

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application for
Staff-assisted rate case
in Pasco County by Shady Oaks
Mobile Modular Estates, Inc.

) Docket No. 900025-WS
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RECEIVED
PUBLIC SERVICE COMMISSION
TALLAHASSEE, FLORIDA
NOV 25 1992

PROCEEDINGS: PREHEARING CONFERENCE
BEFORE: COMMISSIONER BETTY EASLEY
Prehearing Officer
DATE: Wednesday, November 25, 1992
TIME: Commenced at 9:35 a.m.
Concluded at 9:40 a.m.
PLACE: FPSC Hearing Room 106
Fletcher Building
101 East Gaines Street
Tallahassee, Florida
REPORTED BY: Lisa Girod Jones

DEC 3 1992
FPSC

W. Paul Rayborn
and Associates
P.O. BOX 10195
TALLAHASSEE, FLORIDA 32302-2195
(904) 224-7642

1 APPEARANCES:

2 MATTHEW FEIL, Esquire, Florida Public Service
3 Commission, 101 E. Gaines Street, Tallahassee, Florida
4 32399-0862, on behalf of the Commission Staff.

5 PRENTICE P. PRUITT, Esquire, Florida Public
6 Service Commission, 101 E. Gaines Street, Tallahassee,
7 Florida 32399-0862, on behalf of the Commissioners.

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PROCEEDINGS

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2 COMMISSIONER EASLEY: Let's go on the record.
3 Good morning. Are we going to have a prehearing
4 today?

5 MR. FEIL: We should initiate prehearing, but in
6 terms of the participation from the Utility, we're not
7 going to have any.

8 COMMISSIONER EASLEY: All right, go ahead and read
9 the notice then.

10 MR. FEIL: Pursuant to notice, this time and place
11 has been designated for the prehearing in Docket No.
12 900025-WS, Application for Staff-assisted rate case in
13 Pasco County by Shady Oaks Mobile Modular Estates,
14 Inc.

15 Appearing on behalf of Staff is Matthew Feil.

16 MR. PRUITT: And I'm Prentice Pruitt, address is
17 confidential, for the Commissioners.

18 COMMISSIONER EASLEY: Thank you, sir. Mr. Feil.

19 MR. FEIL: Yes, ma'am.

20 COMMISSIONER EASLEY: What now?

21 MR. FEIL: Well, we have a position we'd like to
22 add at the end of the draft prehearing order.

23 COMMISSIONER EASLEY: All right.

24 MR. FEIL: On Page 6 it states "No position at
25 this time" for "What punitive action should be taken?"

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COMMISSIONER EASLEY: Yes.

MR. FEIL: Our position should read, "The Utility should be fined in the amount of rate base and have its certificate revoked. The Commission should also initiate a proceeding to reduce the Utility's rates, removing from the rate calculation pro forma plant additions and preventative maintenance allowance."

COMMISSIONER EASLEY: All right, let me ask the procedure for this now. Assuming we hear nothing from the Utility, do we actually go to hearing or do we bring this to an agenda as an uncontested?

MR. FEIL: Commissioner, my concern is this: In an ideal world I'd like to have the case dismissed here and now and save everybody a lot of time and money.

COMMISSIONER EASLEY: I don't think I can do that.

MR. FEIL: Yes, I understand that.

COMMISSIONER EASLEY: I'd like to do that, too, but I don't think anybody will let me.

MR. FEIL: Yes, ma'am. Well, in effect, ~~you~~ you're recommending to the Chairman that we cancel the hearing and then going to an agenda and dismissing it there.

COMMISSIONER EASLEY: All right.

MR. FEIL: But there is a case out of the First District Court of Appeal that's come to my attention,

1 Scott vs. Department of Professional Regulation, which
2 indicates that when you are taking punitive action
3 against a regulated entity or regulated profession --
4 and in this case they were attempting to revoke the
5 person's license -- that you had to have evidence on
6 the record supporting why you undertook what action you
7 did.

8 So I would suggest, based on that case, that at a
9 minimum, I think we would have to initiate the hearing,
10 insert the testimony into the record, have the exhibits
11 entered and then at that time deal with a motion to
12 dismiss or --

13 COMMISSIONER EASLEY: Oh, so the panel could do it
14 at that time?

15 MR. FEIL: Yes, ma'am.

16 COMMISSIONER EASLEY: Make a bench decision?

17 MR. FEIL: Yes, ma'am.

18 COMMISSIONER EASLEY: All right.

19 MR. FEIL: The other part of it is -- and in this
20 particular case one of the issues listed is quality of
21 service. It's my understanding that some customers
22 have expressed an interest in the case and they may
23 wish to testify.

