

## BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Objection to Notice by SUNRAY )	DOCKET NO. 891249-WS
UTILITIES, INC. of intent to amend )	ORDER NO. 22202
certificates 502-W and 436-S in )	ISSUED: 11/21/89
Nassau County. )	
)	

ORDER ESTABLISHING PROCEDURE

Pursuant to the objections filed to the Notice of Application of Yulee Utility, Inc., this matter is currently set for an administrative hearing on April 12 and 13, 1989. The hearing in this matter docket has been consolidated with that in Docket No. 881584-WS, by the Order Consolidating Hearings, issued October 23, 1989.

The scope of this proceeding shall be based upon the issues raised by the parties and Commission Staff during the prehearing conference, unless modified by the Commission. The hearing will be conducted according to the provisions of Chapter 120, Florida Statutes, and the rules and regulations of this Commission.

Discovery

When interrogatories or requests for production are served on a party and the respondent intends to object to or ask for clarification of an interrogatory or request for production, the objection or request for clarification shall be made within ten (10) days of service of the interrogatory or request for production. This procedure is intended to reduce delay time in discovery.

Notice

At least 14 days and not more than 20 days prior to the formal hearing to be held for this docket, the utility shall have published in a newspaper of general circulation in the area in which the hearing is to be held a display advertisement stating the specific date, time, location, and purpose of the hearing. The advertisement shall be approved by the Commission Staff prior to publication.

Preliminary List of Issues

On or before December 29, 1989, each party shall file a preliminary list of issues that it believes require resolution in this case. Commission Staff may also file its own

DOCUMENT NUMBER-DATE

11376 NOV 21 1989

FPSC-RECORDS/REPORTING

ORDER NO. 22202  
DOCKET NO. 891249-WS  
PAGE 2

preliminary list of issues on that date. The original and twelve copies of each such list of issues shall be filed with the Director, Division of Records and Reporting, Florida Public Service Commission, 101 East Gaines Street, Tallahassee, Florida 32399-0863. A copy of each list of issues shall also be mailed to all other parties no later than its filing with the Commission.

#### Preliminary Conference

A preliminary conference shall be held at 9:30 a.m., Monday, January 8, 1990, in Suite 122, the Fletcher Building, 101 East Gaines Street in Tallahassee. All parties and Commission Staff shall attend. The purpose of the conference shall be to identify the issues believed to require resolution in this docket.

#### Prefiled Testimony and Exhibits

In accordance with Rule 25-22.048, Florida Administrative Code, each party shall be required to prefile all written testimony that it intends to sponsor. Commission Staff may file prefiled testimony in this case. Written testimony shall be typed on standard 8 1/2 x 11 inch transcript quality paper, double-spaced, with 25 numbered lines, on consecutively numbered pages, each with a sufficient left margin to allow for binding.

A copy of any prefiled exhibit sponsored by a witness shall be attached to his or her testimony and marked for identification. All other known exhibits shall be marked for identification at the prehearing conference. After an opportunity for opposing parties to object to introduction of the exhibits and to cross-examine the witness sponsoring them, exhibits may be offered into evidence at the hearing. Exhibits accepted into evidence at the hearing will be numbered sequentially.

The parties shall file the original and twelve copies of their prefiled written testimony and exhibits with the Division of Records and Reporting on or before the close of business on January 16, 1990. Any objector or intervenor shall file the original and twelve copies of its prefiled written testimony and exhibits on or before the close of business on February 15, 1990. Staff shall prefile an original and eight copies of all direct testimony and exhibits it intends to sponsor, if any, on or before February 22, 1990.

ORDER NO. 22202  
DOCKET NO. 891249-WS  
PAGE 3

All parties shall prefile an original and twelve copies of all prefiled rebuttal testimony and associated exhibits with the Division of Records and Reporting on or before the close of business on February 28, 1990. Staff shall prefile an original and eight copies of any rebuttal testimony and associated exhibits it intends to sponsor, if any, on or before February 28, 1990.

A copy of all prefiled testimony and exhibits shall also be mailed to all other parties no later than their filing with the Commission.

#### Prehearing Statement

Pursuant to Rule 25-22.038(3), Florida Administrative Code, a prehearing statement shall be required of all parties in this docket on or before March 7, 1990. Commission Staff may also file a prehearing statement on that date. Failure of a party to timely file a prehearing statement shall be a waiver of any issue not raised by other parties or by the Commission. In addition, such failure shall preclude the party from presenting testimony in support of its position. Such prehearing statements shall set forth the following information in the sequence listed below.

- (a) the name and address of all known witnesses that may be called by the party, and the subject matter of their testimony;
- (b) a description of all known exhibits that may be sponsored by the party, their contents, whether they may be identified on a composite basis, and the witness sponsoring each;
- (c) a statement of basic position in the proceeding;
- (d) a statement of each question of fact the party considers at issue, the party's position on each such issue, and which of the party's witnesses will address the issue;
- (e) a statement of each question of law the party considers at issue and the party's position on each such issue;

ORDER NO. 22202  
DOCKET NO. 891249-WS  
PAGE 4

- (f) a statement of each policy question the party considers at issue, the party's position on each such issue, and which of the party's witnesses will address the issue;
- (g) a statement of issues that have been stipulated to by the parties;
- (h) a statement of all pending motions or other matters the party seeks action upon; and
- (i) a statement as to any requirement set forth in this order that cannot be complied with, and the reasons therefore.

