

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application of LAKE TARPON)	DOCKET NO. 890442-WU
HOMES, INC. for a staff-assisted rate)	ORDER NO. 22748
case in Pinellas County)	ISSUED: 3-28-90
)	

ORDER GRANTING MOTIONS TO SUBSTITUTE
PARTIES, TO DISPOSE OF HEARING
AND TO SUSPEND CASE SCHEDULE

On March 27, 1989, Lake Tarpon Homes, Inc. (Lake Tarpon) applied for a staff-assisted rate case. Its request was granted by letter dated May 11, 1989.

On November 7, 1989, by Order No. 22160, this Commission proposed to establish final rates and charges for Lake Tarpon. On November 28, 1989, the Lake Tarpon Mobile Home Village Association, Inc. (Association) filed a protest to Order No. 22160. The essence of the Association's protest was that there are a number of locations receiving unmetered water service. The Association contended that these locations should be metered. Pursuant to the Association's protest, this case was set for an administrative hearing on April 11, 1990.

On January 16, 1990, Utilities Inc. of Florida (Utilities Inc.) entered into a contract to purchase Lake Tarpon, subject to the approval of this Commission. On February 12, 1990, Utilities Inc. filed a motion to substitute itself as a party for Lake Tarpon. In addition, according to its motion, there was an addendum to the purchase agreement by which Utilities Inc. agreed to meter the unmetered locations. Accordingly, Utilities Inc. argued that there were no material issues of fact in controversy in this case and that the hearing should, therefore, be cancelled. Notwithstanding the above, however, a withdrawal of the Association's protest was not immediately forthcoming.

On February 8, 1990, Utilities Inc. filed a motion to suspend the current case schedule. According to its motion, the parties were in the process of drafting a settlement.

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Therefore, Utilities Inc. argued that the case schedule for this matter should be suspended, pending the finalization of a settlement proposal. Again, however, a settlement was not immediately forthcoming.

On March 21, 1990, Utilities Inc. filed a motion to modify Order No. 22276, issued December 8, 1989, by which the current case schedule was established. Specifically, Utilities Inc. suggested that it would be appropriate to substitute the notice requirements of Rule 25-22.0406(7), Florida Administrative Code, which specifically deal with notice after a proposed agency action order is protested, for those outlined in Order No. 22276, which deal with a "file and suspend" rate case.

After much negotiation, on March 22, 1990, a settlement stipulation was finally executed. A copy of the settlement was transmitted to counsel for Utilities Inc. by facsimile machine and the original was mailed to the Office of Public Counsel (OPC). A copy of the facsimile copy was also sent to this Commission on March 22, 1990, with the understanding that the original would be filed by OPC as soon as it is received.

As of this date, only three business days remain for Utilities Inc. to prepare a notice, have it approved by this Commission and complete distribution of the notice to its customers. Under these circumstances, and in the interest of administrative economy, it appears appropriate to accept the facsimile version of the settlement stipulation pending OPC's filing of the original.

Based upon the discussion above, Utilities Inc.'s motion to substitute parties is granted. In addition, in consideration of the settlement between the parties, and after consultation with the Chairman of this Commission, the motions to dispense with hearing and to suspend the current case schedule are also granted. However, in light of the cancellation of the hearing, the motion to modify notice requirements is rendered moot.

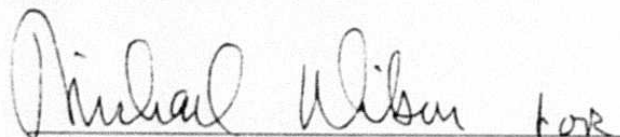
Based upon the foregoing, it is

ORDERED by Commissioner John T. Herndon, as Prehearing Officer, that the motions by Utilities Inc. of Florida to substitute parties, to dispense with the hearing, and to suspend the case schedule are hereby granted. It is further

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ORDERED that the prehearing conference and hearing, currently scheduled for April 4 and 11, 1990, respectively, are accordingly cancelled.

By ORDER of Commissioner John T. Herndon, as Prehearing Officer, this 28th day of MARCH, 1990.


JOHN T. HERNDON, Commissioner and
Prehearing Officer

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RJP

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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 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.