24 COMMISSIONER EASLEY: All right, so that means
25 we're actually going to go down to Pasco County to do

1 this?

2 MR. FEIL: That would be my recommendation of the
3 safest way to handle it.

4 COMMISSIONER EASLEY: What happens to rate case
5 expense? Or is there a problem with that, since this
6 is Staff-assisted?

7 MR. FEIL: I think that since the rates have
8 already been established, rate case expense has already
9 been accounted for in the rates and this is basically
10 separate and apart from the rate base.

11 COMMISSIONER EASLEY: So we can represent to the
12 customers if we do go down there that, in effect, it's
13 not costing them anything at this time for us to do
14 that?

15 MR. FEIL: Yes, ma'am.

16 COMMISSIONER EASLEY: All right, anything else we
17 need to do today then?

18 MR. FEIL: I'm going to file a motion to dismiss,
19 either today or Monday, and since -- also since the
20 Utility has not responded fully to Staff's discovery,
21 we're also going to be filing a motion to compel.

22 COMMISSIONER EASLEY: Okay. When do you need that
23 signed?

24 MR. FEIL: I'm going to try to file the motion to
25 compel today and the Utility is allowed time to respond

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to that. So it may end up being ruled upon at the hearing.

COMMISSIONER EASLEY: All right. Being as I have a 20-pound turkey and several 20-pound grandchildren waiting for me, do you need that signed today or can we sign it Monday? That's what I was getting at.

MR. FEIL: Prehearing order you mean?

COMMISSIONER EASLEY: Prehearing order and the motion to compel.

MR. FEIL: Well, for the motion to compel, I think the Utility would be allowed time to respond to that.

COMMISSIONER EASLEY: Don't I have to sign?

MR. FEIL: Nothing to sign.

COMMISSIONER EASLEY: Oh, that's right, you're making the motion.

MR. FEIL: But with regard to the prehearing order, I can have it done within the next half hour.

COMMISSIONER EASLEY: I'll wait for it. That's fine.

MR. FEIL: The other thing I would like for the prehearing order to note is that according to the Order Establishing Procedure, if a party does not attend the prehearing conference, they waive all issues and positions.

COMMISSIONER EASLEY: Yes, I think the order

1 should reflect anything in that order establishing
2 procedure, that is pertinent.

3 MR. FEIL: And I don't believe we have anything
4 further to add at this time.

5 COMMISSIONER EASLEY: Who is on this panel?

6 MR. FEIL: The Chairman and yourself.

7 COMMISSIONER EASLEY: And it's scheduled for
8 when?

9 MR. FEIL: December 9th.

10 COMMISSIONER EASLEY: Oh good. Excellent. All
11 right. In that case, that's all we need to do?

12 MR. FEIL: That's all I think we need to do, yes,
13 ma'am.

14 COMMISSIONER EASLEY: Thank you very much.

15 MR. FEIL: Thank you.

16 (Hearing concluded at 9:40 a.m.)

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CERTIFICATE

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State of Florida)
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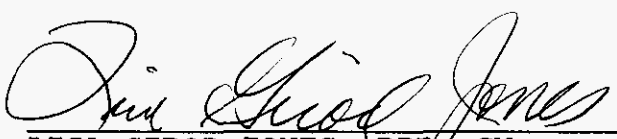
I, LISA GIROD JONES, Registered Professional Reporter, and Notary Public in and for the State of Florida at Large, at Tallahassee, Florida, do hereby certify as follows:

THAT I correctly reported in shorthand the foregoing proceedings at the time and place stated in the caption thereof;

THAT my shorthand notes were reduced to typewriting with the use of computer-aided transcription, and that the foregoing pages, 1 through 8, both inclusive, contain a full, true and correct transcript of the proceedings on said occasion;

THAT I am not a relative or employee or attorney or counsel of any of the parties or attorneys connected with the action, nor am I financially interested in the action.

DATED THIS 2nd DAY OF December, 1992.



LISA GIROD JONES, RPR, CM
Notary Public, State of Florida
at Large.

My commission expires: 5-11-93