

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Complaint by Bayside)
Mobile Home Park against)
Bayside Utilities Services, Inc.)
regarding water and sewer service)
in an area within a territory)
assigned by the Commission)
_____)

DOCKET NO. 010726-WS

Filed: June 20, 2001

RESPONSE
BY BAYSIDE UTILITY SERVICES, INC.
TO COMPLAINANT'S
MOTION TO DENY "MOTION FOR EXTENSION OF TIME
OF THREE BUSINESS DAYS
TO RESPOND TO COMPLAINT" FILED BY BAYSIDE
UTILITY SERVICES, INC.

COMES NOW Bayside Utility Services, Inc. and in response to the complainant's
"Motion to Deny" states that:

1. Complainant's "motion" is without merit. Although the document is in the nature of a response to a motion, even if it were treated as a motion on its own it would still be without merit.
2. The complainant developer has been trying for almost a year and a half to shift financial burdens and risks of its planned development away from itself. Utility personnel have spent many hours working with the developer and with others to try to resolve not only this matter but also to resolve the developer's demand that the utility pay impact fees to the City of Panama City Beach. The developer now agrees that the impact fees should not be paid by the utility but rather paid by the ultimate customers to whom the developer intends to sell its lots. However, the developer still demands that the utility relieve it of the

risks associated with the development in the placement of utility lines within the development.

3. After the developer has spent almost a year and a half at this risk-avoidance adventure, it now complains that the utility requested an extension of three business days to respond to the complaint. Apparently, the developer would like for everyone to march to the beat of the developer's drummer, no matter how long the developer has been pursuing this matter, no matter what complications it has injected into relations with the City and the County, and no matter how much lost time and cost the developer has imposed on others.

4. Pursuant to the applicable rule, the response to the complaint was due on Friday, June 1. The utility's undersigned attorney was initially informed in March, 2000, that the developer was making certain demands on the utility, but since that time counsel has not been involved in any of the subsequent discussions, negotiations, mediation, or other activities between the developer, the utility, the City of Panama City Beach, Bay County, or anyone else. Apparently, both the developer and the utility handled the discussions and meditation without being represented by attorneys.

5. To be able to provide a meaningful response to the complaint, it was necessary to acquire several documents and to gather information about what had transpired in the past year and a half. The information had to come from Northbrook, Illinois, from Altamonte Springs, Florida, from Panama City Beach, Florida, and from the Public Service Commission in Tallahassee. Upon filing the motion for extension of three business days to file the response to the complaint, it was thought that all the relevant documents had been

acquired by that day, but that there was insufficient time to examine all of them and provide a meaningful response. Therefore, the three-day extension was requested. Such a request is normal practice before this Commission as well as before every other administrative tribunal and court of which counsel is aware. Given the totality of the circumstances, the utility's Motion for Extension of Time of three business days was eminently reasonable.

6. On Monday, June 4, the first day after the original deadline, counsel was finally able to reach Mr. Rendell, the PSC mediator in this matter, and gather facts about what had transpired at the PSC up to that point. A copy of the mediation file was received, reviewed, and during the next three days the draft response was revised, updated, reviewed, and approved. The response was filed by the requested extension date, Wednesday, June 6, just three business days after the original due date set forth in the rules.

7. The complainant's Motion to Deny asserts in paragraph 3 thereof that counsel for the utility ". . . could not find the necessary time to prepare his response is not a valid reason to grant his motion [for extension of time]." As shown by the recitation of the facts in the foregoing paragraphs, such unfounded rhetoric in complainant's Motion to Deny does not accurately state the facts.

8. As addressed in Rule 25-30-515(7), F.A.C, it is still not economically feasible for the utility to make this speculative investment on the terms demanded by the developer. A response was filed, it was filed within the time requested in the utility's motion for an extension of three business days, and it is responsive to, and the utility believes dispositive

of, the complaint.

9. As shown in Commission Rule 25-30.580, it is the Commission's intent that water distribution systems and wastewater collection systems be contributed (CIAC). As a general matter, Utilities, Inc.'s Florida systems implement the Commission policy by entering into agreements with developers to contribute the distribution and collection systems for their developments. Bayside Utility Services, Inc. is no different, and it also will follow that policy. Just such a developer agreement was submitted to the developer in March, 2000, but the developer has refused to sign it. It is economically feasible for Bayside Utility Services, Inc. to serve the 76 lots if the developer follows the Commission's procedures and rules, as is done by developers and other utility systems in the state of Florida.

WHEREFORE, the complainant developer's Motion to Deny "Motion for Extension of Time of Three Business Days to Respond to Complaint" should be treated as a response to the Motion for Extension of Time and should not be sustained, or if it is treated as a motion in its own right, it should be denied.

RESPECTFULLY SUBMITTED, this 20th day of June, 2001.



Ben E. Girtman
FL Bar No. 186039
1020 E. Lafayette St.
Suite 207
Tallahassee, FL 32301

(850) 656-3232

Attorney for
Bayside Utility Services, Inc.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing has been sent to the following by U.S. mail (or by facsimile*) this 20st day of June, 2001.

Bayside Mobile Home Park*
Attention: Dorothy Burton
6325 Big Daddy Drive
Panama City Beach, FL 32407

Ralph Jaeger, Esq.*
Florida Public Service Commission
Division of Legal Services
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850



Ben E. Girtman