

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Application for a Rate) DOCKET NO. 921261-WS
Increase in Lee County by HARBOR) ORDER NO. PSC-94-0413-PCO-WS
UTILITIES COMPANY, INC.) ISSUED: April 8, 1994

ORDER GRANTING MOTION FOR
EXTENSION TO FILE DIRECT TESTIMONY

On March 31, 1994, Harbor Utilities Company, Inc. (Harbor) filed a Motion for Extension of Time (Motion), requesting additional time to file its testimony. By Order No. PSC-94-0336-PCO-WS, issued March 25, 1994, the date on which company testimony is due is April 8, 1994. Harbor requests that the date for company direct testimony be changed to May 16, 1994. The Office of Public Counsel (OPC) intervened in this matter and has objected to Harbor's request for extension of time.

In its motion, Harbor alleges that since one of the key issues in the case is the status of the proposed Municipal Services Benefit Unit (MSBU) for Imperial Harbor, the voting results on the MSBU need to be considered in order for Harbor to file its testimony. The ballots were officially counted and certified on Thursday, March 31, 1994. Harbor further states that since the utility's testimony is due April 8, 1994, one week after the official results of the MSBU vote, this is simply not enough time for the utility to prepare relevant testimony which "adequately addresses the consequences of the MSBU vote."

Furthermore, Harbor states that Procedural Order No. PSC-94-0336-PCO-WS set the date for intervenor testimony for July 12, 1994 and set the date for staff's testimony for July 26, 1994. Harbor asserts that since the intervenor and staff's testimony is due on July 12 and 26, respectively, this extension of time will not unduly prejudice any current or potential party to this docket.

In its objection filed April 6, 1994, OPC argues that the extension, if granted, would directly prejudice OPC by reducing their allotted time for analysis, discovery and all other activities in this cause, by five weeks. OPC argues that Harbor ignores the Case Assignment and Scheduling Record (CASR) which was issued on March 2, 1994, in which Harbor was made aware that its direct testimony was due on April 8, 1994. In addition, OPC argues that Harbor itself protested the Commission's Proposed Agency Action Order No. PSC-94-0075-FOF-WS on February 11, 1994. OPC also argues that, from its protest, Harbor knew of the need to prefile direct testimony. Moreover, OPC argues that Harbor should have been prepared for the contingency that the MSBU might not pass.

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Finally, since OPC would be prejudiced by giving Harbor an extension to file testimony, OPC urges that the date for its testimony be delayed by an equal number of days.

Harbor's motion for an extension of time to file direct testimony on May 16, 1994 appears reasonable and does not prejudice staff nor OPC. OPC's request for an equal extension of time if Harbor's motion is approved, is not reasonable in light of the fact that OPC still has sufficient time to prepare. Although we find that OPC's time remains sufficient to respond to the company's testimony, OPC's point is well taken that the company's testimony must support its MFRs as already filed. If its testimony represents a new filing, the Commission will take the appropriate action at that time. In consideration of the foregoing, Harbor's motion to extend direct testimony filing date is granted. Because OPC still has sufficient time to prepare and file its testimony, OPC's request is denied.

Based on the foregoing, it is, therefore,

ORDERED by Commissioner Susan F. Clark, as Prehearing Officer, that Harbor Utilities Company, Inc.'s Motion for Extension of Time to File Direct Testimony on May 16, 1994, is granted. It is further

ORDERED that the Office of Public Counsel's request for an extension to file its testimony is denied.

By ORDER of Commissioner Susan F. Clark, as Prehearing Officer, this 8th day of April, 1994.



SUSAN F. CLARK, Commissioner and
Prehearing Officer

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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.