

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Revocation by Florida ) DOCKET NO. 930944-WS  
Public Service Commission of ) ORDER NO. PSC-94-0906-PHO-WS  
Certificates Nos. 451-W and 382- ) ISSUED: July 25, 1994  
S Issued to SHADY OAKS MOBILE- )  
MODULAR ESTATES, INC. in Pasco )  
County, Pursuant to Section )  
367.111(1), F.S. )

Pursuant to Notice, a Prehearing Conference was held on July 22, 1994, in Tallahassee, Florida, before Commissioner Diane K. Kiesling, as Prehearing Officer.

APPEARANCES:

LILA A. JABER, ESQUIRE, Florida Public Service Commission, 101 East Gaines Street, Tallahassee, Florida 32399-0863  
On behalf of the Commission Staff.

CHRISTIANA T. MOORE, ESQUIRE, Florida Public Service Commission, 101 East Gaines Street, Tallahassee, Florida 32399-0862  
On behalf of the Commissioners.

PREHEARING ORDER

I. CASE BACKGROUND

Shady Oaks Mobile-Modular Estates, Inc. (Shady Oaks or utility) is a Class C water and wastewater utility located in Pasco County. Based on information contained in the utility's 1993 annual report, the water system generated operating revenues of \$27,311 and incurred operating expenses of \$37,310, resulting in a net operating loss of \$9,999. The wastewater system generated operating revenues of \$40,967 and incurred operating expenses of \$42,651, resulting in a net operating loss of \$1,684.

On March 7, 1989, the utility signed a Consent Final Judgment with the Department of Environmental Protection (DEP). The utility agreed to construct an additional effluent disposal system, to eliminate discharge from the plant, and to establish a new percolation pond. The utility agreed to submit an application for a construction permit within 60 days of the date of the order.

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On January 10, 1990, Shady Oaks applied for a staff-assisted rate case (Docket No. 900025-WS). On February 8, 1991, the Commission issued proposed agency action (PAA) Order No. 24084, which approved a rate increase and required the utility to do the following:

- 1) File a request for acknowledgement of a restructure and a name change;
- 2) Bring the quality of service to a satisfactory level;
- 3) Spend at least 85 percent of the allowance for preventative maintenance, or submit a written schedule showing what monthly maintenance will be implemented, along with a statement of the reasons such funds were not spent for preventative maintenance;
- 4) Install meters for all of its customers; and
- 5) Escrow a certain portion of the monthly rates.

The utility was also authorized to charge flat rates for six months, at the end of which time the base facility charge rate structure became effective. In that case, the base facility charge rates automatically became effective on October 1, 1991.

On March 1, 1991, several utility customers timely filed a protest to Order No. 24084. In their protest, the customers objected to the location of the percolation pond proposed by the utility. Because we have no jurisdiction to dictate the location of the proposed percolation pond, by Order No. 24409, issued April 22, 1991, we dismissed the protest and revived Order No. 24084, making it final and effective.

On June 24, 1991, in response to a suit filed by the homeowners, Judge Lynn Tepper with the Circuit Court of the Sixth Judicial Circuit in and for Pasco County, Florida, granted an emergency temporary injunction enjoining and restraining the utility from charging or attempting to collect the new utility rates.

On July 5, 1991, Judge Wayne L. Cobb with the Circuit Court of the Sixth Judicial Circuit in and for Pasco County, Florida, issued an Order to Show Cause why Shady Oaks should not be punished for contempt of Court for willfully and deliberately violating a 1983 order of the Court that prohibited the utility from charging more than \$25 per month as a service maintenance fee (which included the provision of water and wastewater service). The July 5, 1991 order further enjoined the utility from collecting the utility rates established by this Commission and ordered that the \$25 per month service maintenance fee be tendered to the Clerk of the Circuit

Court. In August 1991, both injunctions were lifted and the utility was able to begin collecting revenues.

The utility never applied for its construction permit as required by the Consent Final Judgment. Therefore, on July 8, 1991, as a result of a stipulated settlement of a motion for contempt brought against the utility by DEP, Judge Lynn Tepper ordered the utility to interconnect its wastewater system with Pasco County, rather than construct new disposal facilities. The utility was given six months from the date of the order to complete the interconnection. The utility failed to interconnect its wastewater system to Pasco County. In addition, the utility was operating without a permit from DEP.

