

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application for a rate ) DOCKET NO. 911030-WS  
increase in Brevard County by )  
GENERAL DEVELOPMENT UTILITIES, )  
INC. (Port Malabar Division) )  
\_\_\_\_\_ )  
  
In re: Application for a rate ) DOCKET NO. 911067-WS  
increase by GENERAL DEVELOPMENT )  
UTILITIES, INC. in Charlotte, ) ORDER NO. PSC-92-0258-PCO-WS  
DeSoto and Sarasota Counties )  
\_\_\_\_\_ ) ISSUED: 4/27/92

ORDER DENYING MOTION TO POSTPONE HEARING

On March 20, 1992, the Office of Public Counsel (OPC), an intervenor in the above-referenced dockets, filed a Motion to Postpone Hearing, seeking a continuance of the hearing on GDU's application for a rate increase scheduled for May 20, 21, and 22, 1992. As grounds for its Motion, the Intervenor states that: 1) arbitration proceedings for the sale of the systems to the Intervenor, Cities of North Port and Palm Bay, are pending; 2) a 41-day continuance would save time and money; 3) if the hearings were rescheduled in July, there still would be enough time to complete the cases; and 4) the current early scheduling has caused additional problems for the intervenors.

In its Response in Opposition to the Motion to Postpone Hearing, filed on March 31, 1992, GDU states as follows: 1) this motion is very similar to the previously filed Motion for Continuance, which was denied in Order No. PSC-92-0090-PCO-WS on March 23, 1992; 2) pending arbitration is not relevant to this proceeding; 3) the Intervenor has asserted that they have no obligation to purchase the systems after arbitration, and no specific date has been set for sale after arbitration; 4) the statement that these dockets are scheduled for an early hearing is not well-founded; 5) the three-month period between prefiled testimony and the final hearings gives all the intervenors enough time to prepare their cases; and 6) there is nothing in the motion to justify OPC's request, which, if granted, likely would delay final action beyond the eight-month period, which will end September 16, 1992.

As to the issue of pending arbitration raised by the Intervenor, OPC, the pending arbitration is not good cause for continuing the proceedings in this case. The pending arbitration

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does not obviate the need for a rate increase or decrease. There has been no assertion by the Intervenor, the City of Palm Bay and the City of North Port, that once arbitration is complete, there will be an immediate sale of the systems to the Intervenor. Moreover, the Intervenor has reiterated their position that they are under no obligation to purchase the systems once a purchase price has been established through arbitration. Further, although the rate case hearing has been scheduled within five days of arbitration, the Commission will not make a final decision on the rates until approximately three months after the full evidentiary hearing. Section 367.082(7), Florida Statutes, provides that, if a utility becomes exempt from Commission regulation or jurisdiction during the pendency of a rate case, the request for rate relief pending before the Commission is deemed to have been withdrawn. Thus, if the systems are purchased prior to the Commission's final decision setting rates, the ratepayers will not bear the burden of the rate case expense associated with this hearing and any interim rates will be refunded. Based on the above, the ratepayers will suffer no harm if the rate case proceeds under the current schedule.

Another ground for continuance raised by OPC is the need to allow additional time to prepare, especially because of the "early" scheduling of the hearing. In fact, the schedule established for this case is normal for water and wastewater cases and the hearing has not been accelerated. Order No. PSC-92-0205-FOF-WS, issued April 14, 1992, under Rule 25-22.039, Florida Administrative Code, stated that, "intervenor take the case as they find it," and the OPC has not stated sufficient grounds to postpone the hearing.

In consideration of the foregoing, the Intervenor, Office of Public Counsel, has not established good cause to postpone the hearing. Accordingly, the Motion to Postpone Hearing filed by the Office of Public Counsel is denied.

Based on the foregoing, it is, therefore,

ORDERED by Commissioner Susan F. Clark, as Prehearing Officer, that the Motion to Postpone Hearing filed by the Office of Public Counsel is hereby denied.

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By ORDER of Commissioner Susan F. Clark, as Prehearing Officer, this 27th day of APRIL, 1992.

  
SUSAN F. CLARK, Commissioner  
as Prehearing Officer

( S E A L )

SFC/KAC

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 wastewater 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.