

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application for a ) DOCKET NO. 900025-WS  
staff-assisted rate case in ) ORDER NO. PSC-92-1116-FOF-WS  
Pasco County by SHADY OAKS ) ISSUED: 10/05/92  
MOBILE-MODULAR ESTATES, INC. )  
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The following Commissioners participated in the disposition of this matter:

THOMAS M. BEARD, Chairman  
J. TERRY DEASON  
BETTY EASLEY  
LUIS J. LAUREDO

NOTICE OF PROPOSED AGENCY ACTION  
ORDER DENYING REQUEST FOR RELIEF FROM  
PRIOR COMMISSION ORDERS

BY THE COMMISSION:

NOTICE is hereby given by the Florida Public Service Commission that the action discussed herein is preliminary in nature and will become final unless a person whose interests are adversely affected files a petition for a formal proceeding, pursuant to Rule 25-22.029, Florida Administrative Code.

BACKGROUND

Shady Oaks Mobile-Modular Estates, Inc., (Shady Oaks or utility) is a class "C" water and wastewater utility serving a 242 lot mobile-modular home park located in Pasco County, south of the City of Zephyrhills. On January 10, 1990, Shady Oaks applied for the instant staff-assisted rate case. By proposed agency action (PAA) Order No. 24084, issued February 8, 1991, we approved a rate increase for Shady Oaks and ordered it to take various actions regarding its operations, including that it escrow a set portion of its revenues. By Order No. 24409, issued April 22, 1991, we dismissed a timely protest to the PAA Order and revived Order No. 24084, making it final and effective.

By Order No. 25296, issued November 4, 1991, we found that the utility had failed to comply with the requirements of Order No. 24084, including the escrow requirement. However, since numerous customers had not paid their utility bills as a result of a court dispute over the utility's rates, we elected not to order the

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utility to show cause why it should not be fined for its noncompliance, but instead ordered it to obey our prior Orders and to bring the escrow account up to its proper balance. Upon reviewing the utility's situation a second time several months later, we again found that the utility had failed to abide by our Orders. Therefore, by Order No. PSC-92-0367-FOF-WS, issued May 14, 1992, we ordered the utility to show cause why it should not be fined for its continued noncompliance with Orders Nos. 24084 and 25296. Shady Oaks requested a hearing in response to the Order to Show Cause, and disposition over the violations is pending.

INFORMAL REQUEST FOR RELIEF

By a letter dated July 6, 1992, addressed to our staff, Shady Oaks requested that the escrow requirements established in Orders Nos. 24084 and 25296 be suspended for a period of several months. The apparent basis for the utility's request is that it does not have enough customers and, therefore, not enough revenues, to be able to escrow the required monies during the months many of its customers are on vacation. The utility's current flat rate structure does not contain a vacation rate. As a result, during the months the customers are away, the utility's cash flow is reduced.

The utility's request was not submitted in the form of a formal, written motion in conformity with Rule 25-22.037, Florida Administrative Code. We shall, however, consider the utility's request. Shady Oaks is a small utility and is not represented by an attorney because it claims it cannot afford one.

As stated above, we have already ordered Shady Oaks to show cause why it should not be fined for failing to maintain the proper balance in the escrow account. Upon reviewing the monthly statements we receive from the escrow agent, we note that Shady Oaks remains in violation of Orders Nos. 24084 and 25296: it has not yet brought the account's balance up to the prescribed level, nor has it been escrowing the proper amount each month.

There has been no change in the number or composition of the utility's customer base since our prior Orders were issued, and the utility has offered nothing persuasive to support the relief requested. The appropriate time for the utility to address its concerns was when the prior Orders were issued. Indeed, we think the instant request can be denied as an untimely motion for

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reconsideration to either of the aforementioned orders.

In consideration of the foregoing, the utility's request is denied, and the requirements of our previous Orders affirmed.

Based on the foregoing, it is therefore

ORDERED by the Florida Public Service Commission that Shady Oaks Mobile-Modular Estates, Inc.'s request for relief from Orders Nos. 24084 and 25296 is denied. It is further

ORDERED that the provisions of this Order are issued as proposed agency action and shall become final unless an appropriate petition in the form provided by Rule 25-22.029, Florida Administrative Code, is received by the Director of the Division of Records and Reporting at his office at 101 East Gaines Street, Tallahassee, Florida 32399-0870, by the date set forth in the Notice of Further Proceedings below.

By ORDER of the Florida Public Service Commission this 5th day of October 1992.

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STEVE TRIBBLE, Director  
Division of Records and Reporting

( S E A L )

MJF

by Kay Ferguson  
Chief, Bureau of Records

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.

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The action proposed herein is preliminary in nature and will not become effective or final, except as provided by Rule 25-22.029, Florida Administrative Code. Any person whose substantial interests are affected by the action proposed by this order may file a petition for a formal proceeding, as provided by Rule 25-22.029(4), Florida Administrative Code, in the form provided by Rule 25-22.036(7)(a) and (f), Florida Administrative Code. This petition must be received by the Director, Division of Records and Reporting at his office at 101 East Gaines Street, Tallahassee, Florida 32399-0870, by the close of business on October 26, 1992.

In the absence of such a petition, this order shall become effective on the day subsequent to the above date as provided by Rule 25-22.029(6), Florida Administrative Code.

Any objection or protest filed in this docket before the issuance date of this order is considered abandoned unless it satisfies the foregoing conditions and is renewed within the specified protest period.

If this order becomes final and effective on the date described above, any party adversely affected may request judicial review by the Florida Supreme Court in the case of an electric, gas or telephone utility or by the First District Court of Appeal in the case of a water or wastewater utility by filing a notice of appeal with the Director, Division of Records and Reporting and filing a copy of the notice of appeal and the filing fee with the appropriate court. This filing must be completed within thirty (30) days of the effective date of this order, pursuant to Rule 9.110, Florida Rules of Appellate Procedure. The notice of appeal must be in the form specified in Rule 9.900(a), Florida Rules of Appellate Procedure.