

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) ORDER NO. PSC-92-0303-PCO-WS
UTILITIES, INC. in Charlotte,) ISSUED: 05-06-92
DeSoto and Sarasota Counties)
_____)

ORDER ON INTERVENORS' EMERGENCY MOTION FOR PROTECTIVE ORDER

BY THE COMMISSION:

On April 27, 1992, the Cities of North Port and Palm Bay (Cities), intervenors in the above-referenced consolidated dockets, filed an Emergency Motion For Protective Order regarding the deposition of Gerald C. Hartman which had been noticed for April 28, 1992. Due to a change in the schedule of the arbitration proceedings, Mr. Hartman, who is also a witness in the arbitration proceedings, became unavailable to be deposed on the date noticed. By their motion, the Cities have requested that Mr. Hartman's deposition be rescheduled for either May 8, 1992, or May 14, 1992.

On April 27, 1992, General Development Utilities, Inc. (GDU) filed its Response to Motion For Protective Order and Request For Leave to File Certain Rebuttal on May 13, 1992. As grounds for the request to file certain rebuttal testimony on May 13, 1992, GDU argues that it is necessary to depose Mr. Hartman, an engineering witness for the Cities, prior to the filing of rebuttal testimony of GDU's engineering witness, Mr. Guastella. By its request GDU is seeking to extend the time to file Mr. Guastella's rebuttal testimony for three working days following the date for which Mr. Hartman's deposition has been renoticed.

By Response filed April 30, 1992, the Cities objected to GDU's request for an extension of time to file rebuttal on the grounds that such an extension would deprive the Cities of the opportunity to depose Mr. Guastella on his rebuttal testimony. At the present time Mr. Guastella is scheduled to be deposed on May 12, 1992.

Upon consideration, and in the interest of fairness, we find it appropriate to grant the Cities' motion for protective order, as well as to grant GDU's request for an extension of time to file Mr. Guastella's rebuttal testimony. Therefore, GDU shall file any rebuttal testimony for Mr. Guastella by May 13, 1992. In addition,

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we also find it appropriate to extend the time for discovery related solely to Mr. Guastella's testimony, including his rebuttal testimony, to May 18, 1992. The parties may wish to consider rescheduling Mr. Guastella's deposition to accommodate the extension of time within which to file rebuttal and to complete discovery as specified above.


Based on the foregoing, it is, therefore,

ORDERED by Susan F. Clark, as Prehearing Officer, that the Motion for Protective Order filed by the Cities of North Port and Port Malabar is hereby granted. It is further

ORDERED that the Request of General Development Utilities, Inc., For Leave to File Certain Rebuttal on May 13, 1992, is hereby granted. It is further

ORDERED that the time to complete discovery related solely to the rebuttal testimony of Witness Guastella is hereby extended to May 18, 1992.

By ORDER of Commissioner Susan F. Clark, as Prehearing Officer, this 6th day of May, 1992.



SUSAN F. CLARK, Commissioner
and Prehearing Officer

(S E A L)

SFS/CB

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

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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.