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Sent: Thursday, January 26, 2012 3:45 PM
To: Filings@psc.state.fl.us
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Subject: e-filing (Dkt. No. 110153-SU)
Attachments: 110153.OPC's motion for extension of time.doc.pdf

Electronic Filing

a. Person responsible for this electronic filing:

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b. Docket No. 110153-SU

In re: Application for Increase in Wastewater Rates in Lee County by Utilities, Inc. of Eagle Ridge

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

d. There are a total of 7 pages.

e. The document attached for electronic filing is Office of Public Counsel's Motion for Extension of Time to File Testimony and Exhibits.
(See attached file: 110153.OPC's motion for extension of time.doc.pdf)

Thank you for your attention and cooperation to this request.

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1/26/2012

DOCUMENT NUMBER-DATE
00540 JAN 26 2012
FPSC-COMMISSION CLERK

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Application for Increase in
Wastewater Rates in Lee County by
Utilities, Inc. of Eagle Ridge.

Docket No. 110153-SU
Filed: January 26, 2012

OFFICE OF PUBLIC COUNSEL'S
MOTION FOR EXTENSION OF TIME
TO FILE TESTIMONY AND EXHIBITS

The Office of Public Counsel ("OPC"), by and through J.R. Kelly, Public Counsel, moves the Presiding Officer for an extension of time, from February 22, 2012, until and including March 7, 2012, to file Intervenor testimony and exhibits regarding the Application for Increase in Wastewater Rates in Lee County by Utilities, Inc. of Eagle Ridge, and states:

1. Pursuant to Section 350.0611, Florida Statutes ("F.S."), OPC is the statutory Intervenor, and is duly authorized to provide legal representation for the Citizens of the State of Florida before the Public Service Commission. By Order No. PSC-11-0519-PCO-SU, issued November 4, 2011, the Commission acknowledged OPC's intervention in this docket to represent the customers of Utilities, Inc. of Eagle Ridge.
2. By Order No. PSC-11-0587-PAA-SU, issued December 21, 2011, the Commission issued its Proposed Agency Action ("PAA") Order granting Utilities, Inc. of Eagle Ridge's ("Eagle Ridge's" or "Company's") request for an increase in wastewater rates in Lee County.

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3. On December 22, 2011, Eagle Ridge filed its Petition for Formal Administrative Hearing, protesting portions of the Commission's PAA Order and raising three distinct issues for adjudication.

4. Pursuant to Section 367.081(8), F.S., a utility may request that its rate relief petition be addressed by the Commission's proposed agency action procedure, and the Commission shall enter its vote on the PAA within five (5) months of the official filing date; if the PAA is protested, the Commission's "final decision shall be rendered by the commission within 8 months of the date the protest is filed." Because PAA Order No. PSC-11-0587-PAA-SU was protested on December 22, 2011, the Commission must now render its final decision on or before August 22, 2012, unless otherwise waived by Eagle Ridge.

5. On January 9, 2012, OPC filed its Petition on Proposed Agency Action, protesting portions of the Commission PAA Order and raising four distinct issues separate and apart from the issues raised by Eagle Ridge for adjudication.

6. OPC contends that while the issues raised by the parties in this case are not numerous, the issues are nonetheless complex, comprehensive, and require adequate time to evaluate, conduct and review discovery, draft Intervenor testimony, and create exhibits in order that all issues raised by all parties are fully and adequately addressed at the scheduled administrative hearing so that neither party is unduly prejudiced.

7. Order No. PSC-12-0042-PCO-SU, issued January 25, 2012, establishing procedure (“OEP”) sets forth that Intervenors’ testimony and exhibits shall be filed by February 22, 2012, which is a mere 14 calendar days after Eagle Ridge files its testimony and exhibits.

8. OPC contends that the date established in this docket for filing of Intervenor testimony and exhibits is wholly inadequate for the purposes of conducting reasonable discovery, is prejudicial to OPC and any Intervenors’ rights to prepare and file testimony and exhibits, and is a clear departure from Commission procedural precedent and practice in establishing schedules in protested water and wastewater cases set for administrative hearing.

