

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Complaint of John W. Owens )  
against GULF AIRE WASTEWATER TREATMENT )  
PLANT regarding alleged failure to )  
provide service in Gulf County )  
\_\_\_\_\_ )  
)  
)

DOCKET NO. 911182-SU  
ORDER NO. PSC-92-0026-FOF-SU  
ISSUED: 3/10/92

The following Commissioners participated in the disposition of this matter:

SUSAN F. CLARK  
J. TERRY DEASON  
LUIS J. LAUREDO

NOTICE OF PROPOSED AGENCY ACTION

ORDER RESOLVING CUSTOMER COMPLAINT

BY THE COMMISSION:

NOTICE IS HEREBY GIVEN by the Florida Public Service Commission that the action discussed herein is preliminary in nature, and as such, will become final unless a person whose interests are substantially affected files a petition for a formal proceeding pursuant to Rule 25-22.029, Florida Administrative Code.

BACKGROUND

Gulf Aire Wastewater Treatment Plant (Gulf Aire or utility) is a Class C wastewater utility, which provides wastewater service to the Sea Shores residential community in Gulf County. Water service is provided by the City of Mexico Beach.

On December 9, 1991, this Commission received a formal complaint from John W. Owens alleging that the utility had failed to provide him a connection for wastewater service in the Sea Shores subdivision. Mr. Owens argued he was unable to obtain a building permit from Gulf County because the utility failed to provide a hookup for wastewater service. He further contended that his closed bank loan may be in jeopardy because he feared he may not be able to finish his house in the bank's specified time limit. He argued that the utility hooked-up eight other homes, these homes currently use the system and he believes he also should be able to use the system. He contended that he has offered to pay any back revenues on the lot as well as paying a separate tap fee, but the

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utility refused both requests. He requested that this Commission require the utility to hookup his wastewater service so he could get his building permit and preserve his loan agreements.

On December 10, 1991, by letter, this Commission informed the utility of the complaint and requested it respond by December 30, 1991.

On December 20, 1991, the utility filed its response from its president Ike Duren, stating that, until several conditions were met the utility would continue to refuse to allow hookups in the subdivision. The utility argued that the developers of Seashores Subdivision owe \$22,471 in past guaranteed revenues and have violated Order No. 19435, which required these Developers to pay these guaranteed revenue charges to the utility. Further, the utility alleged that the developers own and maintain the wastewater lines and until these lines are donated to the utility as required by the above Order, it will not allow any hook-ups. Finally, the utility contended that these wastewater lines are substandard and do not meet the minimum requirements of the Department of Environmental Regulation (DER). The utility stated it would be willing to forego any additional payments if Sea Shores' reserved capacity were to be released by Sea Shores' Developers. The utility has filed litigation in Circuit Court in Gulf County on this matter.

This Commission advised the utility that the customer was located within its certificated area and, therefore, it was required to accept payment of service availability charges and provide service to this customer, regardless of the possible legitimacy of the utility's dispute over past-due guaranteed revenues. The utility subsequently agreed to accept the service availability charges and provide future connection for Mr. Owens. Further, the utility did not require Mr. Owens to pay the alleged back-due guaranteed revenues on the lot.

As the utility has agreed to provide service to Mr. Owens, we find this complaint to be resolved. Since no further action is required this docket shall be closed if no protest is received within the period set forth in the Notice of Further Proceedings below.

Based on the foregoing, it is, therefore

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ORDERED by the Florida Public Service Commission that the complaint of John W. Owens against Gulf Aire Wastewater Treatment Plant in Gulf County has been resolved as set forth in the body of this Order. It is further

ORDERED that the provisions of this Order are issued as proposed agency action and shall become final unless an appropriate petition, in the form provided by Rule 25-22.036, Florida Administrative Code, is received by the Director, Division of Records and Reporting, at his office at 101 East Gaines Street, Tallahassee, Florida, 32399-0870 by close of business on the date set forth in the "Notice of Further Proceedings or Judicial Proceedings or Judicial Review" attached hereto. It is further

ORDERED that in the event this Order becomes final and effective, this docket shall be closed.

By ORDER of the Florida Public Service Commission, this 10th day of MARCH, 1992.

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STEVE TRIBBLE, Director  
Division of Records and Reporting

( S E A L )

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by: Kay Ferguson  
Chief, Bureau of Records

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.

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The action proposed herein is preliminary in nature and will not become effective or final, except as provided by Rule 25-22.029, Florida Administrative Code. Any person whose substantial interests are affected by the action proposed by this order may file a petition for a formal proceeding, as provided by Rule 25-22.029(4), Florida Administrative Code, in the form provided by Rule 25-22.036(7)(a) and (f), Florida Administrative Code. This petition must be received by the Director, Division of Records and Reporting at his office at 101 East Gaines Street, Tallahassee, Florida 32399-0870, by the close of business on 3/31/92.

In the absence of such a petition, this order shall become effective on the day subsequent to the above date as provided by Rule 25-22.029(6), Florida Administrative Code.

Any objection or protest filed in this docket before the issuance date of this order is considered abandoned unless it satisfies the foregoing conditions and is renewed within the specified protest period.

If this order becomes final and effective on the date described above, any party adversely affected may request judicial review by the Florida Supreme Court in the case of an electric, gas or telephone utility or by the First District Court of Appeal in the case of a water or wastewater utility by filing a notice of appeal with the Director, Division of Records and Reporting and filing a copy of the notice of appeal and the filing fee with the appropriate court. This filing must be completed within thirty (30) days of the effective date of this order, pursuant to Rule 9.110, Florida Rules of Appellate Procedure. The notice of appeal must be in the form specified in Rule 9.900(a), Florida Rules of Appellate Procedure.