

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application for staff-) DOCKET NO. 900025-WS
assisted rate case in Pasco) ORDER NO. PSC-92-0356-FOF-WS
County by SHADY OAKS MOBILE-) ISSUED: 05/14/92
MODULAR ESTATES, INC.)
_____)

The following Commissioners participated in the disposition of this matter:

THOMAS M. BEARD, Chairman
SUSAN F. CLARK
J. TERRY DEASON
BETTY EASLEY
LUIS J. LAUREDO

NOTICE OF PROPOSED AGENCY ACTION

ORDER REQUIRING CUSTOMER CREDITS

BY THE COMMISSION:

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

CASE BACKGROUND

Shady Oaks Mobile-Modular Estates, Inc., (Shady Oaks or utility) is a class "C" water and wastewater utility serving a 242 lot mobile-modular home park located in Pasco County, south of the City of Zephyrhills. On January 10, 1990, Shady Oaks applied for the instant staff-assisted rate case. On February 8, 1991, this Commission issued proposed agency action (PAA) Order No. 24084, wherein we approved a rate increase for Shady Oaks.

After the new rates became effective, the homeowners in the Shady Oaks park filed suit against Shady Oaks in Circuit Court complaining of, among other things, the increased water and wastewater rates approved by this Commission. The deeds whereby the developer (Shady Oaks) transferred property in the Shady Oaks mobile home park to a buyer covenanted that Shady Oaks would provide certain services, including water and wastewater service, at a fixed annual cost; the homeowners sought to have the Court enforce the covenant.

DOCUMENT NUMBER-DATE

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FPC-RECORDS/REPORTING

On June 24, 1991, Circuit Court Judge Lynn Tepper granted the homeowners' request for an emergency temporary injunction enjoining Shady Oaks from charging or attempting to collect the Commission-approved rates. In addition, on July 5, 1991, the Circuit Court issued an order requiring Shady Oaks to show cause why it should not be found in contempt for violating a 1983 Court Judgment upholding the restrictions. This latter order also enjoined the utility from collecting the Commission-approved rates and ordered that the monthly service fee paid by the homeowners be deposited into the registry of the Clerk of the Court. In August, 1991, both injunctions were lifted, and the utility was able to begin collecting the Commission-approved rates; however, the homeowners' lawsuit is still pending.

CUSTOMER CREDITS

During the time that the Circuit Court injunction was in effect, Shady Oaks was unable to pay its electric bills for May and June, 1991. On July 25, 1991, the Withlacoochee River Electric Cooperative (WREC) discontinued electric service to the utility. All of the pertinent governmental agencies, including this Commission, were given prior notice. As a result of WREC's terminating Shady Oaks' electric service, Shady Oaks' water and wastewater customers were without water and wastewater service. In order to get their service restored, the Shady Oaks homeowners proposed paying Shady Oaks' electric bill. With no opposition from the utility or the Commission, the Circuit Court issued an order which allowed the homeowners to pay the electric bill, provided that payment would be credited to the homeowner's water and wastewater bills. The homeowners paid the electric bill, and Shady Oaks' power was restored.

Shady Oaks' electric bill was paid by 114 homeowners. The utility was provided with a list of the names of homeowners who paid so that the appropriate credit could be given to their accounts. The Circuit Court Order does not specify that only homeowners who paid a portion of the delinquent electric bill would be entitled to a credit.

We think that a credit to the customers is appropriate in this instance. Further, we think it reasonable that only those customers who paid a portion of the delinquent electric bill should receive the credit.

The appropriate credit per contributing homeowner is \$9.59. As of mid-March of this year, the utility had issued the appropriate credits to only 86 of the 114 contributing customers,

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leaving 28 who have yet to be credited the proper amount. Accordingly, we hereby order the utility to issue the remaining 28 credits to those homeowners who contributed to paying the utility's delinquent electric bill. These credits should be issued on the first bill subsequent to the effective date of this Order.

It is, therefore,

ORDERED by the Florida Public Service Commission that Shady Oaks Mobile-Modular Estates, Inc., shall, as set forth in the body of this Order, credit the bills of the customers so entitled. It is further

ORDERED that all of 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 25-22.029, Florida Administrative Code, is received by the Director of the Division of Records and Reporting at his office at 101 East Gaines Street, Tallahassee, Florida 32399-0870, by the date set forth in the Notice of Further Proceedings below.

By ORDER of the Florida Public Service Commission, this 14th day of May, 1992.

STEVE TRIBBLE, Director
Division of Records and Reporting

(S E A L)

by: Kay Flynn
Chief, Bureau of Records

MJF

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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.

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 June 4, 1992.

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.