

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Complaint by Corkscrew)	DOCKET NO. 900380-WU
Woodlands, Ltd. against Gulf)	
Utility Company regarding)	ORDER NO. 24229
calculation of Equivalent)	
Residential Connections for an)	ISSUED: 3-12-91
RV Park in Lee County.)	
_____)	

The following Commissioners participated in the disposition of this matter:

THOMAS M. BEARD, Chairman
 GERALD L. GUNTER
 J. TERRY DEASON
 MICHAEL MCK. WILSON

ORDER GRANTING LEAVE TO AMEND COMPLAINT

BY THE COMMISSION:

This case involves a complaint by Corkscrew Woodlands, Ltd. (Corkscrew) against Gulf Utility Company (Gulf) alleging that excessive service availability charges have been charged by Gulf to Corkscrew's recreational vehicle park in Lee County.

On April 24, 1990, Corkscrew filed its initial complaint without advice of legal counsel. Gulf filed its answer on June 29, 1990. Legal counsel for Corkscrew filed a notice of appearance on August 14, 1990. Although there have been good faith efforts to do so, the parties have not been able to resolve this dispute. Corkscrew desires to file an amended complaint, but has not been able to acquire Gulf's consent to amend. Corkscrew filed a motion for leave to amend its complaint on January 23, 1991 and attached the amended complaint and exhibits to the motion. Gulf has not replied to Corkscrew's motion.

Rule 25-22.035(3), Florida Administrative Code, provides that the Florida Rules of Civil Procedure apply to this proceeding unless Chapter 25-22, Florida Administrative Code, conflicts with those rules. There is no conflict, therefore the Florida Rules of Civil Procedure apply. Rule 1.190(a), Florida Rules of Civil Procedure, provides that leave to amend shall be given freely when justice requires. The spirit of the rule is that amendments should be allowed at any time so long as the amendments do not prejudice the opposing party. Amendments are generally allowed unless and until it appears that the privilege to amend is being abused.

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Corkscrew's motion for leave to amend is its first request. There has been no discovery in this proceeding. Granting Corkscrew's motion will not prejudice Gulf. Therefore, we hereby grant Corkscrew's motion for leave to amend its complaint.

If Gulf desires to answer the amended complaint, it shall do so within twenty days from the date of this order.

This docket shall remain open to process this case.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that the Motion for Leave to Amend its Complaint filed by Corkscrew Woodlands, Ltd., is granted. It is further

ORDERED that Gulf Utility Company shall file its answer, if any, within twenty days from the date of this Order. It is further

ORDERED that this docket remain open.

By ORDER of the Florida Public Service Commission this 12th
day of MARCH, 1991.

STEVE TRIBBLE, Director
Division of Records and Reporting

(S E A L)

TCP

by: Kay Ferguson
Chief, Bureau of Records

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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.