

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application of PALM COAST)
 UTILITY CORPORATION for increased)
 rates in Flagler County)

DOCKET NO. 890277-WS
 ORDER NO. 21927
 ISSUED: 9-20-89

ORDER GRANTING MOTION TO INCREASE
NUMBER OF INTERROGATORIES

On May 19, 1989, Palm Coast Utility Corporation (PCUC) completed the minimum filing requirements for a general rate increase and that date was established as the official filing date.

On July 20, 1989, the Office of Public Counsel (OPC) filed a notice of intervention in this proceeding, pursuant to the provisions of Section 350.0611, Florida Statutes. By Order No. 21666, issued August 2, 1989, this Commission acknowledged OPC's intervention.

On July 21, 1989, OPC served its first set of interrogatories and first request for production of documents upon PCUC. On July 27, 1989, OPC served a second set of interrogatories and second request for production of documents upon PCUC.

On July 31, 1989, PCUC filed requests for clarification of, and objections to, OPC's first set of interrogatories and first requests for production. On August 7, 1989, PCUC filed requests for clarification of, and objections to, OPC's second set of interrogatories and second requests for production. Among its other objections, PCUC objects to answering any interrogatories in excess of thirty, including subparts. Pursuant to Rule 1.340, Florida Rules of Civil Procedure, the number of interrogatories which may be served without leave of the presiding officer is limited to thirty.

On August 14, 1989, OPC filed a motion to increase the number of interrogatories. OPC requested that the number of allowed interrogatories be increased from thirty to forty-four, plus twelve subparts. OPC considered any interrogatory with only one subpart as a single question.

On August 30, 1989, OPC served a third set of interrogatories and a third request for production upon PCUC, along with a motion to increase the number of interrogatories. OPC requested that the number of interrogatories allowed be

DOCUMENT NUMBER-DATE

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ORDER NO. 21927
DOCKET NO. 890277-WS
PAGE 2

increased from thirty to fifty-seven, plus fourteen additional subparts. As before, OPC counted each interrogatory with only one subpart as one question.

On September 11, 1989, PCUC filed objections to OPC's third set of interrogatories and a motion for extension of time. Among its other objections, PCUC objects to answering any interrogatories in excess of thirty. PCUC argues that many of OPC's interrogatories are objectionable for other reasons and that, if OPC were limited to thirty interrogatories, it might have been more selective in deciding which interrogatories to propound. PCUC also disagrees with OPC's characterization of the number of interrogatories served. PCUC argues that OPC has served a total of one hundred interrogatories in this case and seventy-three interrogatories in the investigation docket, which was subsumed into this case, for a total of one hundred seventy-three.

Notwithstanding the above, PCUC argues that, in the event the Commission grants OPC's motion to increase the number of interrogatories, it should be given until thirty days after the date of the order granting OPC's motion to respond to the interrogatories.

In a proceeding on an application for increased rates, there are generally a large number of complex and technical issues. In this case, there are a number of parties and quite a few highly controversial issues. It would be unreasonable to expect the parties or Staff to adequately prepare for this case with a thirty-interrogatory limit. OPC's August 30, 1989 motion to increase the number of interrogatories is, therefore, granted.

In addition, since OPC's motion has been granted, it appears reasonable to allow PCUC ten days from the date of this Order to file objections and thirty days from the date of this Order to serve answers to the interrogatories. PCUC's motion for an extension of time is, therefore, granted.

Based upon the foregoing, it is

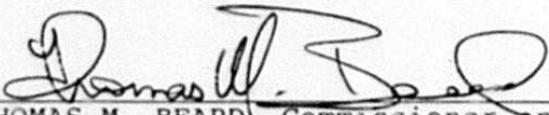
ORDERED by Commissioner Thomas M. Beard, as Prehearing Officer, that the Office of Public Counsel's August 30, 1989 motion to increase the number of interrogatories to

ORDER NO. 21927
DOCKET NO. 890277-WS
PAGE 3

fifty-seven, plus fourteen subparts, by its count, or one hundred by Palm Coast Utilities Corporation's count, is hereby granted. It is further

ORDERED that Palm Coast Utilities Corporation shall have ten days from the date of this order to file objections to the interrogatories and thirty days from the date of this Order to serve answers to the interrogatories.

By ORDER of Commissioner Thomas M. Beard, as Prehearing Officer, this 20th day of SEPTEMBER, 1989.


THOMAS M. BEARD, Commissioner and
Prehearing Officer

(S E A L)

RJP

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

ORDER NO. 21927
DOCKET NO. 890277-WS
PAGE 4

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 sewer 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.