

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Conservation Cost) DOCKET NO. 950002-EG
Recovery Clause) ORDER NO. PSC-95-0199-PCO-EG
_____) ISSUED: February 10, 1995

ORDER GRANTING PEOPLES GAS SYSTEM, INC.'S REQUEST TO FILE
SUPPLEMENTAL TESTIMONY AND GRANTING TAMPA ELECTRIC COMPANY'S
REQUEST TO LATE FILE REBUTTAL TESTIMONY

On January 25, 1995, Peoples Gas System, Inc. ("Peoples") filed a Motion for Leave to File Supplemental Testimony and simultaneously filed direct testimony pursuant to the Order Establishing Procedure, Order No. PSC-95-0066-PCO-EG, governing this docket. In its motion for leave, Peoples alleges that Tampa Electric Company ("TECO") filed responses to staff's First Set of Interrogatories by mail on January 20, 1995, which were received by Peoples' Counsel by mail on Monday, January 23, 1995. It is Peoples' belief that the "responses filed by TECO are inadequate to form the basis for a thorough evaluation of the calculations underlying the comparisons of gas and electricity costs presented in TECO's advertising." TECO, however, supplied all the parties with a supplement to its initial responses. Said supplement was hand delivered to Peoples and mailed to other parties of record on January 31, 1995.

Staff has advised the prehearing officer that the additional information supplied by TECO still is not fully responsive to staff's interrogatory number 1 of staff's First Set of Interrogatories. Therefore, TECO is hereby ordered to file the information in the form and manner requested by Commission staff, and serve all parties, no later than noon Tuesday, February 14, 1995. Staff counsel and counsel for Peoples shall be served by hand delivery.

Peoples contends that it anticipated that the supplement provided by TECO on January 31, 1995, would be fully responsive to staff's interrogatories. Peoples requested that it be allowed seven calendar days from receipt to review and to file supplemental direct testimony. Further, Peoples agrees that TECO should be allowed a corresponding extension of time to file rebuttal testimony to Peoples' supplemental testimony, if necessary.

TECO filed a Response to Motion of Peoples Gas System, Inc. for Leave to File Supplemental Testimony on February 1, 1995. TECO's response states that TECO does not oppose Peoples having an opportunity to submit supplemental testimony "so long as it is

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restricted solely to the content of the additional data and calculations which TECO furnished to parties" on January 30, 1995. Since TECO has not yet fully complied with the Commission staff's discovery request, and the Prehearing in this docket is scheduled for February 20, 1995, Peoples shall be granted until Friday, February 17, 1995, to file supplemental testimony. Said supplemental testimony shall be restricted to both the contents of the additional data supplied by TECO on January 30, 1995, and to be supplied on February 14, 1995.

TECO additionally conditioned its non-objection to Peoples' motion on TECO being allowed to submit rebuttal testimony addressing the prepared direct testimony of Mr. Vernon I. Krutsinger, filed in behalf of Peoples on January 25, 1995. On February 3, 1995, Peoples filed a Response to Tampa Electric Company's Response to Peoples' Motion for Leave to File Supplemental Testimony. Peoples' response objects to the proposed condition stating that the appropriate date for filing rebuttal testimony was February 1, 1995, when Peoples timely filed its rebuttal testimony, pursuant to Order No. 95-0066. Peoples argues that

allowing TECO to impose this condition will give TECO an unfair advantage not only by giving it additional time to review Mr. Krutsinger's direct/intervenor testimony, but also by allowing TECO to prepare such rebuttal testimony in light of, and having reviewed and considered, Mr. Krutsinger's timely filed rebuttal testimony.

After considering the foregoing, and in order to insure a complete record in this proceeding, TECO shall be permitted to file rebuttal testimony limited strictly to rebuttal of direct testimony of Mr. Vernon I. Krutsinger. Since Teco has had ample time to review this testimony, the rebuttal testimony shall be filed by February 14, 1995. In the event that TECO inadvertently goes beyond the limits of this Order and files surrebuttal testimony related to Mr. Vernon I. Krutsinger's rebuttal testimony, the prehearing officer will entertain a Motion to Strike said surrebuttal testimony.

Further, after Peoples files supplemental direct testimony on February 17, 1995, TECO may file rebuttal testimony limited to the supplemental direct testimony. However, due to the time constraints of this docket, and because the delays are to some degree the result of TECO's delay in responding to discovery, TECO shall only be allowed until Monday, February 20, 1995, to file said rebuttal testimony.

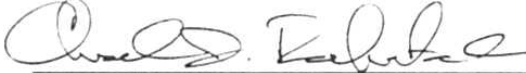
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Based upon the foregoing, it is

ORDERED by Commissioner J. Terry Deason, as Prehearing Officer, that the provisions of this Order shall govern the filing of supplemental direct and rebuttal testimony. It is further

ORDERED Tampa Electric Company shall file appropriate responses to Staff's First Set of Interrogatories by February 14, 1995.

By ORDER of Commissioner J. Terry Deason, as Prehearing Officer, this 10th day of February, 1995.


ASSIST. TO, AND FOR,
J. TERRY DEASON, Commissioner
Prehearing Officer

(S E A L)

SLE

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

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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.