

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Application for) DOCKET NO. 921237-WS
Amendment of Certificate Nos.)
298-W and 248-S in Lake County)
by JJ'S MOBILE HOMES, INC.)
_____)
In Re: Investigation into) DOCKET NO. 940264-WS
Provision of Water and) ORDER NO. PSC-94-0687-PCO-WS
Wastewater Service by JJ'S) ISSUED: June 7, 1994
MOBILE HOMES to its certificated)
territory in Lake County.)
_____)

ORDER GRANTING GEORGE WIMPEY OF FLORIDA INC.'S MOTION
FOR LEAVE TO FILE TESTIMONY
AND
RESCHEDULING CERTAIN KEY DATES

On April 20, 1994, the Commission issued Order No. PSC-94-0471-PCO-WS, an Order Revising Order Establishing Procedure in Docket No. 921237-WS and Order Establishing Procedure in Docket No. 940264-WS. That order acknowledged the consolidation of the two dockets and set dates for the filing of testimony, prehearing statements, briefs, and other key events. The order required Intervenor's to file testimony for both dockets on May 20, 1994.

On November 8, 1993, Commission Staff moved to join George Wimpey of Florida, Inc. (Wimpey) as an indispensable party on the grounds that Wimpey's testimony and participation in discovery was essential to a determination of the issues. On November 29, 1993, Wimpey filed a response in support of Staff's motion. In its motion, Wimpey designated itself as an intervenor, and on December 1, 1994, Prehearing Officer Luis J. Lauredo issued an order granting the motion.

Wimpey did not file its testimony on May 20, 1994. On May 31, 1994, Wimpey filed a Motion for Leave to File Prehearing Testimony. In its motion, counsel for Wimpey states that he mistakenly scheduled the June 20, 1994 deadline for filing prehearing statements as the deadline for filing testimony, and did not realize that the testimony was due on May 20, 1994, until he was informed by a Staff Attorney. Wimpey claims that no prejudice, surprise, or delay will result by allowing it to file testimony after the May 20, 1994 due date.

On June 2, 1994, JJ's Mobile Homes, Inc. (JJ's) filed a Response in Opposition to Intervenor's Motion for Leave to File Prehearing Testimony. In its motion, JJ's objects to Wimpey's

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motion because Wimpey's has offered no reasonable excuse to justify the failure to file its testimony on time. JJ's argues that the late-filing of Wimpey's testimony will affect the dates for the filing of Staff and Rebuttal testimony, and that if the Commission grants Wimpey's motion, the Commission should reschedule those dates in order to allow appropriate time for discovery and the filing of testimony.

Wimpey's grounds for its motion are tenuous at best. Order No. PSC-94-0471-PCO-WS clearly sets forth the filing date for intervenor testimony. Each party has the responsibility to make itself aware of the key dates and comply with those dates. The events in a docket are carefully scheduled in order to allow parties and Staff the appropriate amount of time to file testimony and prehearing statements, and conduct discovery. As noted by JJ's in its response, Wimpey's late filed testimony will adversely affect staff and other parties in the docket.

However, while Wimpey would still be party in this matter whether if filed testimony or not, to deny Wimpey the opportunity to file testimony would deny Wimpey significant participation in this docket. Furthermore, the investigation in Docket No. 940264-WS was established primarily as a result of a complaint filed by Wimpey against JJ's. Therefore, it is appropriate to allow Wimpey to file testimony under several conditions. First, the following key dates will be rescheduled in order to allow parties and staff sufficient time to conduct discovery and file testimony:

	<u>Current</u>	<u>Revised</u>
Testimony - Staff	June 3, 1994	June 24, 1994
Testimony - Rebuttal	June 17, 1994	July 6, 1994

Secondly, Wimpey shall file its testimony with the Commission no later than three days from the date of this Order. Wimpey shall also utilize an overnight mail service or shall in some way ensure that all parties are served with its testimony no later than three days from the date of this Order. If Wimpey fails to comply with this requirement, its testimony may be stricken.

Based on the foregoing, it is, therefore,

ORDERED by Commissioner Julia L. Johnson, as Prehearing Officer, that George Wimpey of Florida, Inc. shall file its direct

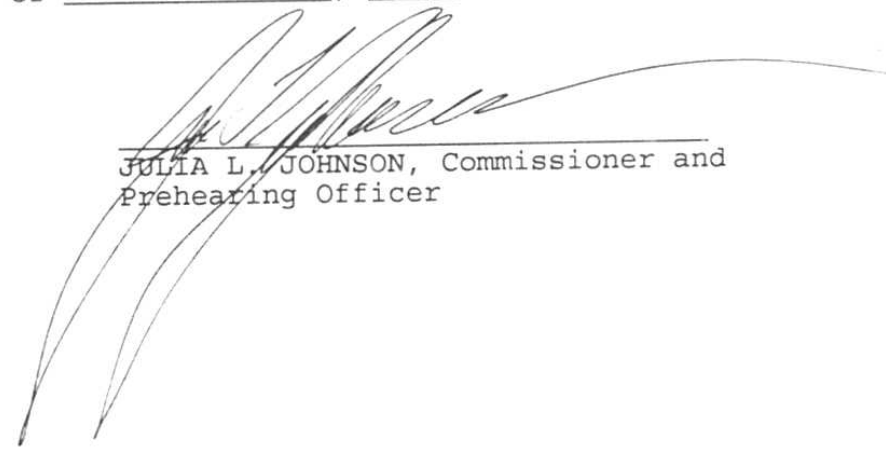
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testimony no later than three days from the date of this Order. It is further

ORDERED that George Wimpey of Florida, Inc. shall serve its direct testimony upon the parties in this docket no later than three days from the date of this Order. It is further

ORDERED that the key dates in this docket are amended as set forth in this Order.

By ORDER of Commissioner Julia L. Johnson, as Prehearing Officer, this 7th day of June, 1994.



JULIA L. JOHNSON, Commissioner and
Prehearing Officer

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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.

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.