

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application for increase in wastewater rates in Lee County by Utilities, Inc. of Eagle Ridge.

DOCKET NO. 110153-SU
ORDER NO. PSC-12-0128-PCO-SU
ISSUED: March 20, 2012

ORDER GRANTING UTILITIES, INC. OF EAGLE RIDGE'S
EMERGENCY MOTION FOR CONTINUANCE AND
SECOND AMENDED ORDER ESTABLISHING PROCEDURE

On February 14, 2012, Utilities, Inc. of Eagle Ridge (Eagle Ridge) filed an Emergency Motion for Continuance (Motion) pursuant to Rules 28-106.204 and 28-106.210, Florida Administrative Code (F.A.C.), requesting a continuance of the current schedule, including the date for final hearing. In its motion, Eagle Ridge stated that the Office of Public Counsel (OPC) does not oppose a 60- to 120- day extension of the current schedule, established by Order No. PSC-12-0050-PCO-SU, including the date for final hearing.

This Order is issued pursuant to the authority granted by Rule 28-106.211, F.A.C., which provides that the Presiding Officer before whom a case is pending may issue any orders necessary to effectuate discovery, prevent delay, and promote the just, speedy, and inexpensive determination of all aspects of the case.

Eagle Ridge's Motion

In support of its Motion, Eagle Ridge contends the following: 1) that a continuance has been granted previously in this docket to OPC;¹ 2) that Eagle Ridge's expert on the Phoenix Project issue is unavailable for a period of 60 days and, therefore, Eagle Ridge cannot file its direct testimony until that time; and 3) that Eagle Ridge's customers will benefit by the granting of the continuance as they will continue to pay the interim rates established in Order No. PSC-11-0388-PCO-SU. In its Motion, Eagle Ridge agrees to a commensurate waiver of deadlines in Section 367.081(8), Florida Statutes (F.S.).

Eagle Ridge also states in its Motion that the recordkeeping and Phoenix Project issues protested in this docket have generic applicability to all Utilities Inc.'s subsidiaries in Florida. Rather than removing these issues from the instant docket to a generic docket, Eagle Ridge states that it is more economical to have all issues resolved in this proceeding and to spread the resultant rate case expense to all Utilities Inc.'s subsidiaries in Florida as if the issues were handled in a generic docket.

¹ Order No. PSC-12-0050-PCO-SU, issued February 3, 2012.

DOCUMENT NUMBER-DATE

01675 MAR 20 02

FPSC-COMMISSION CLERK

OPC's Response

On February 17, 2012, OPC filed a Response to Eagle Ridge's Emergency Motion for Continuance (Response). In its Response, OPC states that it agrees with Eagle Ridge's request for the 60- to 120- day continuance.

OPC also states in the Response that it does not agree with Eagle Ridge's position that generic issues affecting other Utilities, Inc. subsidiaries should be heard in this docket. OPC contends that there are at least two, and perhaps three, generic issues which affect all of the Utilities, Inc.'s systems, and these issues should be bifurcated into a separate docket.

Ruling

Rule 28-106.204(6), F.A.C., requires that motions for extension of time be filed prior to the expiration of the deadline sought to be extended and shall state good cause for the request. Rule 28-106.210, F.A.C., states that the Presiding Officer may grant a continuance for good cause shown. Eagle Ridge has shown good cause and a continuance to file testimony shall be granted. The granting of the continuance necessitates a rescheduling of the other significant dates in this proceeding, including the dates for the prehearing conference and hearing.

Commission Rule 25-22.036, F.A.C., requires a written petition whenever a person seeks authority from the Commission to engage in an activity subject to Commission jurisdiction. Generic issues that affect other Florida utilities owned by Utilities, Inc., and necessitate more extensive litigation than that limited by this protested PAA rate case for Eagle Ridge, should be raised by a party by the filing of a formal petition in accordance with Rule 28-6.201, F.A.C., which requires a written petition to the agency responsible for rendering final agency action and prescribes the matters to be included in the petition.

It is well established that any issue having the potential to affect the rates of customers of a utility must afford the customers notice and an opportunity to be heard. The instant proceeding is limited to the issues raised in the protests filed by the parties in this case. However, any final Commission order in this docket may have precedential value in other similar cases.

There are other PAA rate cases pending before the Commission for Utilities, Inc.'s subsidiaries in Florida that may raise similar issues.² Should a party wish to petition the Commission for relief regarding issues of general applicability regarding Utilities, Inc.'s Florida subsidiaries, such a pleading should clearly indicate how the generic proceeding would impact these pending matters.

² See Docket Nos. 110257-WS, 110264-WS, and 120037-WS.

Revised Controlling Dates

As the time for filing the Utility's direct testimony has been extended, the time for filing Intervenor and staff's testimony and exhibits, rebuttal testimony and other key dates shall also be extended. Accordingly, the controlling dates established by the Amended Order Establishing Procedure shall be revised as set forth below:

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| (1) Utility's testimony and exhibits | May 25, 2012 |
| (2) Intervenors' testimony and exhibits | June 22, 2012 |
| (3) Staff's testimony and exhibits, if any | July 13, 2012 |
| (4) Rebuttal testimony and exhibits | August 2, 2012 |
| (5) Prehearing Statements | August 6, 2012 |
| (6) Prehearing Conference | August 14, 2012 |
| (7) Discovery Deadline | August 17, 2012 |
| (8) Technical Hearing | September 10-11, 2012 |
| (9) Briefs | October 1, 2012 |

All other procedures and dates established in Order Nos. PSC-12-0042-PCO-SU and PSC-12-0050-PCO-SU shall remain the same.

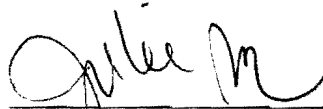
Based on the foregoing, it is

ORDERED by Commissioner Julie I. Brown, as Prehearing Officer, that Utilities, Inc. of Eagle Ridge's Emergency Motion for Extension of Time is hereby granted, as set forth herein. It is further

ORDERED that the controlling dates established in Order No. PSC-12-0050-PCO-SU are modified as set forth in this Order. It is further

ORDERED that Order Nos. PSC-12-0042-PCO-SU and PSC-12-0050-PCO-SU are reaffirmed in all other respects.

By ORDER of Commissioner Julie I. Brown, as Prehearing Officer, this 20th day of March, 2012.



JULIE I. BROWN
Commissioner and Prehearing Officer
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399
(850) 413-6770
www.floridapsc.com

Copies furnished: A copy of this document is provided to the parties of record at the time of issuance and, if applicable, interested persons.

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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.

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; or (2) 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 Office of Commission Clerk, in the form prescribed by Rule 25-22.0376, 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.