

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application for a rate) DOCKET NO. 911030-WS
increase by GENERAL DEVELOPMENT)
UTILITIES, INC. (Port Malabar)
Division) in Brevard County)
_____)

In re: Application for a rate) DOCKET NO. 911067-WS
increase by GENERAL DEVELOPMENT) ORDER NO. PSC-92-0876-PCO-WS
UTILITIES, INC. in Charlotte,) ISSUED: 08/25/92
DeSoto and Sarasota Counties)
_____)

ORDER GRANTING LEAVE TO FILE PRE-FILED TESTIMONY,
DENYING LEAVE TO SUPPLEMENT ISSUES AND POSITIONS

On May 19, 1992, the Harris Corporation intervened in this proceeding. On August 11, 1992, the Harris Corporation filed a Motion for Leave to File Pre-filed Testimony and to Supplement Issues and Positions. By its Motion, the Harris Corporation seeks to present the testimony and exhibits of Kent Taylor on cost of service, cost allocation and rate design matters. The Harris Corporation argues that the testimony of Mr. Taylor is necessary for the Commission to make a fully informed decision, and that to admit the testimony would not delay the proceedings or prejudice any other party. Further, the Harris Corporation has filed proposed supplemental issues and positions for consideration.

On August 18, 1992, General Development Utilities, Inc. (GDU) responded to the Harris Corporation's motion. Relying on Rule 25-22.039, Florida Administrative Code, GDU argues that the intervenors take the case as they find it, and therefore, that Harris Corporation is precluded from filing testimony or raising new issues. Further, GDU argues that Harris Corporation has not shown good cause for the Commission to waive the provisions of Rule 25-22.039, Florida Administrative Code. Alternatively, GDU requests the opportunity to depose Harris Corporation's witness and to file rebuttal testimony.

This Commission is charged with making an informed decision after hearing relevant evidence. The purpose of hearings is to provide the parties with a forum for presenting the evidence necessary for the Commission's decision. In this instance, good cause has been shown by Harris Corporation that the evidence related to the cost of service, cost allocation and rate design is relevant and necessary for a fair decision in this proceeding. Accordingly, it is appropriate to waive the provision of Rule 25-22.039, Florida Administrative Code, and to admit the pre-filed

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testimony of Kent Taylor. The utility shall have twelve days from the date of this Order within which to file rebuttal testimony.

The Prehearing Order No. PSC-92-0372-PHO-WS, issued May 19, 1992, identified the issues of the parties, after hearing to determine the appropriate issues and positions. It would be burdensome, if not impossible, to schedule a second Prehearing to supplement issues and positions. Therefore, Harris Corporation's request to supplement issues is denied. However, the Harris Corporation shall have until September 1, 1992, to identify those issues in the Prehearing Order to which the proposed positions may apply. Consideration of the addition of these positions in the Prehearing Order will be given at the beginning of the final hearing. Accordingly, Harris Corporation's Motion to Supplement Issues is denied to the extent set forth above.

It is, therefore,

ORDERED by the Florida Public Service Commission that the Motion for Leave to File Pre-filed Testimony and to Supplement Issues and Positions filed by the Harris Corporation is granted in part and denied in part as described in the body of this Order. It is further

ORDERED that General Development Utilities, Inc. shall file rebuttal testimony no later than twelve days from the date of this Order. It is further

ORDERED that the Harris Corporation shall have until September 1, 1992, to identify those issues in the Prehearing Order to which the Harris Corporation's proposed positions may apply.

By ORDER of Commissioner Susan F. Clark, as Prehearing Officer, this 25th day of August, 1992.



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.