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850-488-9330

July 17, 2003

Ms. Blanca S. Bayó, Director  
Division of the Commission Clerk  
and Administrative Services  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, FL 32399-0870

COMMISSION  
CLERK

JUL 17 PM 3:00

RECEIVED 1:30

RE: Docket No. 020071-WS

Dear Ms. Bayó:

Enclosed are an original and fifteen copies each of Motion for a Finding that Citizens' Current Outstanding Discovery is Within the Limits Set by Order PSC-02-1495-PCO-WS, or in the Alternative, Motion for Modification of Order PSC-02-1495-PCO-WS and Motion to Compel Responses to Citizens' Fifteenth Set of Interrogatories and Fifteenth Set of Document Production Requests for filing in the above-referenced docket.

Please indicate receipt of filing by date-stamping the attached copy of this letter and returning it to this office. Thank you for your assistance in this matter.

Sincerely,

Stephen C. Burgess  
Associate Public Counsel

AUS  
CAF  
CMP  
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CTR  
ECR  
GCL  
OPC  
MMS  
SEC  
OTH

SCB/dsb  
Enclosures

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FPSC-BUREAU OF RECORDS

DOCUMENT NUMBER DATE

06394 JUL 17 8

FPSC-COMMISSION CLERK

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application for rate increase    )  
in Marion, Orange, Pasco, Pinellas,    )  
and Seminole Counties by Utilities,    )  
Inc. of Florida.                            )  
\_\_\_\_\_)

DOCKET NO.: 020071-WS  
FILED: July 17, 2003

**MOTION TO COMPEL RESPONSES TO CITIZENS'  
FIFTEENTH SET OF INTERROGATORIES AND FIFTEENTH  
SET OF DOCUMENT PRODUCTION REQUESTS**

The Citizens of the State of Florida, through their attorney, the Public Counsel, pursuant to Rule 1.380, Florida Rules of Civil Procedure, hereby file this motion to compel Utilities, Inc. of Florida (UIF) to answer the Citizens fifteenth set of interrogatories and fifteenth set of document production requests by August 5, 2003. As grounds, the Citizens submit:

1. On June 10, 2003, the Citizens propounded their fifteenth set of interrogatories (Nos. 190 through 199) and their fifteenth set of document production requests (Nos. 105-109) to UIF. Allowing five days for mailing, the responses were due July 15, 2003. The responses have not been received and are now overdue. By this motion, the Citizens seek the Commission to compel UIF to answer the outstanding discovery.
2. UIF has objected to the discovery, raising several points of contention. UIF's primary objection was that OPC's total discovery requests exceeded the limit imposed by Order No. PSC-02-1495-PCO-WS. In a companion motion, the Citizens address the issue of compliance with Order No. PSC-02-1495-PCO-WS. The remainder of UIF's objections will be addressed in paragraphs 3 through 7.

3. In paragraphs 6 and 7, of its motion, UIF objects to the Citizens' interrogatories "because most, if not all, of the information sought, could have been requested and provided last year," and that "many" of the requests are duplicative of other requests. These vague assertions are not valid objections to providing a proper response to a discovery request. The time frame is certainly within relevant parameters, and UIF's assertion that "many" requests are "duplicative" is a mischaracterization of the Citizens' discovery. UIF provides two examples of its contentions. First, UIF apparently feels that it is too late for the Citizens to serve interrogatory 198, which inquires about job descriptions of Water Services Corp. personnel, because "Citizens have had the Water Services Corp. allocation manuals since November 2002." There is no basis for this objection under the Rules of Civil Procedure. Second, UIF's vague assertion that "many" requests are "duplicative" is based on its example of POD No. 106, which asks for documentation of rate case expense. UIF asserts that "[T]hese documents" were already provided in response to Staff's Interrogatory Nos. 78-80. UIF is, or should be, aware that its actual rate case expense is an ever-changing item throughout this proceeding. The Citizens asked for the most current documentation at the time of its production request. If UIF is declaring that it will forgo all rate case expense not included in its response to Staff's Interrogatories 78 through 80, the Citizens will withdraw this request as unnecessary, but certainly not "duplicative." The only other example provided of "duplicative" requests is Citizens' Interrogatory No. 167, which is not one of the interrogatories made in Citizens' 15<sup>th</sup> Set. The other "many requests" deemed "duplicative" have not been specified in UIF's objection.

4. In its paragraph No. 8, UIF objects to Citizens' POD request No. 107, on the basis that "a) the information sought is not relevant to this matter and not reasonably calculated to lead to discovery of admissible evidence; and b) the scope of the request is overly broad." POD No. 107

requests from UIF “all contracts between WSC or its affiliates and the systems that are provided contract services.” Contrary to UIF’s assertion, this information is quite relevant to this matter. Citizens’ prefiled testimony, as well as Staff’s Audit, both address the fact that WSC or its affiliates provide contract services to other water and wastewater systems, yet these other systems are not allocated any costs from WSC. Citizens seek these contracts for service in order to further understand the services that are provided pursuant to the contract arrangements and in order to present this Commission with additional evidence that supports the Citizens’ position in this proceeding. Likewise, this request is not “overly broad,” in that the request is precisely tailored to only those contracts between WSC or its affiliates and the specific systems to which they provide these contract services. The Citizens are aware of fewer than ten systems for which WSC or its affiliates provide contract services. If this production request reveals new information about additional systems with which WSC or its affiliates contract, then so much the better. That information falls far short of an “overly broad” request and is certainly relevant to this proceeding. UIF is obliged to fully respond to this request.