9. A review of six recently issued OEPs in water and wastewater dockets set for administrative hearing indicates that Intervenors are routinely provided between four (4) and eight (8) weeks to file testimony and exhibits from the date the utility files its testimony and exhibits. *See* Order No. PSC-10-0105-PCO-WS, Docket No. 090478-WS (allowing Intervenors 31 days (over four weeks) to file testimony); Order No. PSC-10-0116-PCO-WU, in Docket No. 080562-WU (allowing Intervenors 29 days (over four weeks) to file testimony); Order No. PSC-10-0224-PCO-WS, in Docket Nos. 090445-WS, 090459-WS (allowing Intervenors 49 days (7 weeks) to file testimony); Order No. PSC-10-0740-PCO-WU, Docket No. 100085-WU (allowing Intervenors 31 days (over four weeks) to file testimony); Order No. PSC-11-0280-PCO-WU, Docket No. 080562-WU (allowing Intervenors 58 days (over eight weeks) to file testimony); and Order

No. PSC-11-0309-PCO-WS, Docket No. 100330-WS (allowing Intervenors 43 days (over 6 weeks) to file testimony).

10. Allowing two weeks (14-calendar days) in this case for OPC is a clear departure from the Commission's usual practice and precedent with no rationale provided in the OEP for this departure. The filing dates reserved for Staff testimony and exhibits and the Company's Rebuttal testimony and exhibits was not similarly truncated.

11. According to the OEPs issued in the above referenced dockets, the length of those administrative hearings scheduled ranged from one day to five days, but were usually scheduled for two days. Since the administrative hearing in the instant case is scheduled for two days, then one would reasonably assume that a similar testimony filing schedule for the Intervenors would have been established, providing at a minimum four weeks from the date the utility filed for Intervenors to file testimony and exhibits. It is unreasonable to expect that an Intervenor party can properly review a utility's pre-filed direct testimony and exhibits, send and receive written discovery, schedule a deposition or depositions of Company witnesses, prepare deposition questions, conduct deposition(s), receive deposition transcript(s), and then thoughtfully and thoroughly prepare Intervenor testimony within a 14-day calendar period.

12. In evaluating the protested issues raised by Eagle Ridge and OPC, as far as OPC can determine, there are no exigent circumstances requiring that the

Commission depart from its normal established testimony filing schedules. Eagle Ridge in its Petition for Administrative Hearing did not request expedited resolution of its protest through an expedited hearing process, nor did OPC. OPC asserts there is no statutory requirement for an expedited review of the Company's rate case request and none was requested. As previously mentioned, because of the Company's protest, the Commission now has eight months, or until August 22, 2012, in which to render its final decision.

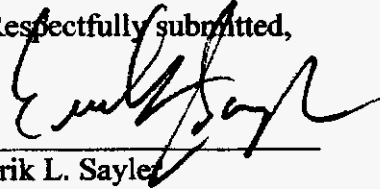
13. To afford equal time to all parties, OPC is not opposed to a similar extension of time for the filing of Staff testimony and exhibits and Rebuttal testimony and exhibits. OPC, however, is not seeking a change in the scheduled hearing dates, only a two-week extension in the filing of Intervenor testimony and exhibits.¹

14. The undersigned has contacted Counsel for Eagle Ridge about OPC's request for a two-week extension and similar extension for filing of Staff and Rebuttal testimony and exhibits. Counsel for Eagle Ridge indicated his client would likely oppose OPC's request and would probably not be interested in a similar two-week extension. There are at this time no other Intervenor parties in this case.

¹ A review of the Commission Calendar indicates there appears to be ample space in the Commission's Calendar to hold a two-day administrative hearing during the week of April 30 to May 4, 2012, should the granting of this request necessitate the rescheduling of this administrative hearing for a later date. However, OPC is not seeking a change in the hearing date, only a two-week extension in filing of Intervenor testimony and exhibits.

WHEREFORE, OPC, on behalf of the customers of Eagle Ridge, respectfully requests that the deadline for the filing of Intervenor testimony and exhibits be extended from February 22, 2012, until and including March 7, 2012.

Respectfully submitted,



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CERTIFICATE OF SERVICE

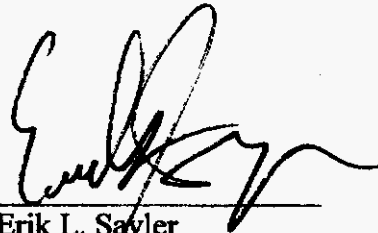
DOCKET NO. 110153-SU

I HEREBY CERTIFY that a true and correct copy of the OFFICE OF PUBLIC COUNSEL'S MOTION FOR EXTENSION OF TIME TO FILE TESTIMONY AND EXHIBITS has been furnished by electronic mail and/or U.S. mail to the following parties this 26th day of January, 2012:

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