

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Application for Amendment of Certificates Nos. 298-W and 248-S in Lake County by JJ'S MOBILE HOMES, INC.)	DOCKET NO. 921237-WS
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In Re: Investigation Into Provision of Water and Wastewater Service by JJ'S MOBILE HOMES, INC. to its Certificated Territory in Lake County.)	DOCKET NO. 940264-WS ORDER NO. PSC-95-0176-PCO-WS ISSUED: February 7, 1995

ORDER DENYING MOTION FOR RECONSIDERATION
OF ORDER NO. PSC-94-1202-PCO-WS

On July 13, 1994, the Office of Public Counsel (OPC) served a request for production of documents upon JJ's Mobile Homes, Inc. (JJ's or the utility). OPC requested personal income tax returns of Mr. Jordan Hypes, president and primary shareholder of the utility. On July 28, 1994, JJ's filed an objection to OPC's request on the grounds that Mr. Hypes' personal tax returns are irrelevant to these proceedings. On August 9, 1994, OPC filed a motion for an order compelling discovery. On that same date, OPC served a second request for production of documents upon JJ's, soliciting financial statements and supporting documents of Mr. Hypes. On August 16, 1994, the utility objected to OPC's second request for production on the grounds that OPC requested documents which were irrelevant, overbroad, immaterial and redundant.

On September 30, 1994, the Prehearing Officer issued Order No. PSC-94-1202-PCO-WS, which required JJ's to respond the OPC's discovery requests. As to the first request for production, the order found that information sought met the standards set forth in Rules 1.280 and 1.350, Florida Rules of Civil Procedure, which allow the discovery of any document relevant to the subject matter of a pending matter. The order cited several occasions where this Commission has ruled that individual federal income tax returns are discoverable. As to OPC's second request for production, Order No. PSC-94-1202-PCO-WS required the utility to produce the supporting documentation of Mr. Hypes financial statements, on the grounds that such documents were relevant and could reasonably lead to admissible evidence. The order noted that the utility could seek confidential treatment of the documents in question.

Order No. PSC-94-1564-PCO-WS, issued December 15, 1994, afforded the utility the opportunity to file a motion for reconsideration by December 27, 1994. JJ's filed a timely motion for reconsideration. In its motion, JJ's asserts that the Commission overlooked certain facts or law in its decision in Order

DOCUMENT NUMBER-DATE

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ORDER NO. PSC-95-0176-PCO-WS
DOCKET NO. 921237-WS, 940264-WS
PAGE 2

No. PSC-94-1202-PCO-WS to compel discovery of Mr. Hypes' financial information.


The standard for determining whether reconsideration is appropriate is set forth in Diamond Cab Company of Miami v. King, 146 So.2d 889 (Fla. 1962). In Diamond Cab, the Court held that the purpose of a petition for reconsideration is to bring to an agency's attention a point which was overlooked or which the agency failed to consider when it rendered its order. That point is generally a mistake in law or a mistake in fact. In Steward Bonded Warehouse v. Bevis, 294 So.2d. 315 (Fla. 1974), the Court held that a petition for reconsideration should be based upon specific factual matters set forth in the record and susceptible to review.

While JJ's alleges that the Commission overlooked certain facts or law in its decision, JJ's has not demonstrated any matters of fact or law in its motion that were not already considered in Order No. PSC-94-1202-FOF-WS. JJ's basic contentions in its motion for reconsideration are that the documents are irrelevant, not reasonably calculated to lead to the discovery of evidence, and that the request was overbroad. These arguments were all raised and addressed in Order No. PSC-94-1202-PCO-WS. A motion for reconsideration cannot be used as an opportunity to reargue matters. Therefore, because JJ's has not demonstrated any facts or law that were overlooked in Order No. PSC-94-1202-PCO-WS, JJ's motion for reconsideration is denied.

Based upon the foregoing, it is

ORDERED by Commissioner Julia L. Johnson, as Prehearing Officer, that JJ's Mobile Homes, Inc.'s motion for reconsideration of Order No. PSC-94-1202-PCO-WS is hereby denied.

By ORDER of Commissioner Julia L. Johnson, as Prehearing Officer, this 7th day of February, 1995.



JULIA L. JOHNSON, Commissioner and
Prehearing Officer

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ORDER NO. PSC-95-0176-PCO-WS
DOCKET NO. 921237-WS, 940264-WS
PAGE 3

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: 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. 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.