

## BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application for a rate ) DOCKET NO. 911030-WS  
 increase in Brevard County by )  
 GENERAL DEVELOPMENT UTILITIES, )  
 INC. (Port Malabar Division) )  
 \_\_\_\_\_ )

In re: Application for a rate ) DOCKET NO. 911067-WS  
 increase by GENERAL DEVELOPMENT )  
 UTILITIES, INC. in Charlotte, ) ORDER NO. 25771  
 DeSoto and Sarasota Counties )  
 \_\_\_\_\_ ) ISSUED: 2/21/92

ORDER DISPOSING OF GDU'S EMERGENCY MOTION  
 FOR PROTECTIVE ORDER

On Wednesday, February 19, 1992, Intervenors, the City of Port Malabar and the City of North Port, filed six notices of deposition in these dockets. The depositions are scheduled to begin on Monday, February 24, 1992, and to continue until March 2, 1992. By its Emergency Motion, General Development Utility (GDU) seeks to prohibit inquiry into certain areas during the depositions.

The argument made by GDU in its motion is that GDU and the Intervenors are also parties in pending arbitration proceedings. In the arbitration proceedings, dates have been set before which no depositions may be held. In the West Coast Division, the beginning date for depositions is March 3, 1992; in the Port Malabar Division, it is April 1, 1992. The proposed deponents are potential deponents in the arbitration proceedings, but have not been directly involved in the rate case preparation. For this reason, GDU argues that the Intervenors may be attempting to circumvent the discovery limitations in the arbitration proceedings.

In reviewing the motion, we recognize the concerns of GDU. However, we find that it is premature to grant a protective order at this time. All discovery, including deposition questions, must be reasonably expected to lead to the discovery of admissible evidence relevant to these proceedings. It may be that information not presently discoverable in the arbitration proceedings is in fact evidence relevant to the rate proceedings. Such information is discoverable in these proceedings; however, to the extent that discovery is sought which goes beyond that which is reasonably expected to lead to the discovery of relevant and admissible evidence, a protective order will issue.

DOCUMENT NUMBER-DATE

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However, we are concerned by the facts set before us. The notices of depositions were filed without first consulting the parties or Commission staff. The notice time of three working days to arrange availability of deponents, attorneys, and staff is very abbreviated. We also note that these depositions are being scheduled very early in the discovery process of these dockets, in fact, GDU has not yet been required to identify its witnesses nor has it yet filed testimony. We would encourage the parties to act in a reasonable and professional manner in the progress of this proceeding.

It is, therefore

ORDERED by Commissioner Susan F. Clark as Prehearing Officer, that the Emergency Motion for Protective Order is hereby denied.

By ORDER of Commissioner Susan F. Clark, as Prehearing Officer, this 21st day of FEBRUARY, 1992.

  
SUSAN F. CLARK, Commissioner  
as Prehearing Officer

( S E A L )

SFC/CB/KAC/LAJ

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.

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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 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.