

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application for certificates to operate a water and wastewater utility in Charlotte and DeSoto Counties by Lake Suzy Utilities, Inc.

DOCKET NO. 970657-WS

In re: Application for amendment of Certificates Nos. 570-W and 496-S to add territory in Charlotte County by Florida Water Services Corporation.

DOCKET NO. 980261-WS ✓  
ORDER NO. PSC-99-2047-PCO-WS  
ISSUED: October 20, 1999

ORDER REVISING DATES FOR PREHEARING,  
HEARING, TESTIMONY, PREHEARING STATEMENTS AND BRIEFS

On September 11, 1997, Lake Suzy Utilities, Inc. (Lake Suzy or utility) filed an application for original certificates of authorization to provide water and wastewater service pursuant to Section 367.045, Florida Statutes. The Board of County Commissioners of DeSoto County and the Board of County Commissioners of Charlotte County timely filed objections to Lake Suzy's application on October 22 and 24, 1997, respectively. Accordingly, by Order No. PSC-97-1463-PCO-WS, this matter was scheduled for an administrative hearing. Subsequently, DeSoto and Charlotte Counties withdrew their objections on January 13 and 14, 1998, respectively.

On February 19, 1998, Florida Water Services Corporation (FWSC or utility) filed an application for amendment of Certificates Nos. 570-W and 496-S to add territory in Charlotte County. On March 18, 19, and 20, 1998, Charlotte County, Haus Development, Inc., and Lake Suzy timely filed objections to FWSC's application, respectively. Accordingly, by Order No. PSC-98-0874-PCO-WS, this matter was scheduled for an administrative hearing.

Upon consideration of Lake Suzy's application, by Order No. PSC-98-1089-PCO-WS, issued August 11, 1998, the Commission found it appropriate to consolidate Dockets Nos. 970657-WS and 980261-WS and set the matter for hearing on its own motion. Accordingly, the dates established by Orders Nos. PSC-97-1463-PCO-WS and PSC-98-0874-PCO-WS were revised as set forth by Order No. PSC-98-1115-PCO-WS (Order Revising Orders Establishing Procedure), issued August 11, 1998.

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20, 1999. The hearing in these dockets was scheduled for January 13-14, 1999.

Pursuant to dates prescribed by Order No. PSC-98-1115-PCO-WS, the parties prefiled testimony and prehearing statements. A Prehearing Conference was held on December 14, 1998, and Order No. PSC-98-1756-PHO-WS (Prehearing Order) was issued December 23, 1999.

On January 11, 1999, Florida Water Services Corporation (FWSC) in conjunction with Lake Suzy Utilities, Inc. (Lake Suzy), filed a Joint Motion for Continuance, stating that the movants were engaged in good faith settlement discussions and had appeared to reach a settlement in principle on major points. By Order No. PSC-99-0078-PCO-WS, issued January 11, 1999, the parties' motion was granted.

On April 9, 1999, FWSC and Lake Suzy filed a Settlement Progress Report and Motion for More Time. The parties indicated that they were making progress toward a settlement but required additional time. Therefore, the parties requested an additional 45 days from the date of the progress report to again report to the Commission on their settlement progress. By Order No. PSC-99-0973-PCO-WS, the parties' motion was granted.

On May 14, 1999, Lake Suzy filed a Progress Report and Request to Reschedule Hearing. Lake Suzy stated that FWSC and Lake Suzy could not finalize a settlement. Lake Suzy requested that the matter be rescheduled for hearing as soon as possible. On June 7, 1999, FWSC Filed a Supplement to Settlement Progress Report. FWSC indicated that Lake Suzy had been purchased by Aqua Source Utility, Inc., and suggested that more discovery would be needed, and that the issues and positions in the Prehearing Order would need to be revisited in light of this purchase. On June 7, 1999, Lake Suzy responded to FWSC's supplement to settlement progress report, indicating that there was no need to revisit the issues and positions in the Prehearing Order.

On June 18, 1999, FWSC filed a Motion for Commission to Take Official Notice that DeSoto County had enacted an Ordinance Number 1999-10, which granted FWSC territory in DeSoto County, which Lake Suzy has requested in this proceeding before us. On June 23, 1999, Lake Suzy timely responded to FWSC's motion.

In July, 1999, the parties met informally with our staff to discuss the subsequent developments in the case and to attempt to reschedule hearing dates and any necessary filing dates. The

parties proposed that the hearing be rescheduled sometime during the dates of October 12 through 15, 1999, pending settlement of hearings in other FWSC proceedings scheduled for those dates. This would provide an opportunity for the parties to prefile additional testimony to address any new issues resulting from the developments discussed above. The October dates did not become available, and the hearing was rescheduled for February 3 and 4, 2000, the next earliest dates available.

On August 30, 1999, DeSoto County (the County) filed a Petition for Leave to Intervene in this proceeding. On September 7, 1999, Lake Suzy timely filed an objection to the County's motion. Lake Suzy also prefiled additional direct testimony and exhibits on September 1, 1999. On September 8, 1999, Lake Suzy filed a Motion to Expedite Hearing. At the October 5, 1999 Agenda Conference, this Commission granted the County's Petition for Leave to Intervene, denied Lake Suzy's Motion to Expedite Hearing and deferred ruling on FWSC's Motion for Commission to Take Official Notice until the time of hearing.

Based upon the breakdown of settlement negotiations and the possibility of new issues, the following revised dates shall govern this case.

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| 1) Utility's direct testimony<br>and exhibits       | September 1, 1999  |
| 2) Intervenors' direct testimony<br>and exhibits    | November 11, 1999  |
| 3) Staff's direct testimony<br>and exhibits, if any | November 11, 1999  |
| 4) Rebuttal testimony<br>and exhibits               | December 9, 1999   |
| 5) Prehearing statements                            | January 3, 2000    |
| 6) Prehearing Conference                            | January 24, 2000   |
| 7) Hearing  | February 3-4, 2000 |
| 8) Briefs   | March 2, 2000      |

This Order is issued pursuant to the authority granted by Rule 28-106.211, Florida Administrative Code, which provides that the


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presiding officer before whom a case is pending may issue any orders necessary to effectuate discovery, prevent delay, and promote the just, speedy, and inexpensive determination of all aspects of the case.

Based upon the foregoing, it is

ORDERED by Commissioner Susan F. Clark, as Prehearing Officer, that the prehearing and hearing dates, as well as the dates for filing testimony, prehearing statements and briefs are hereby changed as set forth in the body of this Order.

By ORDER of Commissioner Susan F. Clark, as Prehearing Officer, this 20th day of October, 1999.

  
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SUSAN F. CLARK  
Commissioner and Prehearing Officer

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NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), 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.

Mediation may be available on a case-by-case basis. If mediation is conducted, it does not affect a substantially interested person's right to a hearing.

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 25-22.0376, 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.