On November 4, 1991, the Commission issued Order No. 25296, which determined the utility's noncompliance with Order No. 24084. Order No. 25296 required the utility to:

- 1) Submit all necessary information for changing its certificated name, or revert to operating under its currently certificated name;
- 2) Immediately place in the escrow account all funds necessary to bring said account to its proper balance;
- 3) Install water meters for all of its customers; and
- 4) Improve the quality of service and interconnect with the Pasco County wastewater treatment system.

Because numerous customers did not pay their utility bills as a result of a court dispute over the utility's rates, Order No. 25296 allowed the utility to charge the flat rates for an additional five months. Beginning in December 1991, the utility once again began charging flat rates.

By Order No. PSC-92-0367-FOF-WS, issued May 14, 1992, the Commission imposed a \$2,000 fine that had been previously suspended, and ordered the utility to show cause why it should not be fined for each item of noncompliance found in Orders Nos. 24084 and 25296. At the utility's request, these matters were set for hearing. By Order No. PSC-92-0356-FOF-WS, issued May 14, 1992, the Commission ordered the utility to issue credits to those customers who had paid a delinquent purchased power bill for the utility.

In June 1992, the utility completed the installation of all of the required water meters. By Order No. PSC-92-0723-FOF-WS, issued July 28, 1992, the Commission ordered the utility to implement the base facility and gallonage charge rates that had been approved in Order No. 24084. The utility implemented the new rates effective September 25, 1992.

In July 1992, the utility requested that the escrow requirements set forth in Orders Nos. 24084 and 25296 be suspended for a period of several months. By Order No. PSC-92-1116-FOF-WS, issued October 5, 1992, the Commission denied the utility's request to suspend the escrow account requirements. On October 26, 1992, the utility timely filed a protest to that Order.

A hearing regarding the utility's noncompliance with Orders Nos. 24084 and 25296 was held on January 7, 1993 in Zephyrhills, Florida. The utility, although it requested the hearing, did not attend the hearing. By Order No. PSC-93-0542-FOF-WS, issued April 9, 1993, the Commission:

- 1) Fined the utility in the amount of its rate base;
- 2) Ordered that a proceeding be initiated to reduce the utility's rates by the amount of pro forma plant not constructed and the amount of preventative maintenance not spent; and
- 3) Ordered that revocation proceedings be initiated.

The utility filed a Motion for Reconsideration of Order No. PSC-93-0542-FOF-WS. By Order No. PSC-93-1396-FOF-WS, issued September 27, 1993, the Commission denied the Motion for Reconsideration and ordered the utility to sell or transfer the utility within 120 days of the issuance date of the order. The commission also voted to suspend the fine if a completed application for a transfer was submitted. The utility failed to transfer or interconnect the system within the 120 days. Therefore, the \$60,572 fine is due and payable. On October 19, 1993, the utility filed a Notice of Administrative Appeal of Order No. PSC-93-0542-FOF-WS.

In preparation for the prehearing relating to the escrow requirements, Commission staff met with the utility in an attempt to resolve certain concerns of the utility. Specifically, the utility contended that it was unable to meet its escrow requirements due to a shortfall in revenues collected. This Commission agreed to have staff review the utility's contended revenue shortfall within the context of the proceeding to reduce the utility's rates. Consequently, the utility withdrew its escrow-related protest. Therefore, the prehearing and hearing relating to the escrow accounts were cancelled by Order No. PSC-93-0777-PCO-WS, issued May 20, 1993. By Order No. PSC-93-1733-FOF-WS, issued December 1, 1993, the Commission reduced Shady Oaks' rates to reflect removal of proforma plant not constructed and preventative maintenance not spent and required a refund.

On September 23, 1993, the Commission, pursuant to Section 367.111(1), Florida Statutes, and in accordance with Order No. PSC-93-0542-FOF-WS, noticed its Intent to Initiate Revocation of Certificates Nos. 451-W and 382-S issued to Shady Oaks. On October 18, 1993, Shady Oaks timely filed an objection to the Notice. Accordingly, this matter has been scheduled for an August 4-5, 1994, administrative hearing.

By a February 18, 1994 Agreed Order Granting DEP's Motion for Contempt, Judge Lynn Tepper ordered Shady Oaks to interconnect its wastewater treatment facility with Pasco County or sell the system within 120 days of the date of the Order, or June 18, 1994. On June 15, 1994, Judge Lynn Tepper granted in part and denied in part Shady Oaks' Motion for Extension of Time to Comply With Court Order. Judge Tepper ordered Shady Oaks to sell or convey its wastewater treatment facility free and clear of any encumbrances by July 18, 1994. The utility's request to extend the date on the option of the utility's interconnecting the system was denied.

