discovery completion date permits the normal response time with a limited waiver of the discovery completion date as to the discovery at issue. OPC cites no Commission precedent supportive of its view, and SSU is not aware of any.¹ Therefore, SSU submits that the latter permissive course (limited waiver of the completion date), rather than OPC's suggested former course (for expedited discovery), should be accepted here, particularly considering the following circumstances:

- a. SSU believes OPC is already at or over the 1000

¹ SSU believes it is more common for the parties to agree to and the Prehearing Officer to allow certain discovery after the discovery completion date as circumstances may warrant, such as when a party announces at a Prehearing Conference that it intends to call a witness not listed in its Prehearing Statement and the discovery completion date is approaching or has already passed.

interrogatory and 500 document request discovery caps established by the Prehearing Officer by Order No. PSC-95-0943-PCO-WS, issued August 4, 1995. Although OPC's interrogatories and document requests through this date are ostensibly numbered through 385 and 345 respectively, OPC has taken more than generous advantage of the caps through the use of unnumbered, and more often than not unsegregated, subparts. In earlier sets of discovery, it was not uncommon for each of OPC's numbered interrogatories to have five labeled or unlabeled subparts; and in the current set of interrogatories at issue, Interrogatory 373, for example, would appear to have at least four unlabelled subparts. Given the staggering volume of OPC discovery requests in this docket and OPC's failure to identify and tabulate subparts, it is as difficult for OPC to empirically prove it is not over the cap as it is for SSU to empirically prove OPC is, especially when one considers the subjective aspects of any attempt at accurate tabulation in this case. Nonetheless, in addition to OPC's inveterate failure to label and tabulate subparts, which adds at least three fold to OPC's numbering, SSU calls the Prehearing Officer's attention to the fact that as of this date, SSU has provided OPC with over **70,000 pages** of copies of information responsive to OPC's written discovery requests, formal and informal. This is in addition to the vast reams of information OPC inspected but did not copy. OPC could not possibly be under the caps considering this.

b. The hearing for this case is set to begin April 29. OPC's request for expedited discovery comes solely at the expense of SSU and SSU's time to prepare for the hearing. There is no legitimate, equitable reason why OPC should not bear a certain measure of the burden of condensed preparation time by having the discovery due when it is normally due.

c. OPC suggests in its Motion that its 26th Set of Request for Production of Documents and 22nd Set of Interrogatories "all relate to the rebuttal testimony" of SSU. With respect to a significant number of the subject interrogatories and document requests, this OPC assertion is suspect at best. For example, OPC Interrogatories 370, 373, 374, 375, 376, and 379 and Document Request 337, 340, 341, and 342, as well as significant portions of other interrogatories and document requests in OPC's 26th and 22nd Sets, relate to information in the rebuttal testimony which was essentially repeated, restated or refined from SSU's direct testimony and exhibits.² It is simply erroneous to suggest that OPC could not have requested this information anytime after SSU's MFR's were accepted on August 2, 1995.

Objections to Discovery

3. As stated above, SSU objects to OPC Document Requests 327 and 328 from OPC's 26th Set of Request for Production of Documents

² In the case of the interrogatories and document requests specifically enumerated in this paragraph, the questions specifically relate to the Hewitt Associates Study attached to Ms. Lock's prefiled direct testimony as Exhibit __ (DGL-3).

and Interrogatories 373, 379, 380, 381, and 382 from OPC's 22nd Set of Interrogatories. Rather than restate the full text of each of the foregoing discovery requests herein, SSU has attached as "Exhibit A" hereto a copy of the objectionable requests. SSU's objections fall into two basic categories: (1) incomprehensible discovery requests which request SSU to perform calculations for OPC and (2) work product/other.

