

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-92-0355-PCO-WS  
UTILITIES, INC. in Charlotte, ) ISSUED: 5/13/92  
DeSoto and Sarasota Counties )  
\_\_\_\_\_ )

ORDER GRANTING PALM BAY AND NORTH PORT'S  
RENEWED MOTION TO CHANGE THE DATE OF  
THE PRE-PREHEARING, PREHEARING, AND HEARING  
AND DENYING GENERAL DEVELOPMENT UTILITIES, INC.'S  
REQUEST FOR ATTORNEYS FEES

On May 1, 1992, the City of Palm Bay and the City of North Port (the Cities), Intervenor in the above-referenced dockets, filed a Renewed Motion to Change the Date of the Pre-prehearing, Prehearing, and Hearing. On May 4, 1992, the Cities filed an Amendment to that Motion. As grounds for its Motion, the Cities state the following: 1) the Florida Public Service Commission (PSC) does not have jurisdiction over the North Port system; 2) the Cities are being deprived of their due process right to a fair hearing because they lack adequate time to prepare for the final hearing; 3) a postponement will allow the PSC to correct violations of the Sunshine Law; 4) the public interest requires a postponement to allow the PSC to be fully briefed on the facts, law, and issues; and 5) the Cities only want a postponement to prepare and are not seeking to delay the overall case schedule. In their amendment to the motion, the Cities stated that in the North Port arbitration case, the arbitrators completed their proceedings and awarded a value to the North Port system. The arbitrators' award brought the parties closer to the purchase of the North Port system and therefore was good cause to continue the proceedings in the rate case.

In its Response in Opposition to Cities' Renewed Motion to Change Dates of Pre-prehearing, Prehearing, and Hearing, filed May 5, 1992, General Development Utilities, Inc. (GDU) took exception to the Cities' arguments and requested costs, including attorney's fees pursuant to Section 120.57(1)(b)5, Florida Statutes.

The Office of Public Counsel (OPC) filed no written response to the Motion. However, at the May 11th Customer Service Hearing, OPC supported continuing the proceedings recognizing that the

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continuance could result in the implementation of the requested rates, subject to refund, as set forth in Section 367.081(6), Florida Statutes. Numerous customers also testified that they supported the continuance.

Upon consideration of the oral argument of the parties at the Prehearing Conference held on May 6, 1992, the testimony of the customers at the Customer Service Hearings held on May 7 and 11, 1992, and the apparent imminence of the sale of the two systems for which rate relief is being sought, we find it is appropriate to continue these proceedings to a subsequent date to be determined. However, if the pending sales are not finalized by July 4, 1992, the Chairman of the PSC will determine dates for the rescheduling of the hearing. The parties are hereby placed on notice that, if the sales are not finalized by July 4, 1992, the hearing on final rates may commence as soon as July 20, 1992.

As acknowledged by the Cities in an earlier Motion and by OPC at the May 11, 1992, Customer Service Hearing, GDU is permitted by statute to place its requested rates into effect, if the Commission does not make its final decision within the eight month period imposed by Section 367.081, Florida Statutes. OPC's and Cities' requests to continue this proceeding are granted with the understanding that the parties are fully aware of the possibility of this matter continuing beyond the running of the eight month statutory clock. Accordingly, the parties are also placed on notice that, by granting their Motion and rescheduling these proceedings, the Commission may not be able to rule on the final rates within the eight month statutory time period, and that pursuant to Section 367.081(6), Florida Statutes, the requested rates of GDU may be placed into effect by GDU, subject to refund, upon notice to this Commission.

Based on this decision to continue these proceedings, GDU's Request for Attorneys' Fees is denied.

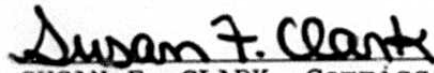
Based on the foregoing, it is, therefore,

ORDERED by Commissioner Susan F. Clark, as Prehearing Officer, that the Renewed Motion to Change the Date of the Pre-prehearing, Prehearing, and Hearing filed by the Cities of Palm Bay and North Port is hereby granted to the extent set forth above. It is further

ORDERED that the request for Attorneys' Fees filed by General Development Utilities, Inc. is hereby denied.

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By ORDER Commissioner Susan F. Clark, as Prehearing Officer,  
this 13th day of MAY, 1992.

  
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SUSAN F. CLARK, Commissioner  
and Prehearing Officer

( S E A L )

SFC/CB/LAJ/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.