By Order No. PSC-93-1779-PCO-WS, issued December 13, 1993, the Prehearing Officer established the procedure to be followed in this case. On June 22, 1994, Shady Oaks filed a Motion for Extension of Time to File Prehearing Statement Through July 1, 1994, and for Continuance of Hearing until after July 18, 1994. On the same day, the utility filed a Motion for Extension of Time to File Rebuttal Testimony of Richard D. Sims. On June 23, 1994, Shady Oaks filed an Amendment to the previously filed motion requesting a continuance, advising that the continuance is, in fact, sought for the July Prehearing Conference. By Order No. PSC-94-0809-PCO-WS, issued June 29, 1994, the utility's requests for extensions of filing testimony and prehearing conference were granted.

On July 19, 1994, Attorney Gerald T. Buhr filed a Notice of Withdrawal of Counsel, wherein Mr. Buhr notified the Commission that his firm no longer represents Shady Oaks. Further, Mr. Buhr notified the Commission that Shady Oaks filed for bankruptcy in the Tampa Division of the United States District Court for the Middle District of Florida, under Case No. F94-6876-8G1. The utility has retained a bankruptcy attorney.

By Order No. PSC-94-0809-PCO-WS, the Prehearing Officer ordered Shady Oaks to file a status report on the Circuit Court action by July 20, 1994. As of the date of the Prehearing Conference, the status report has not been filed. Additionally, the utility owner, Richard D. Sims, failed to attend his deposition noticed (on July 11, 1994) to be taken at 10:00 a.m. on July 22, 1994, at the Florida Public Service Commission in Tallahassee,

Florida. The utility also failed to attend the Prehearing Conference held on Friday, July 22, 1994, in Tallahassee, Florida.

## II. PROCEDURE FOR HANDLING CONFIDENTIAL INFORMATION

A. Any information provided pursuant to a discovery request for which proprietary confidential business information status is requested shall be treated by the Commission and the parties as confidential. The information shall be exempt from Section 119.07(1), Florida Statutes, pending a formal ruling on such request by the Commission, or upon the return of the information to the person providing the information. If no determination of confidentiality has been made and the information has not been used in the proceeding, it shall be returned expeditiously to the person providing the information. If a determination of confidentiality has been made and the information was not entered into the record of the proceeding, it shall be returned to the person providing the information within the time periods set forth in Section 367.156, Florida Statutes.

B. It is the policy of the Florida Public Service Commission that all Commission hearings be open to the public at all times. The Commission also recognizes its obligation pursuant to Section 367.156, Florida Statutes, to protect proprietary confidential business information from disclosure outside the proceeding.

In the event it becomes necessary to use confidential information during the hearing, the following procedures will be observed:

- 1) Any party wishing to use any proprietary confidential business information, as that term is defined in Section 367.156, Florida Statutes, shall notify the Prehearing Officer and all parties of record by the time of the Prehearing Conference, or if not known at that time, no later than seven (7) days prior to the beginning of the hearing. The notice shall include a procedure to assure that the confidential nature of the information is preserved as required by statute.
- 2) Failure of any party to comply with 1) above shall be grounds to deny the party the opportunity to present evidence which is proprietary confidential business information.

- 3) When confidential information is used in the hearing, parties must have copies for the Commissioners, necessary staff, and the Court Reporter, in envelopes clearly marked with the nature of the contents. Any party wishing to examine the confidential material that is not subject to an order granting confidentiality shall be provided a copy in the same fashion as provided to the Commissioners, subject to execution of any appropriate protective agreement with the owner of the material.
- 4) Counsel and witnesses are cautioned to avoid verbalizing confidential information in such a way that would compromise the confidential information. Therefore, confidential information should be presented by written exhibit when reasonably possible to do so.
- 5) At the conclusion of that portion of the hearing that involves confidential information, all copies of confidential exhibits shall be returned to the proffering party. If a confidential exhibit has been admitted into evidence, the copy provided to the Court Reporter shall be retained in the Commission Clerk's confidential files.

