

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

ORIGINAL
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In re: Application for amendment)
of Certificate No. 427-W to add)
territory in Marion County by)
Windstream Utilities Company)
_____)

960867-KIU

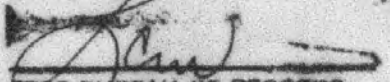
MARION COUNTY'S MOTION TO STRIKE
PREFILED DIRECT TESTIMONY OF GEORGE MCDONALD
OR IN THE ALTERNATIVE FOR EXTENSION OF TIME AND LEAVE
TO FILE ADDITIONAL PREFILED DIRECT AND/OR REBUTTAL TESTIMONY

Intervenor, MARION COUNTY (hereinafter "County"), pursuant to Florida
Administrative Code Rules, Florida Statutes, and Commission Order No. PSC-96-1273-PCO-
WU, files this Motion to Strike Prefiled Direct Testimony of George McDonald or in the
Alternative for Extension of Time and Leave to File Additional Prefiled Rebuttal testimony (this
"Motion"). In support thereof the County states as follows:

1. On March 4, 1997, Windstream Utilities Company ("Windstream") filed a Motion
for Continuance to Filed Prefiled Rebuttal Testimony citing to "extreme costs and inconvenience"
of filing such testimony. No mention was made of filing additional prefiled direct testimony.

2. On March 10, 1997, the County filed a Memorandum in Opposition to the Motion
for Continuance, and suggested that Windstream was seeking the extension to "view the prefiled
direct testimony and rebuttal testimony, and then craft its own testimony after reviewing and
examining the testimony filed by others well beyond the date for submittal." See Order No. PSC-
97-0306-PCO-WU, issued March 21, 1997.

- ACK
- AFA _____
- APP _____
- CAF _____
- CMU _____
- CTR _____
- EAG _____
- LEG 1
- LIN 3
- OPC _____
- RCH _____
- SEC 1
- WAS 1
- OTH _____

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3. On March 21, 1997, the PSC issued Order No. PSC-97-0306-PCO-WU granting Windstream's Motion for Extension of time to File Rebuttal Testimony to March 31, 1997.
4. On April 3, 1997, Windstream filed a Second Motion for Extension of Time to File Prefiled Rebuttal Testimony. In support of its requested extension of time, Windstream stated that because the preparation of rebuttal testimony was "costly" and because they had "no time to hire experts and prepare and submit rebuttal testimony" and because they had "no time to and engineer to respond," Windstream should be accorded a second extension of time to filed prefiled rebuttal testimony.
5. On April 10, 1997, the County filed a pleading stating that it was not opposed to the extension so long as it was granted an extension on all the succeeding dates.
6. On April 16, 1997, the PSC issued Order PSC-97-0430-PCO-WU granting Windstream's request for a three week extension of time to filed prefiled rebuttal testimony.
7. On April 30, 1997, Windstream filed prefiled rebuttal testimony of one of the co-owners of Windstream, Mr. Butch Dlouhy, but also filed the prefiled direct testimony of a professional engineer, George McDonald.
8. Under Order No. PSC-96-1273-PCO-WU, dated October 10, 1996, the time for the utility to prefile its direct testimony was December 9, 1996.
9. At no time has Windstream made a request for extension of time to file prefiled direct testimony.
10. Windstream has now done exactly what the County predicted-they have waited for disclosure of Marion County's case and then filed prefiled direct testimony to support its flawed case.

11. Since the County's time to file prefiled direct rebuttal testimony in response to this last minute filing has passed, allowing Windstream to submit this prefiled direct testimony will severely prejudice the County.

12. Allowing, accepting, or admitting such deliberately late filed prefiled direct testimony without allowing the County a fair opportunity to respond also violates the Commission's decision of April 1, 1997, as articulated by the Commissioner Clark:

COMMISSIONER CLARK: Well, here is my dilemma. And it seems to me that - my concern is that we have an overall responsibility to look at the amendment of a territory, not just in what the parties may bring us, but in terms of the overall public interest in granting it. Any my rationale for suggesting we go to a hearing, although I don't think the county has a right to it, is that I want to hear matters that bear on the public interest. And if I take your view that they take the case as they find it, there is no purpose to have a hearing because then they can't file testimony and the only thing we would hear would be your direct case.

MR. DETERDING: They can cross examine that evidence presented by us.

COMMISSIONER CLARK: Un-huh. And I really want to hear the whole picture so I can be assure that we are doing the right thing.

WHEREFORE, the County hereby moves that this Commission strike the prefiled direct testimony and all exhibits of George McDonald violative of Order No. PSC-96-1273-PCO-WU. If the Commission should determine to deny the County's Motion to Strike, the County would then, in the alternative, respectfully request an extension of time within which to file prefiled direct testimony and/or prefiled rebuttal testimony to address late filed testimony by Windstream, until May 28, 1997, the date of the Prehearing. This short extension will allow the hearing date of June 17, 1997 to be preserved.

CERTIFICATE OF SERVICE

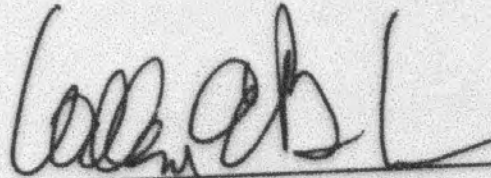
I HEREBY CERTIFY that the original and 7 copies, was served together with the document on diskette, via hand delivery/U.S. Mail to:

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Director of Records and Reporting
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904/413-6770

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this ¹² day of May, 1997.



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