

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application of East Central)	DOCKET NO. 910114-WU
Florida Services, Inc. for an original)	ORDER NO. 25119
certificate in Brevard, Orange and)	ISSUED: 9/25/91
Osceola Counties.)	
_____)	

The following Commissioners participated in the disposition of this matter:

THOMAS M. BEARD, Chairman
 SUSAN F. CLARK
 MICHAEL McK. WILSON

ORDER DENYING PETITIONS FOR DISQUALIFICATION

BY THE COMMISSION:

At the September 13, 1991, Prehearing Conference in the above-captioned case, Brevard County made an oral motion for the Prehearing Officer, Commissioner Deason, to disqualify himself. From the bench, Commissioner Deason ruled that the Prehearing Conference was continued until September 17, 1991, and that the parties who wished to support or oppose the motion in writing were to file written motions or memoranda in support of or in opposition to Brevard's motion by the close of business on September 16, 1991.

On September 16, 1991, Brevard County, Orange County, and the City of Cocoa filed petitions for disqualification. Osceola County and the Applicant in the case, East Central Florida Services, Inc., filed memorandum in opposition to disqualification.

By Order No. 25082, issued September 19, 1991, Commissioner Deason found that after reviewing the filings of the parties, the allegations concerning his membership in a particular religious organization were not legally sufficient to demonstrate a bias, prejudice, or interest in the instant proceeding. Commissioner Deason, therefore, denied the petitions for disqualification.

Pursuant to Rule 25-21.004(1), Florida Administrative Code, "a Commissioner may be disqualified from hearing or deciding any matter where it can be shown that the Commissioner has a bias or a prejudice for or against any party to the proceeding or a financial interest in its outcome." Rule 25-21.004(3), Florida Administrative Code, provides, "[W]here the commissioner declines

DOCUMENT NUMBER-DATE

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FPSC-RECORDS/REPORTING

ORDER NO. 25119
DOCKET NO. 910114-WU
PAGE 2

to withdraw from the proceeding, a majority vote of the full Commission, absent the affected commissioner, shall decide the issue of disqualification."

Upon consideration of the arguments, we find that the allegations made in the parties' petitions concerning Commissioner Deason's membership in a particular religious organization are not legally sufficient to demonstrate that he has a bias, prejudice, or interest in the instant proceeding. Therefore, we find against the disqualification of Commissioner Deason.

It is, therefore

ORDERED by the Florida Public Service Commission that the petitions for disqualification of Commissioner Deason are hereby denied.

By ORDER of the Florida Public Service Commission, this
25th day of SEPTEMBER, 1991.



STEVE TRIBBLE, Director
Division of Records and Reporting

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ORDER NO. 25119
DOCKET NO. 910114-WU
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 15 days pursuant to Rule 25-22.060, Florida Administrative Code, if issued by the Commission; or 2) 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 sewer 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.