

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application for transfer
of Certificates Nos. 592-W and
509-S from Cypress Lakes
Associates, Ltd. to Cypress
Lakes Utilities, Inc. in Polk
County.

DOCKET NO. 971220-WS
ORDER NO. PSC-99-2232-PCO-WS
ISSUED: November 10, 1999

ORDER GRANTING UTILITY'S REQUEST TO EXCEED PAGE LIMIT AND
GRANTING OPC'S MOTION TO LATE-FILE POST-HEARING STATEMENT

Pursuant to Prehearing Order No. PSC-99-2143-PHO-WS, issued November 1, 1999, this matter is scheduled to proceed under Section 120.57(2), Florida Statutes. The parties were ordered to file post-hearing statements and briefs comporting with the requirements of Section IV of the order, by November 3, 1999.

Section IV of Order No. PSC-99-2143-PHO-WS requires that "[a] party's proposed findings of fact and conclusions of law, if any, statement of issues and positions, and brief, shall together total no more than 40 pages, and shall be filed at the same time." Additionally, Rule 28-106.215, Florida Administrative Code, provides that, unless authorized by the presiding officer, post-hearing submittals shall be limited to 40 pages.

On November 3, 1999, the utility timely filed its post-hearing statement along with a motion requesting to exceed the page limitation by 37 pages.

On November 4, 1999, the Office of Public Counsel (OPC) filed its post-hearing statement, along with a Motion to Accept Late Post-Hearing Statement and response to the utility's September 13, 1999, motion to exceed page limitation.

Motion to Exceed Page Limit

The utility argues that an extension of the page limitations is reasonable because of the extensive history of at least 107 orders issued by the Commission since 1982 on the matter of acquisition adjustments; because of the nature of the positions taken by OPC, on issues herein and at the preliminary hearing and prehearing conferences in this case; and because the membership of the Commission panel in this case is different than that which rendered a decision in recent cases involving an acquisition

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adjustment in Dockets Nos. 960235-WS and 960283-WS. The utility further states that although the record consists of the prefilled testimony and exhibits, as well as matters given official recognition, parties have waived cross-examination, and the utility is concerned with "the need for as complete an explication as possible of the facts and the law in this case."

In its response to the utility's motion, filed November 4, 1999, OPC states that it does not oppose the utility's request to exceed the page limit in its post-hearing statement.

Upon review and consideration, the utility's request is reasonable. Accordingly, the utility's motion to extend the page limit of its post-hearing statement is hereby granted.

Motion to Late-File Post-Hearing Statement

In its motion, OPC states that its counsel mistakenly believed post-hearing statements were due on November 4, 1999. The motion states that:

Very soon thereafter, undersigned counsel learned that the true due date for the filing of the statement was November 3, 1999, as confirmed by Order No. PSC-99-2143-PHO-WS, which was issued on November 1, 1999. This order served to impeach undersigned counsel's notes taken at the October 4, 1999 prehearing conference which erroneously provided the November 4 date in lieu of the correct November 3 date.

In its motion, OPC also represents that the utility does not oppose its motion to late-file its post-hearing statement.

Upon review and consideration, OPC's request is reasonable. Accordingly, OPC's motion to late-file its post-hearing statement is hereby granted.

Based on the foregoing, it is

ORDERED by Susan F. Clark, as Prehearing Officer, that Cypress Lakes Utilities, Inc.'s motion to extend the page limit in its post-hearing statement is granted. It is further

ORDERED that the Office of Public Counsel's motion to late-file its post-hearing statement is granted.

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By ORDER of Commissioner Susan F. Clark, as Prehearing Officer, this 10th Day of November, 1999.


SUSAN F. CLARK
Commissioner and Prehearing Officer

(S E A L)

JSB/SAC

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,

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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 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.