

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Complaint by D.R. Horton Custom Homes, Inc. against Southlake Utilities, Inc. in Lake County regarding collection of certain AFPI charges.

DOCKET NO. 980992-WS

In re: Emergency petition by D.R. Horton Custom Homes, Inc. to eliminate authority of Southlake Utilities, Inc. to collect service availability charges and AFPI charges in Lake County.

DOCKET NO. 981609-WS
ORDER NO. PSC-01-1594-PCO-WS
ISSUED: August 2, 2001

ORDER GRANTING MOTION FOR CONTINUANCE
AND
ORDER REVISING ORDER ESTABLISHING NEW
CONTROLLING DATES FOR PREFILED DIRECT AND
REBUTTAL TESTIMONY AND PREHEARING CONFERENCE

Background

By Proposed Agency Action (PAA) Order No. PSC-01-1297-PAA-WS, issued June 14, 2001, the Commission proposed to grant the Joint Motion for Approval and Adoption of Settlement Agreement, discontinue Southlake's AFPI charges, require refunds of certain AFPI charges to certain developers as shown on an attachment to the Settlement Agreement, and increase the utility's plant capacity charges. However, on July 5, 2001, Worthwhile Development II, Ltd. (Worthwhile), timely filed a protest to PAA Order No. PSC-01-1297-PAA-WS, and requested a hearing to determine the appropriate level of refund of AFPI charges for Worthwhile and the propriety of requiring each developer to execute a release in order to receive the refund to which it is entitled. Accordingly, this matter was set for hearing on August 24, 2001, as previously scheduled.

On July 26, 2001, pursuant to the authority granted by Rule 28-106.211, Florida Administrative Code, this Commission issued Order No. PSC-01-1548-PCO-WS, entitled Order Establishing New Controlling Dates for Prefiled Direct and Rebuttal Testimony and

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Prehearing Conference. However, just four days after that Order was issued, Worthwhile filed its Motion for Continuance.

Motion for Continuance

In its Motion for Continuance, Worthwhile notes that it timely filed its objection to PAA Order No. PSC-01-1297-PAA-WS on July 5, 2001, and that the current schedule requires it to prefile its testimony on August 6, 2001. Worthwhile argues that circumstances have now changed, and that, not having been a party until its protest, it:

has not had the opportunity to conduct any discovery, subject the information filed by Southlake to review by experts, or develop its own information for analysis by the Commission. The current schedule does not allow for an opportunity to adequately review existing information or prepare its testimony and case, nor does it afford other parties time to review and respond to filings made by Worthwhile.

Moreover, Worthwhile states that Southlake concurs that a continuance is appropriate under the circumstances and that D.R. Horton does not object to a continuance.

Based on the above, Worthwhile's Motion for a Continuance shall be granted. The Prehearing Conference scheduled originally for August 8, 2001 has been rescheduled for August 24, 2001 at 3:00 p.m. The hearing scheduled for August 24, 2001 has been rescheduled for September 17, 2001. Also, the Controlling Dates are revised as set forth below.

Controlling Dates

The following revised dates shall govern this case:

- 1) Prefiled Direct Testimony (Worthwhile) August 22, 2001
- 2) Prehearing Conference August 24, 2001
- 3) Prefiled Rebuttal Testimony (Southlake) August 29, 2001

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Unless authorized by the Prehearing Officer for good cause shown, all discovery shall be completed by September 10, 2001.

Based on the foregoing, it is

ORDERED by Commissioner J. Terry Deason, as Prehearing Officer, that this matter shall proceed to hearing on September 17, 2001. The revised controlling dates set forth in the body of this Order shall govern this case. It is further

ORDERED that except as modified herein, all other provisions of Orders Nos. PSC-00-1461-PCO-WS, PSC-00-1817-PCO-WS, PSC-01-1034-PCO-WS, and PSC-01-1548-PCO-WS shall remain in effect.

By ORDER of Commissioner J. Terry Deason as Prehearing Officer, this 2nd day of August, 2001.



J. TERRY DEASON
Commissioner and Prehearing Officer

(S E A L)

RRJ/RG

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 the Commission Clerk and Administrative Services, 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.