

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: March 6, 2003

**MOTION FOR EXTENSION OF TIME TO FILE TESTIMONY**

The Citizens of the State of Florida, through their attorney, the Public Counsel, hereby file this Motion for a two-month extension of time to file testimony.

1. On February 12, 2003, the Commission issued Order No PSC-03-0213-PCO-WS. (hereinafter "Order No. 0213" or "the Order") that Order granted the Citizens first, second, third, fourth and fifth motions to compel discovery responses. The Order required Utilities, Inc. to provide responses to all discovery referenced in the Citizens' five motions to compel, and to provide those responses by February 22, 2003. Specifically, the Order stated:

The Citizens' First, Second, Third, Fourth, and Fifth Motions to Compel are granted. UIF shall provide all outstanding answers to these discovery requests within ten days of the date of this Order.

\* \* \* \*

The delay in receiving this information is already compromising OPC's ability to prepare its case. Further delays in responding to the discovery requests will not be tolerated.

[Id., at page 3]

2. Utilities, Inc. has not met all of the requirements of Order No. 0213. As of this writing, the Citizens still have not received several of the items of discovery that were subject to the requirements of the Order.

3. From the Citizens' (first) Motion to Compel, Utilities, Inc. has not supplied an answer to Interrogatory 20, nor Document Production requests 5, 16 and 32.

4. From the Citizens' Second Motion to Compel, Utilities, Inc. has not produced Documents 49, 50, 51, 52, 53, 54 or 55

5. From the Citizens' Fourth Motion to Compel, Utilities, Inc. has not provided a response to Document Requests 44, 45, 46, 47 or 48.

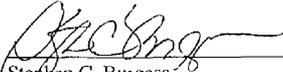
6. In addition to the failures specified in paragraphs 3 through 5, above, Utilities, Inc. also has failed to meet the specified February 22 deadline for service of several of the discovery responses which it has provided pursuant to Order No. 0213.

7. Although UIF has failed to comply with a large number of the demands of Order No. 0213, it is also true that UIF has produced a large number of the discovery responses required by the Order. Even this production, however, validates this motion for extension of time. The fact that UIF was able to produce so many responses within ten days demonstrates that had the utility chosen, it could have produced the information at any time during the proceedings. A number of the responses were from the Citizens first and second sets of discovery, which were propounded on July 25 and August 9, respectively. Since UIF did not object to these discovery requests, the rules of civil procedure impose a continuing duty for UIF to respond even without Order No. 0213. UIF, however, chose to delay its discovery responses for several months when apparently it could have provided them at any time.

8. Under Rule 1.380(b)(2), Florida Rules of Civil Procedure, a party that fails to obey an order to provide discovery is subject to various possible sanctions. One such sanction is dismissal of the disobedient party's petition, a sanction which the Citizens are seeking through a separate motion. Alternative sanctions available under the rules include refusing to allow the disobedient party to oppose designated claims which are affected by facts sought through the discovery. For the purposes of this motion, however, the Citizens are seeking only an extension of time to file testimony. At the very least, the Commission should prevent UIF from gaining an advantage from its delaying tactics. Since the Citizens have encountered a several month delay in obtaining information to which they have been entitled since as early as September, 2002, OPC seeks a two-month extension in the deadline for filing testimony.

WHEREFORE, the Citizens of the State of Florida, respectfully move the Commission to extend by two months the due date for the OPC's testimony.

Respectfully Submitted,



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

I HEREBY CERTIFY that a true and correct copy of the foregoing Motion for Extension of Time to File Testimony has been furnished by hand delivery, facsimile and/or U.S. Mail to the following parties on this 6<sup>th</sup> day of March, 2003:

By U.S. Mail & Facsimile:

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