4. SSU objects to Interrogatory 373, which is fairly representative of several subsequent objectionable interrogatories, only to the extent stated below. Interrogatory 373 states as follows:

On page 32 of his rebuttal testimony, Frank Johnson states that the budgeted salary increases of 4.765% is reasonable "based on the detailed analysis of each incumbent's pay." Since the 17.3% figure used on page 27 of his testimony is based on percentage comparison of salary levels, please restate the 17.3% figure in terms of budget by stating the SSU actual salaries for each job category, the Hewitt Study market value for each job category, the number of incumbents per job category, and the total difference in budget dollars based on SSU actual versus market values for the company as a whole.

Describing why this and the related interrogatories that follow it are incomprehensible is like deciphering some inscrutable riddle. Clarification is inappropriate because of the extent of incomprehensibility³ in the questions and unnecessary because (1) SSU already has or will provide the underlying data apparently requested and (2) the question is objectionable on an independent

³ It should not be SSU's or the Commission's responsibility to waste time and effort deciphering OPC's discovery requests as SSU and the Commission has often had to do with OPC's pleadings.

basis insofar as OPC asks SSU to perform calculations for it which OPC may calculate for itself.⁴

5. The nature of Interrogatory 373's incomprehensibility emanates from the errors in its underlying bases. The 4.765% figure is not a "budget" figure, but rather a pro forma adjustment, as OPC must by now know. The 17.3% figure is "based on a percentage comparison of salary levels" only to the degree that the figure represents an average of the required percentage increase in pay levels for 50 benchmark positions (comparing actual average SSU pay to market value pay) to bring SSU pay levels to market. Again, OPC should by now know this. After making these erroneous statements, OPC totally befuddles matters by asking SSU to "restate the 17.3% figure in terms of budget by stating the SSU actual salaries for each job category, the Hewitt Study market value for each job category, the number of incumbents per job category, and the total difference in budget dollars based on SSU actual versus market values for the company as a whole." SSU has already or will provide OPC "actual salaries for each job category, the Hewitt Study market value for each job category, [and] the number of incumbents per job category," however, whatever calculations OPC would like SSU to perform based on that information, should be done by OPC with the data provided. See Fla. R. Civ. Pro. 1.340 (c).

⁴ Clarification is appropriate and requested with respect to the reference in Document Requests 334 and 335 and in Interrogatories 367 and 368 to "Interrogatory 1 above." It appears the reference intended may have been to Interrogatory 26. SSU believes it sufficient if OPC clarifies such reference by phone call or letter.

6. Interrogatories 379-382 suffer from the same or similar erroneous factual bases. As is clear from the Hewitt Study referenced and attached to Ms. Dale Lock's direct testimony, the 17.3% figure is not, as OPC states in these interrogatories, "a calculation of average salary levels." Further, in the referenced interrogatories, OPC asks SSU to recalculate "this number" without specific reference to which number, having just referred to two or three figures in the preceding language. Again, SSU cannot be required to perform calculations for OPC, especially when the calculations requested are incomprehensible. OPC should perform its own calculations. To assist OPC in whatever efforts it may undertake in this regard, SSU will indicate job category by department in the response to Interrogatory 373.

7. OPC Document Request 327 asks SSU to provide OPC with copies of decisions cited in Mr. Sandbulte's rebuttal testimony. These decisions are reported in West's Atlantic 2nd reporter and in the PUR 4th reporter, both of which are available at the FSU Law Library in Tallahassee, convenient to OPC's offices. OPC should be required to obtain its own copies of such documents.

8. OPC Document Request 328 asks SSU to provide OPC with SSU's legal research and therefore impermissibly requests work product. See Fla. R. Civ. Pro. 1.280; Order Nos. PSC-95-1503-CFO-WS, issued December 5, 1995, and PSC-92-0819-PCO-WS, issued August 14, 1992. By revealing some authority on the subject of gains on sales through the testimony of Mr. Sandbulte, SSU does not waive work product as to any other authority it may possess. See Morgan

v. Tracy, 604 So.2d 15 (Fla. 4th DCA 1992). For the Commission to hold otherwise would reward one party for its lack of effort at the expense of the other party's effort and tactical decision, which, SSU submits, would be counter to the principal purpose of the work product doctrine.

