

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application for certificate to operate  
water utility in Lake County by Black Bear  
Reserve Water Company, Inc.

DOCKET NO. 100085-WU  
ORDER NO. PSC-11-0155-PCO-WU  
ISSUED: March 7, 2011

ORDER GRANTING IN PART AND DENYING IN PART JOINT MOTION FOR STAY

On February 19, 2010, Black Bear Reserve Water Company, Inc. (Black Bear or utility) filed an Application for an original certificate to operate an existing water utility in Lake County (application). On June 18 and 21, 2010, and July 1, 2010, Black Bear provided notice of its application. On June 22, 2010, Upson Downs Limited Partnership (Objector or Upson) timely filed its objection to Black Bear's application to the extent the application includes the provision of non-potable water for the existing irrigation system. The Objector further asserted that Black Bear lacked the technical ability to operate the potable water system. Pursuant to Section 367.045, Florida Statutes (F.S.), this matter has been scheduled for an administrative hearing on June 21-22, 2011, and by Order No. PSC-10-0740-PCO-WU, issued December 21, 2010, the controlling procedures were established. At the request of Black Bear and the Objector, an informal meeting was scheduled with Commission staff on February 15, 2011, whereby the parties indicated they were seeking to settle some or all of the outstanding issues in this docket.

On February 16, 2011, Black Bear and the Objector filed a Joint Motion For Stay (Joint Motion), requesting an indefinite stay of Order No. PSC-10-0740-PCO-WU. In the Joint Motion, Black Bear states it filed an original certificate application which included rates for an irrigation system. The Objector asserts that it, not Black Bear, is the owner of the irrigation system. The parties jointly assert that the Commission lacks jurisdiction to determine ownership of the irrigation system and that litigation of that matter would be costly to Black Bear ratepayers. Furthermore, Black Bear and the Objector have agreed to withdraw the irrigation system from consideration in this proceeding so that the ownership issue may be resolved between Black Bear's parent corporation and the Objector. The Joint Motion further asserts that in light of the proposed settlement between the parties, it would not be a judicious use of resources to continue with ongoing discovery. Accordingly, Black Bear and the Objector request an indefinite stay of Order No. PSC-10-0740-PCO-WU, pending documentation and approval of the parties' proposed settlement.

Upon review of this Joint Motion and after being fully advised of this matter, it is appropriate to grant in part and deny in part the Joint Motion. Taking into consideration that the parties are seeking to bring a settlement to the Commission for the purposes of providing a just, speedy and inexpensive determination of all aspects of this docket, a stay of the requirements of Order No. PSC-10-0740-PCO-WU is appropriate. However, an indefinite stay of this proceeding is not in the public interest since Black Bear is currently serving water customers without having been granted an original certificate from this Commission. Thus, this proceeding shall be stayed for a period of 120 days from the issuance of this Order and all scheduled actions set forth in Order No. PSC-10-0740-PCO-WU shall be stayed for that period. In the event the

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parties advise the Commission that they have been unable to reach an agreement, an order revising Order No. PSC-10-0740-PCO-WU will be issued.

Based on the foregoing, it is

ORDERED by Commissioner Julie I. Brown, as Prehearing Officer, that the Joint Motion For Stay is granted in part and denied in part as described herein. It is further

ORDERED that this proceeding shall be stayed for a period of 120 days from the issuance of this Order and all scheduled actions set forth in Order No. PSC-10-0740-PCO-WU shall be stayed for that period. In the event the parties advise the Commission that they have been unable to reach an agreement, an order revising Order No. PSC-10-0740-PCO-WU will be issued.

By ORDER of Commissioner Julie I. Brown, as Prehearing Officer, this 7<sup>th</sup> day of March, 2011.



JULIE I. BROWN

Commissioner and Prehearing Officer

(SEAL)

ELS

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), 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.

Mediation may be available on a case-by-case basis. If mediation is conducted, it does not affect a substantially interested person's right to a hearing.

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 25-22.0376, Florida Administrative Code; or (2) 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 Office of Commission Clerk, in the form prescribed by Rule 25-22.0376, 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.