

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application for a rate ) DOCKET NO. 920655-WS  
increase in Collier County by ) ORDER NO. PSC-92-1177-PCO-WS  
Marco Island Utilities ) ISSUED: 10/29/92  
(Deltona )  
\_\_\_\_\_ )

ORDER REVISING ORDER ESTABLISHING PROCEDURE AND  
ALLOWING OPC TO SUBMIT ITS FIRST SET OF INTERROGATORIES

On September 23, 1992, the Office of Public Counsel (OPC) served its First Set of Interrogatories and First Request for Production of Documents on Southern States Utilities, Inc. (Southern States or utility). On the same date, OPC filed a Motion to Permit Additional Interrogatories, requesting that the Commission allow OPC to serve in excess of 30 interrogatories upon the utility. By Order No. PSC-92-1080-PCO-WS, Order Establishing Procedure, issued on September 30, 1992, the amount of discovery was limited to 150 interrogatories, including all subparts, and 75 production of documents, including all subparts. Therefore, since the Order Establishing Procedure indirectly granted OPC's request to submit in excess of 30 interrogatories, the Prehearing Officer found OPC's Motion to Permit Additional Interrogatories moot by Order No. PSC-92-1117-PCO-WS, issued October 5, 1992.

On October 7, 1992, OPC filed a Motion to Clarify Commission Order No. PSC-92-1117-PCO-WS, or in the alternative, OPC requests that the Commission allow OPC the right to submit its First Set of Interrogatories, which contains 87 interrogatories with 93 subparts, or a total of 180 interrogatories. OPC makes the request with the understanding that additional interrogatories will only be submitted after justification is given and request is made by separate motion to the Commission. On October 12, 1992, Southern States filed a Response to OPC's Motion to Clarify. In its response, the utility states that OPC's motion is really a request to exceed the discovery limit and that OPC must demonstrate good cause to exceed the limit established in Order No. PSC-92-1117-PCO-WS.

It is standard Commission practice for the Prehearing Officer to limit discovery in the Order Establishing Procedure. Rule 1.340 of the Rules of Civil Procedure states that "the interrogatories shall not exceed 30, including all subparts, unless the Court permits a larger number on motion and notice and for good cause." By Order No. PSC-92-1080-PCO-WS, the Prehearing Officer permitted 150 interrogatories, including subparts. OPC submitted 180 interrogatories in its first set. Even though OPC exceeded the limit set forth in the Order Establishing Procedure, the nature of the interrogatories appears to be reasonable. Therefore, OPC may submit all of its First Set of Interrogatories. Furthermore,

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because there is a likelihood that additional discovery will occur, it is appropriate to revise Order No. PSC-92-1080-PCO-WS (Order Establishing Procedure) to allow a total of 200 interrogatories, including subparts. All other aspects of Order No. PSC-92-1080-PCO-WS are hereby reaffirmed.

Based upon the foregoing, it is

ORDERED by Commissioner Susan F. Clark, as Prehearing Officer, that the Office of Public Counsel's request to allow it to submit all of its First Set of Interrogatories is hereby granted. It is further

ORDERED that Order No. PSC-92-1080-PCO-WS is hereby revised to permit a total of 200 interrogatories, including subparts. It is further

ORDERED that Order No. PSC-92-1080-PCO-WS is reaffirmed in all other respects. It is further

ORDERED that any additional interrogatories, exceeding the limit of 200, must be submitted after justification is given and request is made by separate motion.

By ORDER of Susan F. Clark, as Prehearing Officer, this 19th day of October, 1992.



SUSAN F. CLARK, Commissioner  
and Prehearing Officer

( S E A L )

LAJ

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NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.59(4), 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 25-22.038(2), 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.