

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Objection to notice of)	DOCKET NO. 881584-WS
application of YULEE UTILITY,)	
INCORPORATED, for water and sewer)	ORDER NO. 21514
certificates in Nassau County)	
<hr/>		ISSUED: 7-6-89

ORDER ESTABLISHING PROCEDURE

Pursuant to the objections filed to the Notice of Application of Yulee Utility, Inc., this matter is currently set for an administrative hearing on October 26 and October 27, 1989.

The scope of this proceeding shall be based upon the issues raised by the parties and Commission Staff during the prehearing conference, unless modified by the Commission. The hearing will be conducted according to the provisions of Chapter 120, Florida Statutes, and the rules and regulations of this Commission.

Discovery

When interrogatories or requests for production are served on a party and the respondent intends to object to or ask for clarification of an interrogatory or request for production, the objection or request for clarification shall be made within ten (10) days of service of the interrogatory or request for production. This procedure is intended to reduce delay time in discovery.

Notice

At least 14 days and not more than 20 days prior to the formal hearing to be held for this docket, the utility shall have published in a newspaper of general circulation in the area in which the hearing is to be held a display advertisement stating the specific date, time, location, and purpose of the hearing. The advertisement shall be approved by the Commission Staff prior to publication.

Preliminary List of Issues

On or before July 7, 1989, each party shall file a preliminary list of issues that it believes require resolution in this case. Commission Staff may also file its own preliminary list of issues on that date. The original and eight copies of each such list of issues shall be filed with the Director, Division of Records and Reporting, Florida Public

DOCUMENT NUMBER-DATE

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Service Commission, 101 East Gaines Street, Tallahassee, Florida 32399-0863. A copy of each list of issues shall also be mailed to all other parties no later than its filing with the Commission.

First Preliminary Conference

The first informal preliminary conference shall be held at 9:00 a.m., Monday, July 10, 1989, in Suite 219, the Fletcher Building, 101 East Gaines Street in Tallahassee. All parties and Commission Staff shall attend. The purpose of the conference shall be to identify the issues believed to require resolution in this docket.

Prefiled Testimony and Exhibits

In accordance with Rule 25-22.048, Florida Administrative Code, each party shall be required to prefile all written testimony that it intends to sponsor. Commission Staff may file prefiled testimony in this case. Written testimony shall be typed on standard 8 1/2 x 11 inch transcript quality paper, double-spaced, with 25 numbered lines, on consecutively numbered pages, each with a sufficient left margin to allow for binding.

A copy of any prefiled exhibit sponsored by a witness shall be attached to his or her testimony and marked for identification. All other known exhibits shall be marked for identification at the prehearing conference. After an opportunity for opposing parties to object to introduction of the exhibits and to cross-examine the witness sponsoring them, exhibits may be offered into evidence at the hearing. Exhibits accepted into evidence at the hearing will be numbered sequentially.

The utility shall file the original and fifteen copies of its prefiled written testimony and exhibits with the Division of Records and Reporting on or before the close of business on July 17, 1989. Any objector or intervenor shall file the original and fifteen copies of its prefiled written testimony and exhibits on or before the close of business on August 17, 1989.

The original and fifteen copies of all prefiled rebuttal testimony and associated exhibits shall be filed with the Division of Records and Reporting on or before the close of business on September 14, 1989.

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A copy of all prefiled testimony and exhibits shall also be mailed to all other parties no later than their filing with the Commission.

Prehearing Statement

Pursuant to Rule 25-22.038(3), Florida Administrative Code, a prehearing statement shall be required of all parties in this docket on or before September 15, 1989. Commission Staff may also file a prehearing statement on that date. Failure of a party to timely file a prehearing statement shall be a waiver of any issue not raised by other parties or by the Commission. In addition, such failure shall preclude the party from presenting testimony in support of its position. Such prehearing statements shall set forth the following information in the sequence listed below.

- (a) the name and address of all known witnesses that may be called by the party, and the subject matter of their testimony;
- (b) a description of all known exhibits that may be sponsored by the party, their contents, whether they may be identified on a composite basis, and the witness sponsoring each;
- (c) a statement of basic position in the proceeding;
- (d) a statement of each question of fact the party considers at issue, the party's position on each such issue, and which of the party's witnesses will address the issue;
- (e) a statement of each question of law the party considers at issue and the party's position on each such issue;
- (f) a statement of each policy question the party considers at issue, the party's position on each such issue, and which of the party's witnesses will address the issue;
- (g) a statement of issues that have been stipulated to by the parties;
- (h) a statement of all pending motions or other matters the party seeks action upon; and
- (i) a statement as to any requirement set forth in this

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order that cannot be complied with, and the reasons therefor.

