

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Petition for a rate) DOCKET NO. 910890-EI
increase by Florida Power) ORDER NO. PSC-92-1482-FOF-EI
Corporation.) ISSUED: 12/23/92

The following Commissioners participated in the disposition of this matter:

THOMAS M. BEARD, Chairman
SUSAN F. CLARK
J. TERRY DEASON
BETTY EASLEY
LUIS LAUREDO

ORDER DENYING RECONSIDERATION

BY THE COMMISSION:

On September 30, 1992, Mr. Roy A. Day filed a Petition in Docket No. 910890-EI. In a separate pleading, Mr. Day also filed "Intervenor's Motion to Disqualify the Florida Public Service Commission," "Intervenor's Motion to Transfer to Federal Court," "Intervenor's Motion for Emergency Ruling on October 2, 1992," "Intervenor's Motion to Vacate," "Intervenor's Motion to Hold Action in Abeyance and Stay Proceedings and Rate Increase," "Intervenor's Notice of Appeal," and "Intervenor's Notice to Clerk to Transmit Documents to Court of Appeals" on September 30, 1992.

The evidentiary hearing in Docket No. 910890-EI commenced July 9, 1992, and ended July 24, 1992. Petitions for leave to intervene must be filed at least five days before the final hearing pursuant to Rule 25-22.039, Florida Administrative Code. Accordingly, we denied Mr. Day intervenor status in this docket in Order No. PSC-92-1264-PCO-EI, wherein we noted that it would be improper to consider the substance of any of Mr. Day's other pleadings.

On November 10, 1992, Mr. Day filed "Petitioner's First Amended Notice of Appeal," "Intervenor's Motion to Disqualify the Florida Public Service Commission and Transfer to Federal Court," "Intervenor's Motion to Vacate Order No. PSC-92-1264-PCO-EI," "Intervenor's Motion for Reconsideration of Order No. PSC-92-1264-PCO-EI," "Intervenor's Motion for Emergency Ruling on November 10, 1992," and "Notice to Clerk to Transmit Documents to Court of Appeals."

We deny Mr. Day's Motion for Reconsideration and therefore

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will not consider his other pleadings. Mr. Day has appealed Order No. PSC-92-1264-PCO-EI. Filing a notice of appeal of the order divested the Commission of jurisdiction over all but procedural matters relating to it. Rule 9.600, Florida Rules of Appellate Procedure, Harrell v. State, 197 So.2d 505 (Fla. 1967) opinion conformed to 198 So.2d 640, on remand 201 So.2d 252. Even if considered on the merits, Mr. Day's pleadings do not provide any material factual or legal ground we did not previously consider that would require a different decision.

It is, therefore,

ORDERED by the Florida Public Service Commission that Mr. Roy A. Day's Motion for Reconsideration is denied.

By ORDER of the Florida Public Service Commission this 23rd day of December, 1992.

STEVE TRIBBLE, Director
Division of Records and Reporting

(S E A L)

MER

by: Kay Flynn
Chief, Bureau of Records

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NOTICE OF 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 the Commission's final action in this matter may request 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 by filing a notice of appeal with the Director, Division of Records and Reporting and filing a copy of the notice of appeal and the filing fee with the appropriate court. This filing must be completed within thirty (30) days after the issuance of this order, pursuant to Rule 9.110, Florida Rules of Appellate Procedure. The notice of appeal must be in the form specified in Rule 9.900(a), Florida Rules of Appellate Procedure.