WHEREFORE, in consideration of the foregoing, SSU requests that the Commission deny OPC's Motion to Require Discovery Responses by April 22, 1996 and allow SSU to respond to those discovery requests not objected to herein by the normal due date, April 29, 1996, unless otherwise agreed to by OPC and SSU.

Respectfully submitted,



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and

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

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of SSU's Response to OPC's Motion to Require Discovery Responses by April 22 and SSU's Objections to OPC Document Request Nos. 327 & 328 and Interrogatories 373, 379, 380, 381 and 382 was furnished by U. S. Mail and/or hand delivery (*) to the following on this 5th day of April, 1996:

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KENNETH A. HOFFMAN, ESQ.

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

Filed: March 29, 1996

CITIZENS 22ND SET OF INTERROGATORIES
TO SOUTHERN STATES UTILITIES, INC.

Florida's Citizens ("Citizens"), by and through Jack Shreve, Public Counsel, propound the following interrogatories to Southern States Utilities, Inc. (the Company) to be answered under oath in full accordance with Rules 25-22.034 and 25-22.035 of the Florida Administrative Code and Rule 1.340 of the Florida Rules of Civil Procedure. All answers must be served upon the attorneys for the Citizens by Monday, April 26, 1996.

Each interrogatory is to be answered based upon the knowledge and information or belief of the Company, and any answer based upon information and belief is to state that it is given on such basis. If the complete answer to an interrogatory is not known, so state and answer as fully as possible the part of the interrogatory to which an answer is known. For each answer, or part thereof, please identify the individual or individuals who provided the information

Customer Service department employee salaries to market levels. Please demonstrate the method of calculating the 11.3% increase.

373. On page 32 of his rebuttal testimony, Frank Johnson states that the budgeted salary increase of 4.765% is reasonable "based on the detailed analysis of each incumbent's pay". Since the 17.3% figure used on page 27 of his testimony is based on a percentage comparison of salary levels, please restate the 17.3% figure in terms of budget by stating the SSU actual salaries for each job category, the Hewitt Study market value for each job category, the number of incumbents per job category, and the total difference in budget dollars based on SSU actual versus market values for the company as a whole.

374. On page 19 of DGL-3, please explain what calculations were made to produce the average difference of 8.8% between the SSU actual and the market, as described in column three of this exhibit.

375. On page 19 of DGL-3, please identify which column contains the actual average salary for the market for each position that was included in the Hewitt Study.

376. Please explain the difference between the 8.8% difference between SSU Actual versus Market as shown in DGL-3, page 19 and the 17.3% difference which Mr. Johnson states is produced from page 8

of the same exhibit.

377. On page 20 of the rebuttal testimony of Dale Locke, she states that the compound growth rate of salary budgets between 1993 and 1994 is 7.2%. Please state the same calculation for 1993 compared to 1992, 1995 compared to 1994 and 1996 compared to 1995.

378. Please state the average actual pay, as referenced on page 21 of Dale Locke's rebuttal testimony, lines 5-7, for each of the years 1992, 1993, 1994, 1995 and projected for 1996.

379. On page 23 and 24 of the rebuttal testimony of Dale Locke, she refers to 17.3% as the total percentage needed to "bring the surveyed positions to market" and 12.9% to bring them to market averages excluding Rate positions. Then she states, "SSU is requesting only a 4.7% adjustment in 1996 to begin to improve its competitive position." The 4.7% is apparently a budget calculation and the 17.3% is a calculation of average salary levels. Starting with the 17.3%, please recalculate this number assuming the increases in SSU salaries that are contained in the 4.7% budget number.