#### Post-Hearing Procedures

Rule 25-22.056(3), Florida Administrative Code, requires each party to file a post-hearing statement of issues and positions. A summary of each position of no more than 50 words, set off with asterisks, shall be included in that statement. If a party's position has not changed since the issuance of the prehearing order, the post-hearing statement may simply restate the prehearing position; however, if the prehearing position is longer than 50 words, it must be reduced to no more than 50 words. The rule also provides that if a party fails to file a post-hearing statement in conformance with the rule, that party shall have waived all issues and may be dismissed from the proceeding.

A party's proposed findings of fact and conclusions of law, if any, statement of issues and positions, and brief, shall together total no more than 60 pages, and shall be filed at the same time. The prehearing officer may modify the page limit for good cause shown. Please see Rule 25-22.056, Florida Administrative Code, for other requirements pertaining to post-hearing filings.

III. PREFILED TESTIMONY AND EXHIBITS; WITNESSES

The testimony of the Staff witnesses has been prefiled. Based on the Prehearing Officer's granting of Commission Staff's Motion to Strike, discussed in greater detail in a later portion of this Order, the prefiled direct and rebuttal testimony of utility witness Sims and the appearance of utility witnesses Daley, Delehanty, and DeLucenay was stricken. All other testimony which has been prefiled in this case will be inserted into the record as though read after the witness has taken the stand and affirmed the correctness of the testimony and associated exhibits. All testimony remains subject to appropriate objections. Each witness will have the opportunity to orally summarize his or her testimony at the time he or she takes the stand. Upon insertion of a witness' testimony, exhibits appended thereto may be marked for identification. After all parties and Staff have had the opportunity to object and cross-examine, the exhibit may be moved into the record. All other exhibits may be similarly identified and entered into the record at the appropriate time during the hearing.

Witnesses are reminded that, on cross-examination, responses to questions calling for a simple yes or no answer shall be so answered first, after which the witness may explain his or her answer.

The Commission frequently administers the testimonial oath to more than one witness at a time. Therefore, when a witness takes the stand to testify, the attorney calling the witness is directed to ask the witness to affirm whether he or she has been sworn.

IV. ORDER OF WITNESSES

<u>Witness</u>	<u>Appearing For</u>	<u>Issues #</u>
Frances J. Lingo	Staff	1-6
Pete Burghardt	"	1
Brenda Arnold	"	1

V. BASIC POSITIONS

UTILITY: Because it has not been granted a rate capable of allowing it to operate and to maintain itself in compliance, certificate revocation is not appropriate.



Mr. Sims has operated the utility for over 22 years and has knowledge of the system, but cannot apply that knowledge without money.

STAFF: The information gathered through discovery and prefiled testimony indicates, at this point, that Certificates Nos. 451-W and 382-S, issued to Shady Oaks Mobile-Modular Estates, Inc., should be revoked because the current owner lacks the technical and financial ability to operate this utility. A final determination as to whether the certificates should be revoked cannot be made until the evidence presented at hearing is analyzed. Staff's positions are preliminary and based on materials filed by the parties and on discovery. The preliminary positions are offered to assist the parties in preparing for the hearing. Staff's final positions will be based upon all the evidence in the record and may differ from the preliminary positions.

#### VI. ISSUES AND POSITIONS

ISSUE 1: Does Shady Oaks Mobile-Modular Estates, Inc., have the technical ability to continue operating as a certificated utility?

#### POSITIONS

UTILITY: The utility has attempted to improve the quality of its service by accomplishing an interconnection with the Pasco County System. Although the interconnect has been partially accomplished, completion has been prevented by lack of long term financing. Notwithstanding the lack of a viable rate, the utility has always utilized its limited resources for preventative maintenance on its system.

STAFF: No, the utility lacks the technical ability to continue operating as a certificated utility because of the following reasons: 1) the utility has been found in contempt of court regarding noncompliance with the rules and regulations of the Department of Environmental Protection (DEP); 2) the wastewater treatment facility has not had a DEP operating permit since March 1986; 3) the utility does not have certified operators as required by Chapter 17-602, Florida Administrative Code; 4) the utility's lift station and collection system does not meet DEP requirements with respect to location,

reliability and safety; 5) the overall maintenance of the wastewater treatment plant, collection, and disposal facilities is unsatisfactory; 6) the overall maintenance of the water treatment plant and water distribution facility is unsatisfactory; and 7) the overall quality of service of the wastewater system is unsatisfactory. (Burghardt, Arnold, Lingo)

**ISSUE 2:** Has Shady Oaks Mobile-Modular Estates, Inc. complied with Section 350.113, Florida Statutes, and Rule 25-30.120, Florida Administrative Code, with regard to payment of regulatory assessment fees, and if not, what action should the Commission take in this regard?

