

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Complaint and petition) DOCKET NO. 930642-WS
of Cynwyd Investments against) ORDER NO. PSC-93-0985-PCO-WS
Tamiami Village Utility, Inc.) ISSUED: 7/1/93
regarding termination of water)
and wastewater services in Lee)
County.)

ORDER GRANTING EMERGENCY PETITION TO RECONNECT SERVICE

BY THE COMMISSION:

On July 1, 1993, Cynwyd Investments (Cynwyd) filed a complaint in the form of a Petition and Request for Emergency Relief against Tamiami Village Utility, Inc., (TVU) pursuant to Rule 25-22.036(5), Florida Administrative Code. Cynwyd, an RV park and bulk customer of TVU, alleges in its petition that on or about June 25, 1993, TVU wrongfully terminated water and wastewater service to the park's clubhouse and pool area known as "Friendship Hall." Cynwyd stated in its Petition that service was terminated as a result of its refusal to pay certain charges for service that TVU claims was unauthorized usage of the wastewater system. The controversy stemmed from the existence of a drain in the pool deck which allowed stormwater, roof runoff, and surface water to enter into the wastewater system. TVU billed Cynwyd in the amount of \$801.07 to compensate the utility for the treatment of this excess inflow. In its Petition, Cynwyd also requested that we find that it is not responsible for the payment to Tamiami for this bill.

The Prehearing Officer is informed that upon TVU's notice to Cynwyd about this problem, the park disconnected the open drain to prevent further infiltration. However, Cynwyd does not believe that TVU has a right to receive compensation for the past treatment resulting from the open drain and by this Complaint, disputes this bill. Further, Cynwyd alleges that the treatment was not unauthorized but that TVU either knew or should have known about the drain's existence prior to June of 1993. Moreover, Cynwyd argues that TVU terminated service to the park notwithstanding that this Commission previously ordered TVU not to terminate service while this complaint docket was pending.

Cynwyd and TVU are parties in an ongoing complaint in Docket No. 920649-WS concerning alleged infiltration in the RV park sewer lines which are allegedly creating overflow problems in the

DOCUMENT BY DATE

07081 JUL-18

7/18/93-PCO-WS-930642-WS

utility's percolation ponds. This matter is currently set for hearing on October 14 and 15, 1993. The matter concerning Cynwyd's petition for emergency relief is closely associated with the ongoing complaint docket concerning these parties.

Regarding this Complaint, Rule 25-22.032 (10), Florida Administrative Code, provides that:

"[d]uring the pendency of the complaint proceedings, a utility shall not discontinue service to a customer because of an unpaid disputed bill. However, the utility may require the customer to pay that part of a bill which is not in dispute...."

Therefore, since we find that the termination of service in this case is the result of Cynwyd's refusal to pay a bill currently in dispute, we find it appropriate to grant Cynwyd's Petition for Emergency Relief as sought in Cynwyd's Complaint. TVU shall reconnect service to the "Friendship Hall" immediately, and it shall not terminate service to Cynwyd without prior approval of this Commission until this complaint docket is resolved. However, we do not find it appropriate to hold that Cynwyd is not responsible for making the payment in question without further review of the matter.


Based on the foregoing, it is

ORDERED by Susan F. Clark, as Prehearing Officer, that Cynwyd Investment's Petition and Request for Emergency Relief is hereby granted. It is further

ORDERED that Tamiami Village Utility, Inc. shall reconnect water and wastewater service to the Cynwyd RV Park's Friendship Hall in order to serve the clubhouse and pool areas, effective immediately. It is further

ORDERED that Tamiami Village Utility, Inc. shall not disconnect water or wastewater service to Cynwyd's RV park or Friendship Hall without prior approval of this Commission during the pendency of this complaint docket.

By ORDER of Susan F. Clark, Prehearing Officer, this 1st
day of July, 1993.


SUSAN F. CLARK, Commissioner
and Prehearing Officer

(S E A L)

LK

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.