

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Application for) DOCKET NO. 950471-WS
Amendment of Certificate Nos.) ORDER NO. PSC-95-0928-PCO-WS
17-W and 76-S in Orange County) ISSUED: August 1, 1995
by PARK MANOR WATERWORKS, INC.)
_____)

ORDER GRANTING MOTION FOR EXTENSION OF TIME
TO FILE ANSWER AND CONTINUANCE

On June 22, 1995, in Order No. PSC 95-0752-FOF-WS, the Commission approved the application of Park Manor Waterworks, Inc., (Park Manor or utility) to amend its Certificates Nos. 17-W and 76-S, to incorporate an extension of service territory. On July 7, 1995, Orange County (county) timely filed a Motion for Reconsideration of Order No. PSC-95-0752-FOF-WS. The pleading was additionally styled as an Objection to Certificate Amendment Application of Park Manor Waterworks, Inc., and in the Alternative, Petition to Amend Certificate Nos. 15-W and 76-S to Delete Territory Added by Order No. PSC-95-0752-FOF-WS, and Request for Stay Pending Resolution of Issues Between Park Manor and Orange County. On July 17, 1995, Park Manor filed a Motion for Extension of Time to File Answer and Continuance. In the Motion for Extension of Time, counsel for the utility stated that "Orange County's Counsel agreed that such an extension of time and continuance is appropriate." The utility further stated that the parties have met to discuss the subject matter of this docket; that they are very close to agreement on the underlying issues; and that it expects an agreement to be formalized in two to three weeks.

Rule 25-22.060(3)(a), Florida Administrative Code, requires a motion for reconsideration of a final order to be filed within 15 days after issuance of the order. Rule 25-22.060(3)(c), Florida Administrative Code, provides that a response to a motion for reconsideration shall be served within 7 days of the motion for reconsideration to which the response is directed.

In City of Hollywood v. Public Employees Relations Commission, 432 So. 2d 79 (4th DCA 1983), in an unfair labor practice brought by the Hollywood Firefighters Local 1375, the court held that the agency did not have authority to grant an extension of time to file a motion for reconsideration. The agency had extended the filing time upon motion of the city. The union moved to dismiss the city's subsequent appeal that was filed within 30 days of the order denying its motion for reconsideration, but more than 30 days from the date of the final order. Citing State v. Robinson, 417 So. 2d 760 (1st DCA 1982), the court concluded that:

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FPSC-RECORDS/REPORTING

By analogizing an agency's inherent power to that of a court of general jurisdiction ... if a circuit court cannot extend the time for filing a motion for new trial in a criminal case, then it would seem to follow that an agency cannot extend the time for filing a motion for reconsideration in an administration proceeding.

Id. at 81.

The administration of justice and administrative efficiency require that there be an end to litigation. These policies would not appear to be disserved by granting an extension of time for cause shown to respond to a timely filed motion for reconsideration. With jurisdiction established upon the proper filing of the motion for reconsideration, nothing would appear to preclude an extension of time for the doing of acts subsequently required. This is particularly striking where the parties are actively and in good faith pursuing a settlement of their differences, and have agreed that an extension of time is appropriate. See Hilltop Developers, Inc. v. Masterpiece Homes, 455 So. 2d 1155 (5th DCA 1984).

Park Manor Waterworks, Inc.'s Motion for Extension of Time to File Answer and Continuance, having been filed before expiration of the period for response to Orange County's Motion for Reconsideration of Order No. PSC-95-0752-FOF-WS, and cause having been shown, is hereby granted.

Based on the foregoing, it is, therefore

ORDERED by Commissioner J. Terry Deason, as Prehearing Officer, that Park Manor Waterworks, Inc.'s Motion for Extension of Time to File Answer and Continuance is hereby granted.

By ORDER of the Florida Public Service Commission, this 1st day of August, 1995.



J. TERRY DEASON, Commissioner and
Prehearing Officer

(SEAL)

CJP

ORDER NO. PSC-95-0928-PCO-WS
DOCKET NO. 950471-WS
PAGE 3

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.