**POSITIONS**

**UTILITY:** The utility has attempted to pay regulatory assessment fees, but its current rate is insufficient to substantiate that payment. Escrow requirements including the regulatory assessment fee, far exceed the rate base that was established. The escrow requirements plus the regulatory assessment fee amounted to an excess of approximately 33 1/3% of the gross revenues.

**STAFF:** No, Shady Oaks Mobile-Modular Estates, Inc. has not complied with Section 350.113, Florida Statutes, and Rule 25-30.120, Florida Administrative Code. The utility is delinquent in its payment of regulatory assessment fees, and should be fined an amount up to \$5,000 per day for its failure to timely pay its regulatory assessment fees. (Lingo)

**ISSUE 3:** What is the current balance in the escrow account as of the date of the prehearing conference, what should the balance in the escrow account be as of the date of the prehearing conference, and what is the appropriate disposition of all escrow-related monies?

**POSITIONS**

**STAFF:** The current balance in the escrow account as of the date of the prehearing conference is \$9,610. Staff lacks the information necessary to calculate the appropriate balance in the escrow account as of the date of the prehearing conference; however, the appropriate balance at October 31, 1993 was \$33,352. Therefore, the utility

should provide Staff with all documents necessary to calculate the appropriate balance in the escrow account as of the date of the prehearing conference. The utility should refund to its customers the entire balance of all monies currently in the escrow account within 30 days of the release of the escrowed monies. The total calculated underfunding of the escrow account, less the pro rata share of the escrow requirement relating to the water meters, should be refunded to the utility's customers in the form of credits on the customers' bills. The refund should be paid with interest, pursuant to Rule 25-30.360(4), Florida Administrative Code. The pro rata share of the escrow requirement relating to the water meters, or \$2,451, should be credited to the utility to recognize the portion of the escrow requirement relating to those meters. The utility should apply all of its net operating income each month toward the customer refunds until the appropriate total refund associated with the escrow underfunding has been made. (Lingo)

UTILITY: As to the last portion of the issue, the utility has requested letters from the Commission to release these funds. Also, part of these refunds are to be used to interconnect to the Pasco system and for the installation of water meters.

ISSUE 4: Does Shady Oaks Mobile-Modular Estates, Inc., have the financial ability to continue operating as a certificated utility?

POSITIONS

UTILITY: No position.

STAFF: No, the utility lacks the financial ability to continue operating as a certificated utility because of the following reasons: 1) the utility has a history of misappropriating funds; 2) the utility owes this Commission outstanding fines totalling \$62,572; 3) the utility owes this Commission outstanding regulatory assessment fees of approximately \$12,321; 4) the utility owes its customers approximately \$24,000 associated with underfunding of its escrow account; and 5) in order for the utility to make the required refunds, this Commission ordered that the utility shall apply all of its net operating income to the customer refunds until the refunds are complete. (Lingo)

**ISSUE 5:** Has Shady Oaks Mobile-Modular Estates, Inc., knowingly refused to comply with or willfully violated any provisions in the Commission's statutes, rules and prior Commission orders?

**POSITIONS**

**UTILITY:** No position.

**STAFF:** No, the utility has demonstrated a willful and flagrant disregard of Chapter 367, Florida Statutes, Commission rules, and prior Commission Orders. To date, the utility has not complied with Order No. 24084 with respect to the name change and restructure requirements. To date, the utility has not complied with Order No. 25296 with respect to: 1) improving its quality of service; 2) the name change and restructure requirements; and 3) the escrow requirements. (Lingo)

**ISSUE 6:** Should Certificates Nos. 451-W and 382-S, issued to Shady Oaks Mobile-Modular Estates, Inc., be revoked?

**POSITIONS**

**UTILITY:** No position.

**STAFF:** Yes, certificates nos. 451-W and 382-S, issued to Shady Oaks Mobile-Modular Estates, Inc., should be revoked. (Lingo)

**VII. EXHIBIT LIST**

<u>Witness</u>	<u>Proffered By</u>	<u>I.D. No.</u>	<u>Description</u>
<u>Direct</u>			
Brenda Arnold	Staff	BA-1	Warning Letter Dated February 18, 1992
Pete Burghardt	Staff	PB-1	Consent Order Dated October 21, 1986
Pete Burghardt	Staff	PB-2	Consent Final Judgement Dated March 7, 1989

**ISSUE 5:** Has Shady Oaks Mobile-Modular Estates, Inc., knowingly refused to comply with or willfully violated any provisions in the Commission's statutes, rules and prior Commission orders?

