

## BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Investigation of PALM COAST )	DOCKET NO. 871395-WS
UTILITY CORPORATION for verification of)	
utility investment in water and sewer )	ORDER NO. 21288
assets in Flagler County )	
_____)	ISSUED: 5-25-89

ORDER DISPOSING OF MOTIONS

By Order No. 18785, issued February 2, 1988, this Commission initiated an investigation into the level of investment in utility assets by Palm Coast Utility Corporation (PCUC). By Order No. 18713, issued January 21, 1988, this Commission acknowledged the intervention of the Office of Public Counsel (OPC) in this proceeding. Pursuant to the provisions of Order No. 18785, the staff of this Commission (Staff) was directed to present a report to the Commission within twelve months of the date of that Order.

On February 3, 1989, OPC filed a motion to extend the case schedule for this investigation by four months. By Order No. 21075, issued April 20, 1989, the Prehearing Officer granted OPC's motion and directed it to bring forward any further information relative to this investigation no later than June 5, 1989.

Motion For Protective Order

On March 28, 1989, PCUC filed a motion for a protective order. PCUC argues that OPC is attempting to discover materials that have already been provided. PCUC, therefore, requests that the Commission enter an order protecting it from any further discovery, until the Commission has evaluated the status of this investigation.

On April 4, 1989, OPC filed a response to PCUC's motion. OPC argues that much of the information sought has not been previously produced and, therefore, requests that this Commission deny PCUC's motion for a protective order. OPC also filed a request for oral argument regarding its response.

Based upon the representations of the parties, the Prehearing Officer believes that it is appropriate to grant PCUC's motion for a protective order, but only to the extent that OPC has attempted to discover any information that PCUC or any of its related entities have already provided to OPC or Staff during the course of this investigation. To the extent that any information has not already been provided during this investigation, the Prehearing Officer finds it appropriate to deny PCUC's motion. As for OPC's request for oral argument, it does not appear that holding oral argument will aid in the disposition of PCUC's motion or OPC's response. The Prehearing Officer, therefore, finds it appropriate to deny the request for oral argument.

Motion for Extension of Time

On May 4, 1989, OPC filed a motion to extend the time within which to file its findings. The basis of OPC's motion

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is that the parties were unable to find a mutually agreeable time for OPC to visit PCUC's offices, for discovery purposes, until two weeks before OPC's deadline in this case. OPC, therefore, requests a further extension of eight days. In its motion, OPC states that PCUC does not object to the proposed eight-day extension. Since it appears that the delay is unavoidable and will do no harm to the case schedule, the Prehearing Officer believes it appropriate to grant OPC's motion for extension of time.

In consideration of the foregoing, it is

ORDERED by Commissioner Thomas M. Beard, as Prehearing Officer, that Palm Coast Utility Corporation's Motion for Protective Order is hereby granted in part and denied in part, as set forth in the body of this Order. It is further

ORDERED that the Office of Public Counsel's request for oral argument is hereby denied, as set forth in the body of this Order. It is further

ORDERED that the Office of Public Counsel's motion for extension of time is hereby granted, as set forth in the body of this Order.

By ORDER of Commissioner Thomas M. Beard, this 25th day of MAY, 1989.

  
 THOMAS M. BEARD, Commissioner and  
 Prehearing Officer

( S E A L )

RJP

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: 1) reconsideration within 10 days pursuant to Rule 25-22.038(2), Florida Administrative Code, if issued by a

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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 sewer 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.