

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application for increase  
in wastewater rates in Seven  
Springs System in Pasco County  
by Aloha Utilities, Inc.

DOCKET NO. 991643-SU  
ORDER NO. PSC-00-1272-PCO-SU  
ISSUED: July 11, 2000

ORDER GRANTING COMMISSION STAFF'S REQUEST FOR EXPEDITED  
RESPONSE TIME TO MOTION TO COMPEL AND REQUIRING EXPEDITED  
RESPONSES TO STAFF'S AND THE OFFICE OF PUBLIC COUNSEL'S REQUEST  
FOR EXTENSION OF TIME TO FILE PREFILED TESTIMONY

Staff's First Set of Interrogatories and Request for Production were served on Aloha Utilities, Inc. (Aloha or utility), on May 24, 2000. Pursuant to Order No. PSC-00-0872-PCO-SU, issued May 3, 2000 (Order Establishing Procedure), any objection or request for clarification to this discovery was to be made within 10 days of service of the request. Responses were due on June 28, 2000. Although the utility either objected or failed to respond to several discovery requests, no objections were filed within the required 10-day time period. In addition, Aloha untimely filed its responses to both the Interrogatories and Requests for Production on June 30, 2000.

On July 11, 2000, staff filed its Motion to Compel, Request for Extension of Time to File Prefiled Testimony, and Request for Expedited Response Time on Motion to Compel (Motion). Pursuant to Rule 28-106.204(1), Florida Administrative Code, a party shall be given seven days to respond to a written motion when time allows. Staff contends that, in this instance, time constraints do not allow a seven-day response time. Consequently, staff requests that the utility be required to file its responses to the Motion to Compel no later than July 13, 2000.

In its Motion, staff notes that the Order Establishing Procedure requires staff to prefile testimony by August 14, 2000, and that staff had expected responses to its discovery requests by June 28, 2000. Now, even with the expedited response schedule proposed by staff, staff argues that it has lost 20 days of preparation time. Staff concludes that any further delay will not allow it time to adequately prepare its testimony.

On July 10, 2000, the Office of Public Counsel (OPC) filed its Motion for Extension of Time to File Testimony (Motion). In its

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Motion, OPC requests the Commission to extend the due date for prefiled direct testimony from July 17, 2000, to July 31, 2000. In support of its Motion OPC states that because it is relying on the answers to staff's discovery, OPC also needs a two-week extension to file its testimony.

Because the utility has untimely filed its objections and responses to staff's discovery requests, the statutory time constraints of this case do not allow time for a seven-day response period. Moreover, the discovery responses are needed by both staff and OPC in order to adequately prepare pre-filed testimony. According to the Order Establishing Procedure, currently, staff's prefiled testimony is due on August 14, 2000, and OPC's prefiled testimony is due July 17, 2000. Therefore, staff's Request for Expedited Response Time on Motion to Compel is reasonable. I note that neither staff nor OPC requested an expedited response time to the Motions for Extension of Time to File Testimony. However, given the short length of time until testimony is due, I believe it is also reasonable to require an expedited response to these Motions.

Pursuant to the authority granted by Rule 28-106.211, Florida Administrative Code, "[t]he presiding officer before whom a case is pending may issue any orders necessary to effectuate discovery, to prevent delay, and to promote the just, speedy, and inexpensive determination of all aspects of the case. . . ." Therefore, in consideration of the foregoing, staff's Request for Expedited Response Time on Motion to Compel is granted, and such response shall be filed by July 13, 2000. In addition, responses to Requests by staff and OPC for Extension of Time to File Prefiled Testimony shall be filed on that same date.

Further, the utility is put on notice that given the current time constraints, any further delay in responding to discovery requests will not be tolerated. Therefore, the Order addressing the Motion to Compel and staff's and OPC's Motion for Extension of Time to File Prefiled Testimony will be issued by July 14, 2000.

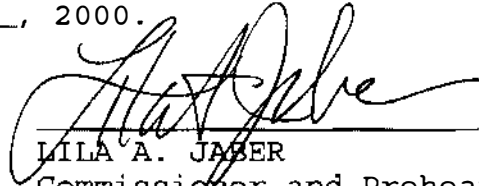
Based on the foregoing, it is

ORDERED by Commissioner Lila A. Jaber, as Prehearing Officer, that staff's Request for Expedited Response Time on Motion to Compel is reasonable and is hereby granted. Any response shall be filed no later than July 13, 2000. It is further

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ORDERED that all parties shall file by July 13, 2000, any responses to the Motions of staff and the Office of Public Counsel for Extension of Time to Prefile Testimony.

By ORDER of Commissioner Lila A. Jaber, as Prehearing Officer, this 11th day of July, 2000.



LILA A. JABER  
Commissioner and Prehearing Officer

( S E A L )

JKF

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.

Mediation may be available on a case-by-case basis. If mediation is conducted, it does not affect a substantially interested person's right to a hearing.

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,

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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.