**POSITIONS**

**UTILITY:** No position.

**STAFF:** No, the utility has demonstrated a willful and flagrant disregard of Chapter 367, Florida Statutes, Commission rules, and prior Commission Orders. To date, the utility has not complied with Order No. 24084 with respect to the name change and restructure requirements. To date, the utility has not complied with Order No. 25296 with respect to: 1) improving its quality of service; 2) the name change and restructure requirements; and 3) the escrow requirements. (Lingo)

**ISSUE 6:** Should Certificates Nos. 451-W and 382-S, issued to Shady Oaks Mobile-Modular Estates, Inc., be revoked?

**POSITIONS**

**UTILITY:** No position.

**STAFF:** Yes, certificates nos. 451-W and 382-S, issued to Shady Oaks Mobile-Modular Estates, Inc., should be revoked. (Lingo)

**VII. EXHIBIT LIST**

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Pete Burghardt	Staff	PB-2	Consent Final Judgement Dated March 7, 1989

Pete Burghardt	Staff	PB-3	July 8, 1991 Court Order on DER's Motion for Contempt
		PB-4	Agreed Order Granting DEP's Motion for Contempt Dated February 18, 1994
"	"	PB-5	Inspection Report Dated February 17, 1994
Frances J. Lingo	Staff	FJL-1	Staff Recommendation Dated April 9, 1992 in Docket No. 900025-WS
"	"	FJL-2	Order No. 24084, Issued February 8, 1991
"	"	FJL-3	Order No. 25296, Issued November 4, 1991
"	"	FJL-4	Order No. PSC-92-0356-FOF-WS, Issued May 14, 1992
"	"	FJL-5	Order No. PSC-92-0367-FOF-WS, Issued May 14, 1992
"	"	FJL-6	Order No. PSC-92-1116-FOF-WS, Issued October 5, 1992
"	"	FJL-7	Order No. PSC-93-0542-FOF-WS, Issued April 9, 1993
"	"	FJL-8	Order No. PSC-93-1396-FOF-WS, Issued September 27, 1993

Frances J. Lingo	Staff	FJL-9	Order No. PSC-93-1733-FOF-WS, Issued December 1, 1993
"	"	FJL-10	Transcript From January 7, 1993 Show Cause Hearing
"	"	FJL-11	Correspondence and Interrogatories Related to Name Change
"	"	FJL-12	Analysis of Utility's Disbursements
"	"	FJL-13	Examples of Nonutility Expenditures
"	"	FJL-14	Delinquent Regulatory Assessment Fees

Parties and Staff reserve the right to identify additional exhibits for the purpose of cross-examination.

VIII. PROPOSED STIPULATIONS

There are no proposed stipulations at this time.

IX. PENDING MOTIONS

There are no pending motions at this time.

X. RULINGS

1. Commission Staff's Motion to Strike Testimony of Mike Daley, Aileen Delehanty, and Larry DeLucenay, filed on July 18, 1994, was granted.
2. Commission Staff's ore tenus Motion for Sanctions, pursuant to Rule 1.380, Florida Rules of Civil Procedure, was granted.


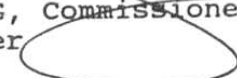
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Accordingly, the prefiled direct and rebuttal testimony of utility witness Sims was stricken and the utility was ordered to pay \$ 52.50 for costs associated with the July 22, 1994 deposition for which witness Sims failed to appear. Staff was directed to file a written motion for sanctions to memorialize its ore tenus Motion.

Based on the foregoing, it is, therefore,

ORDERED by Commissioner Diane K. Kiesling, as Prehearing Officer, that this Prehearing Order shall govern the conduct of these proceedings as set forth above unless modified by the Commission.

By ORDER of Commissioner Diane K. Kiesling, as Prehearing Officer, this 25th day of July, 1994.

  
DIANE K. KIESLING, Commissioner and  
Prehearing Officer 

( S E A L )

LAJ



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.