The original and fifteen copies of each prehearing statement shall be filed with the Division of Records and Reporting on or before the close of business on September 15, 1989. A copy of the prehearing statement shall also be mailed to all other parties no later than its filing with the Commission.

Second Preliminary Prehearing Conference

An informal conference of the parties' attorneys or other representatives and Commission Staff shall be held at 9:30 a.m., September 20, 1989, in the conference room of the Division of Legal Services, Suite 219, the Fletcher Building, 101 East Gaines Street, in Tallahassee. The purpose of the conference shall be to define the questions of fact, law and policy considered by the parties and Commission Staff to be at issue in this case.

Parties and Commission Staff

Unless advised in writing of a change in the name or address of the parties' representatives, copies of lists of issues, prehearing statements, prefiled testimony and exhibits shall be furnished to:

B. KENNETH GATLIN, Esquire, Gatlin, Woods, Carlson & Cowdery, 1709-D Mahan Drive, Tallahassee, Florida 32308 on behalf of Sunray Utilities, Inc.

BEN E. GIRTMAN, Esquire, Attorney at Law, 1020 East Lafayette Street, Suite 207, Tallahassee, Florida 32301 on behalf of Rayonier Timberlands Operating Company, L.P., ITT Rayonier, Incorporated, and Rayland Company, Inc.

MICHAEL S. MULLIN, Esquire, Nassau County, Board of County Commissioners, Post Office Box 1010, Fernandina Beach, Florida 32034

SCOTT G. SCHILDBERG, Esquire, Martin, Ade, Birchfield & Mickler, P.A., Post Office Box 59, Jacksonville, Florida 32201 on behalf of Yulee Utilities, Inc.

SUZANNE F. SUMMERLIN, Esquire, Florida Public Service Commission, 101 East Gaines Street, Tallahassee, Florida 32399-0850

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Prehearing Conference

A prehearing conference will be held in Room 122, at 9:30 a.m., on Thursday, October 5, 1989. The conditions of Rule 25-22.038 (5)(b), Florida Administrative Code, shall be observed. Any party who fails to attend the prehearing conference, unless excused by the prehearing officer, will have waived all issues and positions raised in that party's prehearing statement.

Prehearing Procedure: Waiver of Issues

Any issue not raised by a party prior to the issuance of the prehearing order shall be waived by that party, except for good cause shown. A party seeking to raise a new issue after the issuance of the prehearing order shall demonstrate that: it was unable to identify the issue because of the complexity of the matter; discovery or other prehearing procedures were not adequate to fully develop the issue; due diligence was exercised to obtain facts touching on the issue; information obtained subsequent to the issuance of the prehearing order was not previously available to enable the party to identify the issue; and introduction of the issue could not be to the prejudice or surprise of any party. Specific reference shall be made to the information received, and how it enabled the party to identify the issue.

Unless a matter is not at issue for that party, each party shall diligently endeavor in good faith to take a position on each issue prior to issuance of the prehearing order. When a party is unable to take a position on an issue, it shall bring that fact to the attention of the prehearing officer. If the prehearing officer finds that, in fact, the party has acted diligently and in good faith to take a position, and further finds that the party's failure to succeed in taking a position will not prejudice other parties or confuse the proceeding, the party may maintain "no position at this time" prior to hearing and thereafter identify its position in a post-hearing statement of issues. In the absence of such a finding by the prehearing officer, the party shall have waived the entire issue. When an issue and position have been properly identified, any party may adopt that issue and position in its post-hearing statement.

Controlling Dates

The following dates have been established to govern the key activities of this case:

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1) Preliminary lists of issues shall be filed on or before July 7, 1989.

2) The first preliminary conference shall be held at 9:00 a.m., Monday, July 10, 1989, in Suite 219, the Fletcher Building, 101 East Gaines Street, in Tallahassee.

3) Prefiled direct testimony and exhibits shall be filed on or before the following dates:

Applicant - July 17, 1989
Intervenors - August 17, 1989
Commission Staff, if any - August 29, 1989

4) Rebuttal testimony, if any, and associated exhibits shall be filed on or before September 14, 1989.

5) Prehearing statements shall be filed on or before September 15, 1989.

6) The second preliminary conference shall be held at 9:30 a.m., Wednesday, September 20, 1989, in Suite 219, the Fletcher Building, 101 East Gaines Street, in Tallahassee

7) The prehearing conference shall be held Thursday, October 5, 1989, at a time and location to be determined.

8) The formal hearing shall be held on October 26-27, 1989 at a time and location to be determined.

By ORDER of Commissioner THOMAS M. BEARD, as Prehearing Officer, this 6th day of JULY, 1989.


THOMAS M. BEARD, Commissioner
and Prehearing Officer

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