

ORIGINAL
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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Revocation by Florida)	DOCKET NO. 930944-WS
Public Service Commission of)	
Certificates Nos. 451-W and 382-)	FILED: 07/18/94
S Issued to SHADY OAKS MOBILE-)	
MODULAR ESTATES, INC. in Pasco)	
County, Pursuant to Section)	
367.111(1), F.S.)	

COMMISSION STAFF'S MOTION TO STRIKE TESTIMONY OF
MIKE DALEY, AILEEN DELEHANTY, AND LARRY DELUCENAY

The Staff of the Florida Public Service Commission (Staff), by and through its undersigned counsel, requests an order striking the proposed testimony of three witnesses testifying on behalf of Shady Oaks Mobile-Modular Estates, Inc. (Shady Oaks or utility) and in support states the following:

1. On September 23, 1993, the Florida Public Service Commission (Commission), pursuant to Section 367.111(1), Florida Statutes, and in accordance with Order No. PSC-93-0542-FOF-WS, issued April 9, 1993, noticed its Intent to Initiate Revocation of Certificates Nos. 451-W and 382-S issued to Shady Oaks;

2. On October 18, 1993, Shady Oaks timely filed an objection to the Notice. Accordingly, this matter has been scheduled for an August 4-5, 1994, administrative hearing;

3. By Order No. PSC-93-1779-PCO-WS (Order Establishing Procedure), issued December 13, 1993, the Prehearing Officer established the procedures for this proceeding. Among those procedures was the requirement that each party prefile, in writing, all testimony that it intends to sponsor. Further, the Order states that "each exhibit intended to support a witness' prefiled testimony shall be attached to that witness' prefiled testimony....";

4. On July 1, 1994, Shady Oaks filed its prehearing statement, wherein the utility identified three additional witnesses: Mike Daley, Aileen B. Delehanty, and Larry DeLucenay, hereinafter referred to as "the additional witnesses";

5. Rule 25-22.048, Florida Administrative Code, specifically states that evidence may be submitted in the form of written testimony and that a presiding officer may require all parties to prefile testimony and shall provide written notice to the parties of the date testimony shall be prefiled;

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6. By Order No. PSC-93-1779-PCO-WS, the presiding officer required Shady Oaks to prefile all of its testimony by February 10, 1994, and required Staff to prefile its testimony by March 10, 1994;

7. By Order No. PSC-93-1779-PCO-WS, the utility was given sufficient written notice of the date testimony was to be prefiled, and in fact, Shady Oaks prefiled the testimony of Richard D. Sims;

8. Staff would be unduly prejudiced if the utility is allowed to present the testimony of the three additional witnesses as Staff would be unable to effectively cross-examine those witnesses, and such result is directly contradictory to the goal of prefiled testimony, which is to expedite the administrative hearing process;

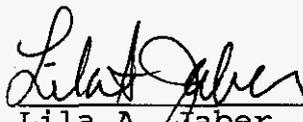
9. The testimony of the three additional witnesses would result in unfair surprise to Staff;

10. Staff's opportunity to rebut any evidence presented by the three additional witnesses would effectively be taken away and it is not reasonable to expect Staff to guess what the three additional witnesses' testimony would be;

11. Pursuant to Order No. PSC-93-1779-PCO-WS, "failure of a party to timely prefile exhibits and testimony from any witness in accordance with the foregoing requirements may bar admission of such exhibits and testimony."

Based on the foregoing, Staff requests that the testimony of Mike Daley, Aileen B. Delehanty, and Larry DeLucenay be stricken.

Respectfully submitted this 18th day of July, 1994.



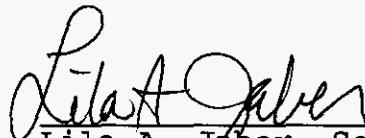
Lila A. Jaber, Esquire
on behalf of the Florida Public
Service Commission Staff
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of Staff's Motion to Strike Testimony of Mike Daley, Aileen Delehanty, and Larry Delucenay has been furnished to Richard D. Sims, c/o Shady Oaks Mobile-Modular Estates, Inc., 1315 Eckles Drive, Tampa, Florida, 33612, and Buddy D. Ford, Esquire, 115 Macdill, Tampa, Florida, 33609, by Federal Express, this 10th day of July, 1994.



Lila A. Jaber, Senior Attorney
FLORIDA PUBLIC SERVICE COMMISSION
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