

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Application for) DOCKET NO. 960867-WU
amendment of Certificate No.) ORDER NO. PSC-97-0306-PCO-WU
427-W to add territory in Marion) ISSUED: March 21, 1997
County by Windstream Utilities)
Company)
_____)

ORDER GRANTING MOTION FOR
EXTENSION OF TIME TO FILE
REBUTTAL TESTIMONY

On July 27, 1996, Windstream Utilities Company (Windstream or utility) filed an application for amendment of Certificate No. 427-W to add territory in Marion County. A timely protest was received from JB Ranch on August 29, 1996, and by Order No. PSC-96-1273-PCO-WU, issued October 10, 1996, this matter was set for hearing. This order also established March 10, 1997 as the date to prefile rebuttal testimony. On December 18, 1996, the utility filed a Notice of Amendment to Application, whereby it sought to modify its application to eliminate the JB Ranch property from the territory to be served. On December 20, 1996, Marion County (the County) filed a Petition for Leave to Intervene. On December 30, 1996, the utility filed a Motion to Dismiss Protests. A ruling on these motions is pending.

On March 4, 1997, the utility filed a Motion for Extension of Time to File Rebuttal Testimony, wherein it requests an extension to prefile rebuttal testimony from March 10, 1997 until March 31, 1997. The utility states that its request should be granted in order to avoid the extreme cost and inconvenience that will result from the utility's having to file testimony when the protests may be dismissed. It further states that an extension will allow it to know whether the filing of that testimony is even necessary, and asserts that no party will be prejudiced by the short delay.

On March 10, 1997, the utility was orally granted an extension of time to prefile rebuttal testimony until such time that the County and JB Ranch filed their response to the utility's motion.

On March 11, 1997, both JB Ranch and the County filed a Memorandum in Opposition and Response to Windstream's Motion for Extension of Time to File Rebuttal Testimony. JB Ranch and the County argue that not only was the motion filed only six days before rebuttal testimony was due to be filed on March 10, 1997, but also that a grant of Windstream's motion would be fundamentally unfair. They argue that the result would enable Windstream to "view the prefiled direct testimony and rebuttal testimony, and

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then craft its own testimony after reviewing and examining the testimony filed by others well beyond the date for submittal." Therefore, they state, they would be substantially prejudiced by a grant of the utility's request.

Having reviewed the motion and the responsive pleadings, the utility's request for an extension to file rebuttal testimony is reasonable. A ruling on the pending motion to dismiss may eliminate the need for incurring additional costs preparing this case. Accordingly, parties or potential parties to this docket will not be prejudiced by a grant of the motion. Therefore, the utility's request for extension of time to file rebuttal testimony is hereby granted until April 9, 1997.

Order No. PSC-96-1273-PCO-WU is affirmed in all other respects.

Based upon the foregoing, it is

ORDERED by Commissioner Susan F. Clark, as Prehearing Officer, that Windstream Utilities Company's Motion for Extension of Time to File Rebuttal Testimony is granted until April 9, 1997.

By ORDER of Commissioner Susan F. Clark, as Prehearing Officer, this 21st day of March, 1997.


SUSAN F. CLARK, 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.