

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Petition to resolve ) DOCKET NO. 930885-EU  
territorial dispute with Gulf ) ORDER NO. PSC-97-0407-PCO-EU  
Coast Electric Cooperative, Inc. ) ISSUED: April 14, 1997  
by Gulf Power Company. )  
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ORDER GRANTING GULF COAST ELECTRIC  
COOPERATIVE INC.'S SECOND MOTION TO COMPEL

On March 5, 1997, Gulf Coast Electric Cooperative, Inc. (Gulf Coast) filed its Second Motion to Compel Discovery. The motion addressed Gulf Coast's Third Set of Interrogatories (Nos. 73 and 92) and its Third Request for Production of Documents (Nos. 21-23) to Gulf Power Company (Gulf Power) which were hand-delivered to Gulf Power's attorney on January 7, 1997. The responses to the discovery requests were due on February 6, 1997. The Order Modifying Procedure, Order No. PSC-96-1274-PCO-EU, set a discovery deadline of January 14, 1997. Gulf Power has failed to furnish the requested discovery.

Gulf Coast states that it believed that it completed its discovery actions by submitting the discovery requests prior to the discovery deadline. In addition, Gulf Coast argues that the parties had acquiesced to discovery beyond the deadline and the limit of 75 interrogatories as reflected by their mutual agreement to depose witnesses after the discovery deadline, the extension of time to respond to staff's interrogatories and the number of interrogatories propounded by staff.

In its response filed on March 14, 1997, Gulf Power argues that it adhered to the discovery deadline and fairness requires that Gulf Coast be required to do the same; the deposition dates were to accommodate the witnesses, staff and the parties; and that Gulf Power's actions relating to responding to staff's interrogatories are irrelevant. In addition, Gulf Power argues that on January 7, 1997, Gulf Coast was notified that Gulf Power did not believe that it was required to respond to the discovery request; however, Gulf Coast failed to address the matter in its prehearing statement or at the prehearing conference held on February 3, 1997.

One of the purposes for a discovery deadline is to allow parties to prepare for the hearing based on the evidence already collected. Gulf Power's responses to the discovery requests were due on February 6, 1997, however, by mutual request of the parties, the hearing in this matter was continued until April 29-30, 1997. Therefore, answering the discovery requests at the time they were due would not have hindered the parties' hearing preparation.

DOCUMENT NUMBER-DATE

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Because of the continuance, it is reasonable to extend the discovery deadline to accommodate Gulf Coast's outstanding interrogatories and production of document requests. Moreover, Gulf Power has not shown that it will be prejudiced by responding to the requests. It is also noted that Gulf Power failed to file an objection to the discovery within ten days of service of the requests as required by the Order Establishing Procedure. Therefore, under these circumstances, it is found that Gulf Coast's Second Motion to Compel Discovery is reasonable and shall be granted. While the time for the hearing is approaching, answering the discovery should not unduly hinder hearing preparation.

Gulf Coast and Gulf Power shall jointly review the discovery requests to determine whether the information has been provided in the depositions or is no longer needed. Based on that review, Gulf Power shall provide responses to the remaining interrogatories and production of document requests by April 22, 1997.

Based on the foregoing, it is

ORDERED by Commissioner Susan F. Clark, as Prehearing Officer, that Gulf Coast Electric Cooperative, Inc.'s Second Motion to Compel is granted. It is further

ORDERED that Gulf Coast Electric Cooperative, Inc. and Gulf Power Company shall jointly review the outstanding discovery requests as discussed in the body of this Order. It is further

ORDERED that Gulf Power Company shall provide its responses to the discovery requests as described in the body of this Order by April 22, 1997. It is further

By ORDER of Chairman Susan F. Clark, as Prehearing Officer, this 14th day of April, 1997.

  
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 120.569(1), 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 25-22.0376, 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.

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