

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Investigation into
ratemaking considerations of
gain on sale from sale of
facilities of Florida Water
Services Corporation to Orange
County.

DOCKET NO. 980744-WS
ORDER NO. PSC-02-0063-PCO-WS
ISSUED: January 9, 2002

ORDER GRANTING WAIVER OF NOTICING REQUIREMENTS

By Order No. PSC-00-1170-PCO-WS, issued June 27, 2000, a procedural schedule was established setting forth the controlling dates for this docket. New controlling dates for this docket were most recently established by Order No. PSC-01-2236-PCO-WS, issued November 16, 2001, pursuant to a Motion for Continuance filed by Florida Water Services Corporation (FWSC or utility).

On December 18, 2001, FWSC filed a Motion for Waiver of Noticing Requirements in the Order Establishing Procedure (Motion). In its Motion, FWSC states that Order No. PSC-00-1170-PCO-WS provides that the utility shall publish notice of the date, time, location, and purpose of the hearing in a newspaper of general circulation in the area affected, no more than thirty days prior to the first day of the hearing. Furthermore, the utility shall give written notice of the date, time, location, and purpose of the hearing to each of the customers in the area affected no less than fourteen days prior to the first day of the hearing, utilizing first class mail for notices sent to customers with out of town mailing addresses.

In its Motion, FWSC alleges that the above noticing requirements are typically found in procedural orders issued in dockets involving petitions for rate increases or quality of service issues. FWSC believes that these requirements were inadvertently included in this docket because there are no rate increases or quality of service matters at issue.

Attached to FWSC's Motion is the Affidavit of Mr. Forrest L. Ludsen, Vice President and Chief Operating Officer of FWSC, attesting that it will cost FWSC approximately \$40,000 to comply with the noticing requirements set forth in Order No. PSC-00-1170-PCO-WS. FWSC contends that no legitimate end is served by requiring the utility to expend approximately \$40,000 on notice

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requirements which are not legitimately needed in this docket. The utility therefore requests that the Prehearing Officer enter an Order waiving the requirements contained in the Notice and Public Information section of Order No. PSC-00-1170-PCO-WS. No responses to FWSC's Motion were received, and the time for filing responses has expired.

Pursuant to Rule 25-22.0405, Florida Administrative Code, the Commission has the discretion to require utilities to publish notice of hearing in newspapers of general circulation and to give notice to customers by mail, "if the Commission finds that it is necessary in order to afford adequate notice to the customers of the utility." In this case, I find such notice is not necessary. The cost would far outweigh the benefits. The issues in this docket regarding a potential gain on sale are very narrow in scope. The customers' interests are being represented throughout the proceeding by the Office of Public Counsel. The utility's request is hereby granted.

Based on the foregoing, it is

ORDERED by Commissioner Michael A. Palecki, as Prehearing Officer, that Florida Water Services Corporation's Motion for Waiver of Noticing Requirements in the Order Establishing Procedure, Order No. PSC-00-1170-PCO-WS, is granted.

By ORDER of Commissioner Michael A. Palecki, as Prehearing Officer, this 9th day of January, 2002.



MICHAEL A. PALECKI
Commissioner and Prehearing Officer

(S E A L)

JSB

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.