

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application of TOPEKA)	DOCKET NO. 881501-WS
GROUP, INC., to acquire control of)	
DELTONA CORPORATION'S utility)	ORDER NO. 21729
subsidiaries in Citrus, Marion,)	
St. Johns, Washington, Collier, Volusia)	ISSUED: 8-15-89
and Hernando Counties.)	

ORDER DENYING MOTION FOR CONTINUANCE

On August 4, 1989, the Deltona Corporation (Deltona) filed a Motion for Continuance of the hearing in this matter presently scheduled for August 30 and 31, 1989. Deltona's basis for this request is that the contract dispute proceedings between Deltona and the Applicant, the Topeka Group, Inc., (Topeka) currently before the U.S. District Court are scheduled for hearing in December, 1989. Deltona believes that the federal court's disposition of its Complaint against Topeka will dispose of the issues underlying Deltona's objections to Topeka's application. Deltona also argues that the time schedule in this case is too compressed to allow for adequate discovery. Therefore, Deltona states that it is proper for this Commission to defer its consideration of Topeka's application for approval of its acquisition of majority organizational control of Deltona's utility subsidiaries until the federal court's hearing is concluded. The Office of Public and St. Johns County have filed responses in support of Deltona's Motion for Continuance on the grounds that the Commission should allow the federal court to address the underlying contract dispute which is properly within its jurisdiction before determining whether the approval of Topeka's application is in the public interest.

Topeka has filed a response opposing Deltona's Motion for Continuance on the grounds that the Commission has exclusive jurisdiction over its application, but that the Commission has no jurisdiction over the contract dispute between Topeka and Deltona. Also, Topeka argues that all parties have already had adequate time to do discovery, in that Topeka's application was filed in November, 1988.

At this time, Topeka has already effected its acquisition of majority organizational control over the Deltona utility

DOCUMENT NUMBER-DATE

08165 AUG 15 1989

FPSC-RECORDS/REPORTING

ORDER NO. 21729
 DOCKET NO. 881501-WS
 PAGE 2

subsidiaries. Therefore, it is imperative that this Commission clarify as quickly as possible for all concerned what entity has the right and obligation to serve the thousands of water and wastewater customers of the Deltona utility subsidiaries. If the parties have not, as of this point in time, vigorously pursued their discovery activities, it is only because that has been their choice. The Commission cannot allow these customers to remain in "limbo". For these reasons, I hereby deny Deltona Corporation's Motion for Continuance. The hearing in this matter will be held August 30 and 31, 1989, in Orlando, Florida, as has been noticed.

Based on the foregoing, it is therefore

ORDERED by Commissioner Thomas M. Beard, as Prehearing Officer, that the Deltona Corporation's Motion for Continuance is denied and that the hearing in this proceeding will be held, as noticed, on August 30 and 31, 1989.

By ORDER of THOMAS M. BEARD, Commissioner and Prehearing Officer, this 15th day of AUGUST, 1989.


 THOMAS M. BEARD, Commissioner
 and Prehearing Officer

(S E A L)

SFS

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.

ORDER NO. 21729
DOCKET NO. 881501-WS
PAGE 3

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.