

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Adoption of Numeric) DOCKET NO. 930559-EG
Conservation Goals and) ORDER NO. PSC-94-1348-FOF-EG
Consideration of National Energy) ISSUED: November 3, 1994
Policy Act Standards (Section)
111) for City of Tallahassee)
_____)

The following Commissioners participated in the disposition of this matter:

J. TERRY DEASON, Chairman
JOE GARCIA
DIANE K. KIESLING

ORDER DENYING MOTION FOR RECONSIDERATION

On September 12, 1994, the City of Tallahassee (City or Tallahassee) timely filed a Motion for Reconsideration of Order Establishing Procedure No. PSC-94-1082-PCO-EG, issued September 2, 1994.

Motions for reconsideration are for the purpose of raising facts which the Commission either overlooked or misapprehended in its initial decision. See Diamond Cab Co. vs. King, 146 So. 2d 889 (FLA. 1962); Pingree v. Quaintance, 394 So. 2d 161 (Fla. DCA 1981). The City of Tallahassee in its motion fails to state a proper ground for reconsideration in that it does not assert a mistake or misapprehension that if viewed correctly would have led us to reach a different result.

The City of Tallahassee's basic concern is that the Commission maintain uniform filing requirements, procedural schedules and hearing dates for the municipal electric utilities and rural cooperatives (and FPUC). Tallahassee's concerns arose out of its understanding that the electric cooperative utilities and certain municipals had filed motions for reconsideration of the order establishing procedure. It has always been the Commission's intent to conduct a joint hearing in order to conserve the resources of the parties and the Commission, and that the Commission has no plans to split the consolidated conservation goals hearing into individual hearings.

The City did advance certain legal arguments suggesting the Commission lacks statutory authority to address a particular matter as set forth in the Order Establishing Procedure as it relates to

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municipals and electric cooperatives. The matter in question relates to "determinations relative to the adoption for these utilities of the Integrated Resource Planning and Investments in Conservation and Demand Management standards set out in Section 111 of the Energy Policy Act of 1992." This argument does not relate to Florida Public Utilities Company, a public utility which is also a party to this proceeding and is subject to the jurisdiction of the Commission with respect to the Section 111 EPACT Standards.

If the Commission does not have the statutory authority to make these determinations as to municipals and electric cooperatives, it lacks subject matter jurisdiction. The question of jurisdiction is a legal issue with broad ramifications. Order No. PSC-94-1082-PCO-EG was a procedural order setting forth the matters to be considered and the dates governing the hearing process. We do not believe that a motion for reconsideration of a procedural order is the proper vehicle by which to address the subject of jurisdiction. It would be more appropriate for the parties to file motions to strike, together with legal briefs. Accordingly, the Motion for Reconsideration is denied.

Based upon the foregoing, it is

ORDERED by the Florida Public Service Commission that the Motion for Reconsideration filed by the City of Tallahassee be denied.

By ORDER of the Florida Public Service Commission, this 3rd day of November, 1994.



BLANCA S. BAYÓ, Director
Division of Records and Reporting

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NOTICE OF 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 the Commission's final action in this matter may request 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 by filing a notice of appeal with the Director, Division of Records and Reporting, 101 East Gaines Street, Tallahassee, Florida 32399-0870, and filing a copy of the notice of appeal and the filing fee with the appropriate court. This filing must be completed within thirty (30) days after the issuance of this order, pursuant to Rule 9.110, Florida Rules of Appellate Procedure. The notice of appeal must be in the form specified in Rule 9.900(a), Florida Rules of Appellate Procedure.