

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Request by FLORIDA WATERWORKS)	DOCKET NO. 860184-PU
ASSOCIATION for investigation of)	
proposed repeal of Section 118(b),)	ORDER NO. 21921
Internal Revenue Code (Contributions-)	
in-aid-of-Construction))	ISSUED: 9-19-89
)	

ORDER GRANTING INTERVENTION

BY THE COMMISSION:

By Order No. 16971, issued December 18, 1986, this Commission authorized corporate water and sewer utilities to elect to "gross-up" contributions-in-aid-of-construction (CIAC) in order to offset the tax impact of an amendment to Section 118(b), Internal Revenue Code, under the Tax Reform Act of 1986. To date, forty-four water and/or sewer utilities have elected to implement such a gross-up.

By Order No. 21266, issued May 22, 1989, this Commission proposed to establish guidelines to control the collection of taxes on CIAC. On June 12, 1989, a number of substantially affected persons filed protests to Order No. 21266. This case is currently scheduled for an administrative hearing on April 26 and 27, 1990, with a prehearing conference to be held on April 12, 1990.

On June 13, 1989, Florida Home Development Corporation (FHDC) filed a protest to Order No. 21266. FHDC's petition states that, as a developer, it is frequently required to donate CIAC to investor-owned water and sewer utilities in Florida. As such, FHDC argues that the establishment of guidelines for the implementation of a gross-up on CIAC will directly affect it.

On July 3, 1989, Alafaya Utilities, Inc., Aloha Utilities, Inc., Canal Utilities, Inc., Clay Utility Company, Eagle Ridge Utilities, Inc., El Agua Utilities, Inc., Forest Utilities, Inc., Intercoastal Utilities, Inc., Kingsley Service Company,

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Lehigh Utilities, Inc., Martin Downs Utilities, Inc., Neighborhood Utilities, Inc., North Fort Myers Utility, Inc., Ponte Vedra Utilities, Inc., Rolling Oaks Utilities, Inc., Royal Utility Company, Inc., St. Johns Utilities, Inc., and Southside Utilities, Inc. (petitioners), filed a motion to dismiss FHDC's petition. The basis of the petition is that, pursuant to the provisions of Order No. 21266, any protest thereto was to be filed no later than June 12, 1989. Since FHDC's protest was not filed until June 13, 1989, petitioners argue that it must be dismissed.

On July 13, 1989, FHDC filed a response to petitioners' motion to dismiss. FHDC argues that, since Order No. 21266 was protested and, therefore, never became final, it should either be viewed as still proposed or in the alternative, as being nonexistent. Either way, FHDC argues that there are no grounds upon which to dismiss its petition. Notwithstanding the above, FHDC states that, in order to avoid any unnecessary expense, it would not object to having its protest treated as petition to intervene.

The petitioners have stated orally that they do not object to having FHDC's protest treated as a petition to intervene.

Since neither FHDC nor the petitioners object to having the protest treated as a petition to intervene, it is not necessary to rule on the motion to dismiss. Further, based upon the discussion above, it appears that FHDC's substantial interests are subject to determination or will be affected by this proceeding. FHDC's request to intervene in this case is, therefore, granted.

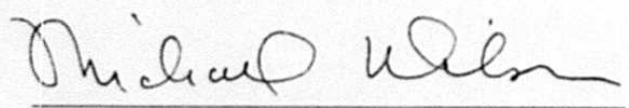
Accordingly, it is

ORDERED by Chairman Michael McK. Wilson, as Prehearing Officer, that Florida Home Development Corporation's request to intervene in this proceeding is hereby granted. It is further

ORDERED that all parties to this proceeding shall furnish copies of all testimony, exhibits, pleadings and any other documents which may be hereinafter filed in this proceeding to: Florida Home Development Corporation, c/o Patrick K. Wiggins, Esquire, Ranson & Wiggins, P.A., 325 West Park Avenue, Post Office Drawer 1657, Tallahassee, Florida 32302.

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By ORDER of Chairman Michael McK. Wilson, as Prehearing Officer, this 19th day of September, 1989.



MICHAEL MCK. WILSON, Chairman
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 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

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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.