

Matilda Sanders

ORIGINAL

From: ROBERTS.BRENDA [ROBERTS.BRENDA@leg.state.fl.us]
Sent: Thursday, May 11, 2006 4:55 PM
To: Filings@psc.state.fl.us
Cc: REILLY.STEVE
Attachments: 050281.Motion.e-filed version.doc

Electronic Filing

a. Person responsible for this electronic filing:

Stephen C. Reilly, Associate Public Counsel
Office of Public Counsel
c/o The Florida Legislature
111 West Madison Street, Room 812
Tallahassee, FL 32399-1400
(850) 488-9330
reilly.steve@leg.state.fl.us

b. Docket No. 050281-WS

In re: Application for increase in water and wastewater rates in Volusia by Plantation Bay Utility Company.

c. Document being filed on behalf of Office of Public Counsel

d. There are a total of 5 pages.

e. The document attached for electronic filing is a Motion to Amend Order Establishing Procedure.

(See attached file: 050281.Motion.e-filed version)

Thank you for your attention and cooperation to this request.

Brenda S. Roberts
Secretary to Stephen C. Reilly, Associate Public Counsel.
Office of Public Counsel
Telephone: (850) 488-9330
Fax: (850) 488-4491

- CTR
ECR
GCL
OPC
RCA
SCR
SCA
SEC 1

5/11/2006 Kim P.

DOCUMENT NUMBER-DATE
04156 MAY 11 8
FPSC-COMMISSION CLERK

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Application for increase in water)	
and wastewater rates in Volusia County by)	DOCKET NO. 050281-WS
Plantation Bay Utility Company)	FILED: May 11, 2006
_____)	

MOTION TO AMEND ORDER ESTABLISHING PROCEDURE

The Citizens of the State of Florida (“Citizens”), by and through their undersigned attorney, file this motion to amend Order No. PSC-06-0284-PCO-WS, (“Order Establishing Procedure”) in the above docket, and state:

1. The Office of Public Counsel (“OPC” or “Citizens”) has engaged in good faith negotiations with Plantation Bay Utility Company (“Plantation Bay”, “Utility” or “Company”) to settle the instant case without the benefit or expense of a formal evidentiary hearing. The prospects of accomplishing a settlement appeared very promising because both sides indicated a willingness to accept the revenue requirement and rates provided by Order No. PSC-06-0170A-PAA-WS. The negotiations focused upon what levels of developer contributed versus Utility invested distribution and collection lines would be permitted for the years 2006 through 2012. Establishing an appropriate cash service availability fee, given certain levels of developer contributed versus Utility invested distribution and collection lines, was also discussed in the negotiations.

DOCUMENT NUMBER-DATE

04156 MAY 11 8

FPSC-COMMISSION CLERK

2. The possibility of settlement was sufficiently promising that OPC focused all of its efforts and resources to accomplishing the settlement rather than hiring consultants and preparing for hearing. The prospects for settlement were sufficiently promising that the informal issue identification conference with Staff was postponed and rescheduled for Tuesday, May 9, 2006. The hope was that the case would be settled on or before that date. Unfortunately, the negotiations broke down on that date when the Utility countered with a proposal that was less favorable to the customers than even the initial offer that was provided by the Utility when the negotiations first began. Consequently, OPC is quickly mobilizing to go to hearing in this case.

3. The Order Establishing Procedure provides OPC testimony to be filed on June 19, 2006. Given the normal 30 day time period to respond to interrogatories and requests for production of documents, it is going to be very problematic for OPC to provide reasonably documented prefiled testimony by this date.

4. To assist OPC in preparing more meaningful prefiled testimony, OPC proposes to submit its initial discovery requests to the Utility by Friday, May 19, 2006. OPC requests that the Utility be required to respond to all discovery requests received by May 19, 2006 within 20 days or June 8, 2006. All interrogatories or requests for production of documents received after May 19, 2006 may be responded to in the normal 30 day time period. Further, the Utility should be required to make available at Plantation Bay all necessary people for one day of depositions to be held on Thursday, June 15, 2006. OPC

requests that it be permitted to submit its prefiled direct testimony on Friday, June 30, 2006. If this date for submitting Citizens prefiled direct testimony is approved, OPC requests that the Company's date to file its direct testimony be delayed to May 29, 2006, Staff's direct testimony be delayed to July 24, 2006, rebuttal testimony be delayed to August 21, 2006 and prehearing statements also be delayed to August 21, 2006. The Citizens request that all of the other controlling dates and provisions of the Order Establishing Procedure remain the same.

5. Approval of the above request will aid the prefiled testimony procedure of this docket. The Citizens have communicated with Staff and the Utility concerning the requested changes to the above five controlling dates, and the requirement of the Utility to respond to discovery requests received on or before Friday, May 19, 2006, within 20 days, and the requirement to make available all necessary people for depositions on Thursday, June 15, 2006. Both Staff and the Utility indicate that they support the above changes to the Order Establishing Procedure. However, since the people who will be deposed have not yet been determined, OPC and the Utility will have to work together to resolve any potential scheduling conflicts that will preserve sufficient time for OPC to prepare and submit its prefiled direct testimony by Friday, June 30, 2006.

WHEREFORE, for the foregoing reasons the Citizens request the Prehearing Officer to change the five controlling dates as provided above and modify the time for the Utility to respond to discovery requests and require the scheduling of a day of depositions as requested above.

Respectfully submitted,

s/ Stephen C. Reilly
Stephen C. Reilly
Associate Public Counsel

Office of Public Counsel
c/o The Florida Legislature
111 West Madison Street, Room 812
Tallahassee, FL 32399-1400

Attorney for the Citizens
Of the State of Florida

CERTIFICATE OF SERVICE
DOCKET NO. 050281-WS

I **HEREBY CERTIFY** that a true and correct copy of the foregoing Motion to Amend Order Establishing Procedure has been furnished by U.S. Mail and electronic mail to the following parties this 11th day of May, 2006.

Rosanne Gervasi, Esquire
Florida Public Service Commission
Division of Legal Service
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

Martin S, Friedman, Esquire
Rose Sunstrom & Bentley, LLP
600 S. North Lake Boulevard, Suite 160
Altamonte Springs, FL 32701-6177

s/ Stephen C. Reilly
Stephen C. Reilly
Associate Public Counsel