380. On page 23 and 24 of the rebuttal testimony of Dale Locke, she refers to 17.3% as the total percentage needed to "bring the surveyed positions to market" and 12.9% to bring them to market averages excluding Rate positions. Then she states, "SSU is

requesting only a 4.7% adjustment in 1996 to begin to improve its competitive position." The 4.7% is apparently a budget calculation and the 17.3% is a calculation of average salary levels. Starting with the 12.9%, please recalculate this number assuming the increases in SSU salaries that are contained in the 4.7% budget number.

381. On page 23 and 24 of the rebuttal testimony of Dale Locke, she refers to 17.3% as the total percentage needed to "bring the surveyed positions to market" and 12.9% to bring them to market averages excluding Rate positions. Then she states, "SSU is requesting only a 4.7% adjustment in 1996 to begin to improve its competitive position." The 4.7% is apparently a budget calculation and the 17.3% is a calculation of average salary levels. Starting with the 4.7% budget, please recalculate this number assuming the increases in SSU salaries are the same as recommended in the Hewitt Study that produced the 17.3% number.

382. On page 23 and 24 of the rebuttal testimony of Dale Locke, she refers to 17.3% as the total percentage needed to "bring the surveyed positions to market" and 12.9% to bring them to market averages excluding Rate positions. Then she states, "SSU is requesting only a 4.7% adjustment in 1996 to begin to improve its competitive position." The 4.7% is apparently a budget calculation and the 17.3% is a calculation of average salary levels. Excluding the Rate positions, please recalculate the

budget assuming that the Hewitt Study recommendations that produced the 12.9% differential were used in calculating the budget.

383. On page 33 of Dale Lock's rebuttal testimony she states that the 1994 merit increases actually earned in the Hewitt Associates 1994 and 1995 Salary Increase Survey Report were as follows:

Salaried Exempt	4.3%
Salaried Non-exempt	4.1%
Non-Union Hourly	3.8%
Union employees	3.3%

Please state the corresponding numbers for SSU employees in each category.

384. Please list all formal training that rebuttal witness Johnson has successfully completed since 1980 in the field of compensation, including the name of the institution, the inclusive dates of the training, the credits or degrees received and the subject of the training.

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

Filed: March 29, 1996

CITIZENS' 26TH SET OF REQUESTS FOR PRODUCTION OF DOCUMENTS
TO SOUTHERN STATES UTILITIES, INC.

Pursuant to Section 350.0611(1), Fla. Stat. (1995), Rules 25-22.034 and 25.22.035, F.A.C., and Rule 1.350, F.R.C.P., Florida's Citizens' ("Citizens"), by and through Jack Shreve, Public Counsel, request Southern States Utilities, Inc. ("SSU" or the "company") to produce the following documents for inspection and copying at the Office of Public Counsel, Claude Pepper Building, 111 West Madison Street, Room 812, Tallahassee, Florida 32399-1400, on or before Monday, April 22, 1996, or at such other time and place as may be mutually agreed upon by counsel.

INSTRUCTIONS

1. If any document is withheld under any claim of privilege, please furnish a list identifying each document for which privilege is claimed, together with the following information: date, sender,

respect to water conservation.

326. For purposes of this request, please refer to the rebuttal testimony of Mr. Farrell, page 13. Please provide the water conservation plans/programs for the City of Tampa and Hillsborough County.

327. For purposes of this request, please refer to the rebuttal testimony of Mr. Sandbulte, pages 20 through 24. Please provide a complete copy of the orders or decision cited.

328. For purposes of this request, please refer to the rebuttal testimony of Mr. Sandbulte, pages 20 through 24. Please provide a complete copy of any other orders or decisions in the Company's possession custody or control which discuss the ratemaking treatment of gains on sales.

329. Please provide all of the peer review comments on the article co-authored with John B. Whitcomb entitled "New Directions in Mapping Water Demand Curves" submitted to Water Resources Research. This would include comments received in first, second, and subsequent reviews of the manuscript. If these peer review comments have been destroyed, please indicate the approximate date during which the destruction occurred.

330. Please provide all of the water prices (BFC and gallonage