

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application for limited proceeding to recover costs of water system improvements in Marion County by Sunshine Utilities of Central Florida, Inc.

DOCKET NO. 992015-WU
ORDER NO. PSC-02-1118-PCO-WU
ISSUED: August 15, 2002

FIRST ORDER REVISING ORDER ESTABLISHING PROCEDURE AND CONTROLLING DATES, GRANTING IN PART AND DENYING IN PART EXPEDITED DISCOVERY, AND SETTING UNIFORM EXPEDITED DISCOVERY DEADLINES

On August 5, 2002, the Office of Public Counsel (OPC) filed its Motion to Shorten the Time to Respond to Citizens' First Set of Discovery (Motion). OPC had served its discovery on Sunshine Utilities of Central Florida, Inc. (Sunshine) on August 2, 2002. Sunshine filed its Response in Opposition to Citizen's Motion to Shorten the Time to Respond to Citizen's First Set of Discovery and Motion to Establish Uniform Expedited Discovery (Response) on August 6, 2002.

In its Motion, OPC notes that the Order Establishing Procedure, Order No. PSC-02-0852-PCO-WU, issued June 20, 2002, required Sunshine to file its testimony on July 23, 2002, and that OPC was given 31 days to August 23, 2002, to file its testimony. However, OPC states that review of that testimony by OPC's witnesses prompted the requests for information that make up OPC's first requests for discovery, and that it must receive responses to its discovery requests by no later than August 12, 2002, in order for it to have a reasonable chance to utilize the information requested. OPC further states that requiring its testimony within 30 days (actually 31) of Sunshine's testimony compromises its rights to due process.

Sunshine's Response notes that OPC's request would shorten the time for response from 30 days to only 10 days, and that Sunshine "should not be penalized for OPC's 'sitting on its hands' and waiting to serve discovery less than 30 days prior to the date that OPC's testimony and exhibits" were due. Moreover, Sunshine alleges that due to its witnesses vacation schedule that such a shortened period would create an undue hardship on Sunshine.

DOCUMENT NUMBER DATE

08585 AUG 15 02

FPSC-COMMISSION CLERK

Sunshine further notes that OPC served its petition requesting a hearing on June 4, 2002, and yet waited 59 days before serving its first discovery requests. Sunshine also notes that the Order Establishing Procedure was issued on June 20, 2002, and that OPC did not object to that Order until now, some 43 days after its issuance.

Moreover, Sunshine alleges that "only a few of OPC's discovery requests, if any, are specific to issues raised for the first time in Sunshine's testimony." As examples, Sunshine noted that the discovery requests relating to Exhibit RCN-2 (an exhibit originally filed on June 7, 2001), the president's salary, and workpapers relating to Sunshine's application for limited proceeding were not new issues raised for the first time in its testimony, and that OPC should have known to ask for this information "when it filed its petition protesting the PAA Order."

Although Sunshine objects to filing its discovery responses by August 12, 2002, it states that it could respond to those discovery requests to which it does not object by August 19, 2002. Moreover, Sunshine requests, and OPC agrees, that uniform expedited discovery deadlines of 15 days should be established.

Upon consideration of the above, Sunshine shall serve its responses to OPC's discovery by August 19, 2002. However, OPC shall be given an additional six days until August 29, 2002, to file its testimony and exhibits. Moreover, Commission staff shall file its testimony and exhibits on September 12, 2002, and rebuttal testimony and exhibits shall be filed on September 26, 2002. All other controlling dates in the Order Establishing Procedure are hereby reaffirmed. Finally, a uniform expedited discovery deadline of 15 days shall be established. All discovery responses shall be served within 15 days of receipt of the discovery request. There shall be no extra time for mailing throughout the proceeding. Furthermore, in view of the shortened discovery response period, parties and staff shall serve discovery requests by either express mail, facsimile, hand-delivery, or e-mail.

In consideration of the above, it is

ORDERED that the Citizen's Motion to Shorten the Time to Respond to Citizens' First Set of Discovery is granted in part and

ORDER NO. PSC-02-1118-PCO-WU
DOCKET NO. 992015-WU
PAGE 3

denied in part as set forth in the body of this Order. It is further

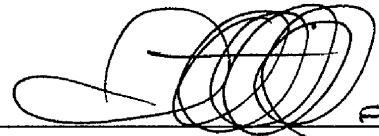
ORDERED that Sunshine Utilities of Central Florida, Inc., shall respond to those discovery requests to which it does not object by August 19, 2002. It is further

ORDERED that the controlling dates set forth in the Order Establishing Procedure are modified as set forth in the body of this Order, with intervenor testimony being due on August 29, 2002, staff testimony being due on September 12, 2002, and rebuttal testimony being due September 26, 2002. It is further

ORDERED that all other controlling dates in the Order Establishing Procedure are hereby reaffirmed. It is further

ORDERED that a uniform expedited discovery deadline of 15 days shall be established.

By ORDER of Commissioner Braulio L. Baez, as Prehearing Officer, this 15th day of August, 2002.



FOR BAEZ

BRAULIO L. BAEZ
Commissioner and Prehearing Officer

(S E A L)

RRJ

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, 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 wastewater utility. A motion for reconsideration shall be filed with the Director, Division of the Commission Clerk and Administrative Services, 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.