

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Application for ) DOCKET NO. 930773-SU  
Certificate to Provide ) ORDER NO. PSC-94-1088-FOF-SU  
Wastewater Service in Okaloosa ) ISSUED: September 6, 1994  
County Under Grandfather Rights )  
by Eastdestin Wastewater Service )  
\_\_\_\_\_ )

The following Commissioners participated in the disposition of this matter:

SUSAN F. CLARK  
DIANE K. KIESLING

ORDER DISMISSING PROTEST AND DECLARING  
ORDER NO. PSC-94-0260-FOF-SU FINAL AND EFFECTIVE

BY THE COMMISSION:

On October 20, 1992, the Board of County Commissioners of Okaloosa County adopted Resolution No. 92-131 pursuant to Section 367.171, Florida Statutes, declaring that as of October 20, 1992, the water and wastewater utilities in that county shall become subject to Chapter 367, Florida Statutes. The Public Service Commission acknowledged the resolution on December 3, 1992, by Order No. PSC-92-1409-FOF-WS. Pursuant to Section 367.031, Florida Statutes, a utility subject to the jurisdiction of this Commission must obtain a certificate of authorization or an order recognizing the exempt status of the system.

On August 3, 1993, Eastdestin Wastewater Service's (Eastdestin or utility) filed an application with the Commission for a grandfather certificate, pursuant to Section 367.171, Florida Statutes. By Proposed Agency Action (PAA) Order No. PSC-94-0260-FOF-SU, issued March 8, 1994, we granted Eastdestin Certificate No. 489-S, and denied additional territory which Eastdestin requested in its application. Eastdestin timely filed a protest to the PAA Order, requesting that this Commission reconsider the territory granted. Pursuant to Order No. PSC-94-0659-PCO-SU, issued May 31, 1994, this matter was scheduled for formal hearing on October 6, 1994.

Pursuant to Rule 25-22.048(4)(a), Florida Administrative Code, "[a] presiding officer may require all parties to prefile testimony and shall provide reasonable notice to the parties of the date testimony shall be prefiled." The utility's direct testimony and exhibits were required to be prefiled by July 5, 1994, pursuant to

DOCUMENT NUMBER-DATE

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the Order Establishing Procedure, Order No. PSC-94-0659-PCO-SU, issued in this matter.

Eastdestin did not prefile its testimony on July 5, 1994. Subsequently, Staff counsel contacted Eastdestin regarding this matter, and was told that it did not understand the requirement to prefile testimony. Staff counsel then suggested that the utility obtain legal counsel and requested that petitioner file a motion for an extension to file its prefiled testimony by Friday, July 15, 1994. Staff counsel also explained that if the utility failed to do so, a recommendation to dismiss its protest would follow.

The utility did not prefile it's testimony, or move for an extension of time in which to do so. Without the utility's prefiled testimony, Staff is unable to move forward in this matter as required by the Order Establishing Procedure. Therefore, we find it appropriate to dismiss Eastdestin's protest and declare that Order No. PSC-94-0260-FOF-SU shall become final and effective as of August 16, 1994 and this docket shall be closed.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that Eastdestin Wastewater Service's protest of Proposed Agency Action Order No. PSC-94-0260-FOF-SU is hereby dismissed. It is further

ORDERED that Order No. PSC-94-0260-FOF-SU is hereby declared to be final and effective as of August 16, 1994. It is further

ORDERED that this docket is closed.

By ORDER of the Florida Public Service Commission, this 6th day of September, 1994.

BLANCA S. BAYÓ, Director  
Division of Records and Reporting

by: Kay Flynn  
Chief, Bureau of Records

( S E A L )

MSN

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 the Commission's final action in this matter may request: 1) reconsideration of the decision by filing a motion for reconsideration with the Director, Division of Records and Reporting within fifteen (15) days of the issuance of this order in the form prescribed by Rule 25-22.060, Florida Administrative Code; 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 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 after the issuance of this order, pursuant to Rule 9.110, Florida Rules of Civil Procedure. The notice of appeal must be in the form specified in Rule 9.900 (a), Florida Rules of Appellate Procedure.