The original and twelve copies of each prehearing statement shall be filed with the Division of Records and Reporting on or before the close of business on March 7, 1990. A copy of the prehearing statement shall also be mailed to all other parties no later than its filing with the Commission.

Parties and Commission Staff

Unless advised in writing of a change in the name or address of the parties' representatives, copies of lists of issues, prehearing statements, prefiled testimony and exhibits shall be furnished to:

B. KENNETH GATLIN, Esquire, Gatlin, Woods, Carlson & Cowdery, 1709-D Mahan Drive, Tallahassee, Florida 32308 on behalf of Sunray Utilities, inc.

BEN E. GIRTMAN, Esquire, Attorney at Law, 1020 East Lafayette Street, Suite 207, Tallahassee, Florida 32301 on behalf of Rayonier Timberlands Operating Company, L.P., ITT Rayonier, Incorporated, and Rayland Company, Inc.

MICHAEL S. MULLIN, Esquire, Nassau County, Board of County Commissioners, Post Office Box 1010, Fernandina Beach, Florida 32304

SCOTT G. SCHILDBERG, Esquire, Martin, Ade, Birchfield & Mickler, P.A., Post Office Box 59, Jacksonville, Florida 32201 on behalf of Yulee Utilities, Inc.

DAVID C. SCHWARTZ, Esquire, Florida Public Service Commission, 101 East Gaines Street, Tallahassee, Florida 32399-0850



ORDER NO. 22202  
DOCKET NO. 891249-WS  
PAGE 5

### Prehearing Conference

A prehearing conference will be held Monday, March 19, 1990, at a time and location to be determined. The conditions of Rule 25-22.038 (5)(b), Florida Administrative Code, shall be observed. Any party who fails to attend the prehearing conference, unless excused by the prehearing officer, will have waived all issues and positions raised in that party's prehearing statement.

### Prehearing Procedure: Waiver of Issues

Any issue not raised by a party prior to the issuance of the prehearing order shall be waived by that party, except for good cause shown. A party seeking to raise a new issue after the issuance of the prehearing order shall demonstrate that: it was unable to identify the issue because of the complexity of the matter; discovery or other prehearing procedures were not adequate to fully develop the issue; due diligence was exercised to obtain facts touching on the issue; information obtained subsequent to the issuance of the prehearing order was not previously available to enable the party to identify the issue; and introduction of the issue could not be to the prejudice or surprise of any party. Specific reference shall be made to the information received, and how it enabled the party to identify the issue.

Unless a matter is not at issue for that party, each party shall diligently endeavor in good faith to take a position on each issue prior to issuance of the prehearing order. When a party is unable to take a position on an issue, it shall bring that fact to the attention of the prehearing officer. If the prehearing officer finds that, in fact, the party has acted diligently and in good faith to take a position, and further finds that the party's failure to succeed in taking a position will not prejudice other parties or confuse the proceeding, the party may maintain "no position at this time" prior to hearing and thereafter identify its position in a post-hearing statement of issues. In the absence of such a finding by the prehearing officer, the party shall have waived the entire issue. When an issue and position have been properly identified, any party may adopt that issue and position in its post-hearing statement.

### Controlling Dates

The following dates have been established to govern the key activities of this case:

ORDER NO. 22202  
DOCKET NO. 891249-WS  
PAGE 6

- 1) The preliminary list of issues shall be filed on or before December 29, 1989.
- 2) A preliminary conference shall be held at 9:30 a.m., Monday, January 8, 1990, in Suite 122, the Fletcher Building, 101 East Gaines Street, in Tallahassee.
- 3) The utility shall file its prefiled direct testimony and exhibits on or before Tuesday, January 16, 1990.
- 4) The intervenor/objector shall file its prefiled direct testimony and exhibits on or before Thursday, February 15, 1990.
- 5) The staff shall file its prefiled direct testimony and exhibits, if any, on or before Thursday, February 22, 1990.
- 6) Rebuttal testimony, if any, and associated exhibits shall be filed on or before Wednesday, February 28, 1990.
- 7) Prehearing statements shall be filed on or before Wednesday, March 7, 1990.
- 8) The prehearing conference shall be held in Tallahassee on Monday, March 19, 1990, at a time and location to be determined.
- 9) The formal hearing shall be held on Thursday and Friday, April 12 and 13, 1990, at a time and location to be determined.

By ORDER of Commissioner THOMAS M. BEARD, as Prehearing Officer, this 21st day of NOVEMBER, 1989.

  
THOMAS M. BEARD, Commissioner  
and Prehearing Officer

( S E A L )

DCS

ORDER NO. 22202  
DOCKET NO. 891249-WS  
PAGE 7

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 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.