

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Application for increase ) DOCKET NO. 960329-WS  
in rates and service )  
availability charges in Lee )  
County by Gulf Utility Company )

In Re: Investigation of rates ) DOCKET NO. 960234-WS  
of Gulf Utility Company in Lee ) ORDER NO. PSC-97-0069-PCO-WS  
County for possible overearnings ) ISSUED: January 22, 1997

ORDER GRANTING MOTION FOR POSTPONEMENT OF HEARING  
AND REVISING ORDER ESTABLISHING PROCEDURE

A formal hearing is currently scheduled in Estero, Florida, on February 6-7, 1997, in order to address potential overearnings and the application for increase in rates and service availability charges filed by Gulf Utility Company (Gulf or Utility). The Order Establishing Procedure in this docket, Order No. PSC-96-1178-PCO-WS, issued September 20, 1996, established the hearing date and other key dates for the proceeding.

On January 15, 1997, Gulf filed a motion indicating that its primary consultant and witness in this matter, Mr. Keith Cardey, had been ill for several weeks and recently admitted to a hospital. As a result, Gulf states that Mr. Cardey has been unable to prepare rebuttal testimony and exhibits, and otherwise prepare for the hearing. Gulf has requested that the hearing date be postponed, and that several other key dates be rescheduled. The utility stipulates to a waiver of the eight month requirement of Section 367.081, Florida Statutes, until June 10, 1997. The Office of Public Counsel does not object to Gulf's request.

Upon consideration, Gulf's request to postpone the hearing is hereby granted. The hearing will be rescheduled to March 5-6, 1997, provided an acceptable hearing site can be secured. Accordingly, the controlling dates set forth in Order No. PSC-96-1178-PCO-WS are revised as follows:

- |                          |                   |
|--------------------------|-------------------|
| 1) Rebuttal Testimony    | February 13, 1997 |
| 2) Prehearing Conference | February 17, 1997 |
| 3) Discovery Complete    | February 27, 1997 |
| 4) Hearing               | March 5-6, 1997   |
| 5) Transcripts           | March 20, 1997    |
| 6) Briefs                | April 3, 1997     |

DOCUMENT NUMBER-DATE

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Gulf requests that a date certain for filing rebuttal testimony not be set until it knows when Mr. Cardey may return to work. Rebuttal testimony is generally filed before the Prehearing Conference. Therefore, rebuttal testimony will be due on February 13, 1997, as indicated above. An additional extension may be addressed in the future, if one becomes necessary.

Order No. PSC-96-1178-PCO-WS is hereby reaffirmed in all other respects.


Based upon the foregoing, it is

ORDERED by Commissioner J. Terry Deason, as Prehearing Officer, that Gulf Utility Company's motion for postponement of hearing and rescheduling of key dates is granted as set forth in the body of this Order. It is further

ORDERED that the controlling dates set forth in this Order supersede the controlling dates set forth in Order No. PSC-1178-PCO-WS. It is further

ORDERED that Order No. PSC-96-1178-PCO-WS is reaffirmed in all other respects.

By ORDER of Commissioner J. Terry Deason, as Prehearing Officer, this 22nd day of January, 1997.

  
J. TERRY DEASON, Commissioner and  
Prehearing Officer

( S E A L )

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**NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW**

The Florida Public Service Commission is required by Section 120.569(1), Florida Statutes, to notify parties of any administrative hearing or judicial review of Commission orders that is available under Sections 120.57 or 120.68, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing or judicial review will be granted or result in the relief sought.

Any party adversely affected by this order, which is preliminary, procedural or intermediate in nature, may request: (1) reconsideration within 10 days pursuant to Rule 25-22.0376, Florida Administrative Code, if issued by a Prehearing Officer; (2) reconsideration within 15 days pursuant to Rule 25-22.060, Florida Administrative Code, if issued by the Commission; or (3) judicial review by the Florida Supreme Court, in the case of an electric, gas or telephone utility, or the First District Court of Appeal, in the case of a water or wastewater utility. A motion for reconsideration shall be filed with the Director, Division of Records and Reporting, in the form prescribed by Rule 25-22.060, Florida Administrative Code. Judicial review of a preliminary, procedural or intermediate ruling or order is available if review of the final action will not provide an adequate remedy. Such review may be requested from the appropriate court, as described above, pursuant to Rule 9.100, Florida Rules of Appellate Procedure.