

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Application for rate ) DOCKET NO. 950495-WS  
increase and increase in service ) ORDER NO. PSC-95-1321-PCO-WS  
availability charges by Southern ) ISSUED: October 31, 1995  
States Utilities, Inc. for )  
Orange-Osceola Utilities, Inc. )  
in Osceola County, and in )  
Bradford, Brevard, Charlotte, )  
Citrus, Clay, Collier, Duval, )  
Hernando, Highlands, )  
Hillsborough, Lake, Lee, Marion, )  
Martin, Nassau, Orange, Osceola, )  
Pasco, Polk, Putnam, Seminole, )  
St. Johns, St. Lucie, Volusia, )  
and Washington Counties. )

ORDER DENYING THE OFFICE OF PUBLIC COUNSEL'S  
THIRD MOTION TO COMPEL AND DENYING THIRD MOTION  
TO POSTPONE DATE FOR FILING INTERVENOR TESTIMONY

On September 8, 1995, the Office of Public Counsel (OPC) filed the Citizens' Third Motion to Compel and Third Motion to Postpone Date for Filing Intervenor Testimony. On September 15, 1995, Southern States Utilities, Inc. (SSU or utility) filed a response to OPC's motions. Having reviewed the arguments in OPC's motions and in the utility's response, OPC's third motion to compel and OPC's third motion to postpone the date for filing intervenor testimony are denied.

MOTION TO COMPEL

In its motion to compel, OPC states that its interrogatories numbered 33 and 55 were insufficiently answered by SSU. Further, OPC states that SSU did not respond to the information sought in its document requests numbered 90, 103, and 104. SSU responded by stating that the responses OPC claims as deficient were responded to elsewhere in OPC's discovery requests, or that OPC inspected the information at SSU's offices.

Interrogatory No. 33

Interrogatory No. 33 asked for information relating to any and all of SSU's transfers and/or sales of land or assets to or from utility operations from non-related or related parties. OPC states that SSU's response to Interrogatory No. 33 is insufficient because it only addressed non-land assets. SSU's response states that the information concerning land was provided in SSU's response to OPC's

DOCUMENT NUMBER-DATE

10675 OCT 31 85

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Document Request No. 127, which was served by UPS on September 15, 1995. Since SSU has provided the subject matter of OPC's motion to compel, OPC's motion to compel is denied as it pertains to this item.

Interrogatory No. 55

Interrogatory No. 55 asked for information regarding any property sold in the last five years which had formerly been included in plant held for future use, plant in service, or devoted to utility service. OPC states that SSU's response to Interrogatory No. 55 is insufficient because it only addresses plants that are or have been under Commission jurisdiction. SSU's response states that the utility provided OPC with the non-jurisdictional information responsive to the interrogatory when OPC was on site at SSU's offices during the week of September 5, 1995. Since this motion to compel has been filed, OPC asked for the non-jurisdictional information through Interrogatory No. 241, to which SSU has responded. Therefore, OPC's motion to compel is denied as it pertains to this item.

Document Requests 90, 103, and 104

These document requests asked for documents related to charges from Minnesota Power and Light (MPL) and the Topeka Group, Inc. (TGI) to SSU. SSU responded that the information was provided in its response to Document Request No. 106. OPC states that it did not receive a response to Document Request No. 106. SSU's response states that the utility served its response to Document Request No. 106 by UPS on September 5, 1995, three days before OPC's third motion to compel was filed. Since SSU has responded to these document requests, OPC's motion to compel is denied as it pertains to these items.

THIRD MOTION TO POSTPONE DATE FOR FILING INTERVENOR TESTIMONY

OPC argues that it suffers an irrevocable delay due to SSU providing incomplete responses to certain discovery requests. SSU responds that it has responded timely to the vast majority of the hundreds of discovery requests, that the utility informed OPC that documents that were voluminous, unduly burdensome or costly to reproduce would be available on site at SSU's office in Apopka. SSU argues that OPC's arrival at SSU's offices three weeks after such notification is inconsistent with the notion that OPC is concerned about its ability to meet its testimony filing deadline.

Upon consideration, OPC's motion is hereby denied. OPC's argument is unpersuasive. SSU has answered the overwhelming

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majority of OPC's discovery in a manner that gives OPC sufficient time to file its testimony on November 20, 1995, the date established in Order No. PSC-95-1208-PCO-WS.

CONCLUSION

This Commission's role in the discovery process is to resolve bona fide disputes under the law. It is evident from the above that much of what OPC complains of could have been resolved by better communication between the parties. Therefore, in the interest of administrative efficiency, all future discovery motions, objections, requests for clarification, and responses to same which are filed by any party shall contain a statement by counsel that he or she has discussed the substance of the disputed matter with opposing counsel prior to making any such filing.

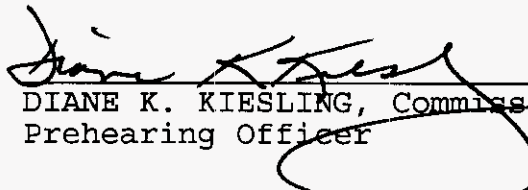
Based on the foregoing, it is, therefore

ORDERED by Commissioner Diane K. Kiesling, as Prehearing Officer, that the Office of Public Counsel's Third Motion to Compel is denied. It is further

ORDERED that the Office of Public Counsel's Third Motion to Postpone Date for Filing Intervenor Testimony is denied. It is further

ORDERED that all future discovery motions, objections, requests for clarification, and responses to same which are filed either by Southern States Utilities, Inc., or the Office of Public Counsel shall contain a statement by counsel that he or she has spoken with opposing counsel regarding the substance of the filed matter.

By ORDER of Commissioner Diane K. Kiesling, as Prehearing Officer, this 31st day of October, 1995.

  
DIANE K. KIESLING, 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.