5. In paragraph 9, UIF objects to Citizens’ Interrogatory No. 196, claiming that the question is “unclear” and “does not refer to a document or other reference point. Accordingly, it does not understand the question and is therefore uncertain as to how to respond.” There is nothing “unclear” about this interrogatory, which pointedly and unambiguously asks UIF to explain why it used only water customers to allocate WSC rate base amount in this case. Water Services Corp. rate base is a line item in UIF’s MFRs on the rate base schedules. The allocation of rate base is also contained in the WSC allocation document to which UIF refers in paragraph 6 of its motion. UIF has come to the Commission, initiating its rate increase request. If UIF is truly unable to answer why it has

chosen a particular allocation method, then UIF should properly respond to this interrogatory, explaining its inability to do so.

6. In paragraph 10 of its motion, UIF asserts that the Citizens would not be prejudiced by granting its request for the Commission to refuse any “further discovery in this case” because “most of the information sought by Citizens has already been provided” and “the information is not material to the issues, therefore, not necessary to prepare their case.” Even if “most” of the information the Citizens have sought had already been provided, it still would not relieve UIF from its obligation to provide the rest of the information sought. The fact is, however, UIF, has not demonstrated in any manner that the information sought by the Citizens to prepare their case against UIF’s request for a rate increase is “duplicative.” If any request appears to UIF to be “duplicative,” it is because UIF’s earlier, related response was inadequate and required Citizens to seek further information and clarification. The POD requests and the interrogatories propounded to UIF all seek to explore in greater depth and detail the issues that Citizens are responsibly raising in this proceeding. Each and every POD request and interrogatory contained in the Citizens’ 15<sup>th</sup> sets relates to issues addressed by the Citizens’ witnesses and are relevant to the issues in this proceeding.

UIF’s assertion that the information sought is not material to the issues and not necessary for Citizens to prepare their case is simply wrong.

7. UIF’s objection in paragraph No. 11 of its motion is not relevant. UIF addresses its concern about all of the testimony yet to come in this case - its own, as well as that of Staff’s - and preparation of its Prehearing Statement. Accordingly, UIF claims that discovery propounded by the Citizens is “not only prejudicial and disruptive” but is not even material to the Citizens’ case. As to UIF’s claim of “disruption,” the testimony has now been filed so this discovery will not hamper

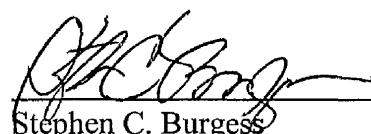
any of UIF's preparation. As to UIF's claim of materiality to the Citizens' case, these requests are for information necessary for the support of the Citizens' case and for our witnesses to rely on while testifying live before the Commission.

8. A review of paragraphs 3 through 7, above, demonstrates that UIF has not raised any valid objections in its paragraph 6 through 11 of its motion. The Citizens' companion pleading addresses UIF's concern over the volume of discovery as limited by Order No. PSC-02-1495-PCO-WS. There are no valid reasons for UIF to refuse to answer the Citizens' fifteenth sets of discovery. UIF's time to respond has expired. The utility should be compelled to answer the discovery in question.

9. This legitimate discovery was due on July 15, 2003. The Citizens are entitled to a reasonable time to digest answers to this discovery prior to the hearing. The Citizens seek the Commission to compel UIF to respond to this discovery by August 5, 2003.

WHEREFORE, the Citizens of the State of Florida respectfully move this Commission to compel UIF to respond to the Citizens' fifteenth set of interrogatories and fifteenth set of document production requests by August 5, 2003.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "Stephen C. Burgess", is written over a horizontal line.

Stephen C. Burgess  
Deputy Public Counsel

Office of Public Counsel  
c/o the Florida Legislature  
111 West Madison Street, Room 812  
Tallahassee, Florida 32399-1400  
850-488-9330

**CERTIFICATE OF SERVICE**  
**DOCKET NO. 020071-WS**

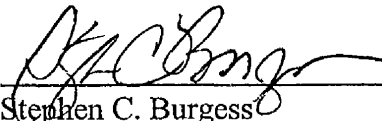
I HEREBY CERTIFY that a true and correct copy of the foregoing Motion to Compel Responses to Citizens' Fifteenth Set of Interrogatories and Fifteenth Set of Document Production Requests has been furnished by hand delivery(\*), facsimile and/or U.S. Mail to the following parties on this 17<sup>th</sup> day of July, 2003:

By U.S. Mail & Facsimile:

Martin S. Friedman, Esquire  
Rose, Sundstrom & Bentley, LLP  
600 S. North Lake Boulevard  
Suite 160  
Altamonte Springs, FL 32701

By Hand Delivery:

Rosanne Gervasi, Esquire(\*)  
Lorena Holley, Esquire  
Division of Legal Services  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, FL 32399-0850

  
\_\_\_\_\_  
Stephen C. Burgess  
Deputy Public Counsel