

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION

STUART C. IRBY COMPANY,

Plaintiff,

v.

Case No: 2:16-cv-211-FtM-29CM

BC POWER, INC.,

Defendant.

OPINION AND ORDER

This matter is before the Court on consideration of the Magistrate Judge's Report and Recommendation (Doc. #73), filed March 14, 2017, recommending that the Motion for Leave to File Amended Answer (Doc. #66) be denied. No objections have been filed and the time to do so has expired.

After conducting a careful and complete review of the findings and recommendations, a district judge may accept, reject or modify the magistrate judge's report and recommendation. 28 U.S.C. § 636(b)(1); Williams v. Wainwright, 681 F.2d 732 (11th Cir. 1982), cert. denied, 459 U.S. 1112 (1983). In the absence of specific objections, there is no requirement that a district judge review factual findings *de novo*, Garvey v. Vaughn, 993 F.2d 776, 779 n.9 (11th Cir. 1993), and the court may accept, reject or modify, in whole or in part, the findings and recommendations. 28 U.S.C. § 636(b)(1)(C). The district judge reviews legal conclusions *de*

novo, even in the absence of an objection. See Cooper-Houston v. Southern Ry. Co., 37 F.3d 603, 604 (11th Cir. 1994).

After conducting an independent examination of the file and upon due consideration of the Report and Recommendation, the Court accepts the Report and Recommendation of the magistrate judge. The Court agrees that BC Power, Inc. failed to show good cause to amend at this late stage of the proceedings, and reaffirms the January 9, 2017 Opinion and Order (Doc. #61, p. 3) finding that "BC Power waived these affirmative defenses and the time to amend pleadings has long since passed."

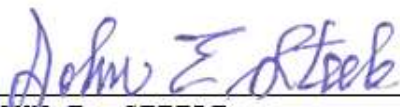
Accordingly, it is now

ORDERED:

1. The Report and Recommendation (Doc. #73) is hereby **adopted** and the findings incorporated herein.

2. BC Power, Inc.'s Motion for Leave to File Amended Answer (Doc. #66) is **DENIED**.

DONE and ORDERED at Fort Myers, Florida, this 29th day of March, 2017.



JOHN E. STEELE
SENIOR UNITED STATES DISTRICT JUDGE

Copies:
Hon. Carol Mirando
United States Magistrate Judge

Counsel of Record
Unrepresented parties