

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Application for a Rate ) DOCKET NO. 920148-WS  
Increase in Pasco County by ) ORDER NO. PSC-93-0943-PCO-WS  
JASMINE LAKES UTILITIES ) ISSUED: June 24, 1993  
CORPORATION. )  
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ORDER DENYING CITIZENS' MOTION FOR  
CONTINUANCE OF HEARING

On June 17, 1993, the Citizens of the State of Florida through the Office of Public Counsel (OPC) filed a Motion for Continuance of Hearing. In its motion, OPC asks that the Commission continue the hearing scheduled for June 28 and 29, 1993, until such time as Jasmine Lakes Utilities Corporation (Jasmine or utility) has complied with the Commission's direction to produce the utility president's personal income tax returns and until OPC has the opportunity to conduct further discovery regarding the returns.

In support of its motion, OPC relates the history of the discovery dispute concerning the utility president's tax returns, beginning with OPC's serving Jasmine with the subject discovery request on March 22, 1993. OPC states that the day after the Commission panel voted to compel the utility to produce the tax returns, the utility agreed to produce them by June 16. However, on June 15, the utility stated that it was contemplating seeking collateral remedies to protect the tax returns and may not produce them. Notwithstanding the utility's rights to such remedies, OPC asserts that it has a right to due process which is being violated by this extensive delay in obtaining the tax returns. OPC claims that the tax returns are of critical importance to its case. Even if the returns are produced prior to the hearing, OPC contends it will be precluded from pursuing any necessary further discovery to support its case.

In its June 21, 1993, response to OPC's motion, Jasmine states that it provided OPC a copy of the subject tax returns on June 21, 1993. (It should be noted that the Commission's records contain Jasmine's June 21, 1993, notice of serving OPC with the subject discovery response.) Jasmine points out that OPC's motion is grounded solely upon the delay experienced in obtaining the tax returns. In the event the Commission grants OPC's Motion, Jasmine suggests further discovery should be limited to the tax returns.

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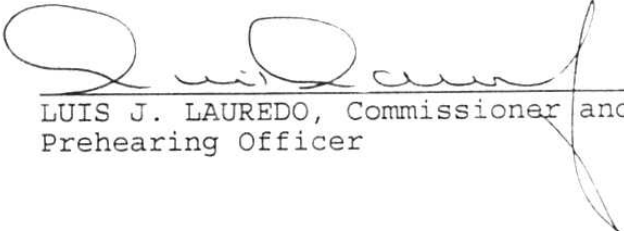
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I do not find OPC's arguments in favor of a continuance persuasive. In the motion OPC asserts that the tax returns are of "critical importance" to its case; yet throughout the discovery dispute regarding the returns, OPC emphasized with virtual singularity that the returns were relevant to one specific issue: the utility president's salary. Notably, even in the instant motion, OPC reiterates that the returns are relevant to just this one issue. Although OPC's contention that it will not have sufficient time to conduct further discovery has merit, I do not think it sufficient reason to continue the hearing in its entirety when more limited remedies may be considered.

Based on the foregoing, it is, therefore

ORDERED by Commissioner Luis J. Lauredo, as Prehearing Officer, that Citizens' Motion for Continuance of Hearing is hereby denied.

By ORDER of Commissioner Luis J. Lauredo, as Prehearing Officer, this 24th day of June, 1993.

  
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LUIS J. LAUREDO, Commissioner and  
Prehearing Officer

( S E A L )

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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.

ORDER NO. PSC-93-0943-PCO-WS  
DOCKET NO. 920148-WS  
PAGE 3

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.