

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Application for a rate) DOCKET NO. 921293-SU
increase in Pinellas County by) ORDER NO. PSC-94-1514-FOF-SU
MID-COUNTY SERVICES, INC.) ISSUED: December 8, 1994
_____)

The following Commissioners participated in the disposition of this matter:

SUSAN F. CLARK
DIANE K. KIESLING

ORDER DENYING REQUEST FOR ORAL ARGUMENT AND MOTION FOR RECONSIDERATION OF ORDER NO. PSC-94-1042-FOF-SU

BY THE COMMISSION:

BACKGROUND

Mid-County Services, Inc. (Mid-County or utility), a wholly owned subsidiary of Utilities, Inc., is a Class B utility, located in Pinellas County, Florida. Mid-County provides wastewater service to customers located in Dunedin, Florida. The utility is located in a region which has been designated by the South Florida Water Management District as a critical use area. By Order No. 25257, issued October 28, 1991, the Commission approved a transfer of majority organizational control of Mid-County from the former owner of the utility to Utilities, Inc. The transaction involving the acquisition of stock was completed and the closing occurred on May 22, 1991.

By Proposed Agency Action Order No. PSC-93-1713-FOF-SU, issued November 30, 1993, the Commission proposed increased wastewater rates and service availability charges for this utility. Specifically, the Commission proposed a \$761,574 wastewater revenue requirement for Mid-County, which represents an annual increase in revenue of \$262,803 or 52.69 percent.

On December 20, 1993, Suntech Homes, Inc. (Suntech or developer) timely filed a Petition on Proposed Agency Action, wherein it requested a Section 120.57, Florida Statutes, hearing. The developer's protest appeared to be limited to the service availability charges.

The hearing was held on April 20, 1994, in Dunedin, Florida. The parties timely filed their briefs on May 23, 1994. By Order No. PSC-94-1042-FOF-SU, issued August 24, 1994, this Commission

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stated that Mid-County is authorized to collect a service availability charge of \$1,235. Suntech timely filed a Motion for Reconsideration on September 8, 1994. Subsequently, Mid-County timely filed a Response in Opposition to Suntech's Motion for Reconsideration on September 20, 1994.

ORAL ARGUMENT

Suntech's Request for Oral Argument was filed September 8, 1994, within its Motion for Reconsideration. We do not believe that Suntech's Motion for Reconsideration requires oral argument because the Motion contained sufficient argument for the Commission to render a fair and complete evaluation of the merits without oral argument. Therefore, oral argument is hereby denied.

MOTION FOR RECONSIDERATION

Suntech alleged in its Motion, that the service availability charge set by the Commission in Order No. PSC-94-1042-FOF-SU, was unjust and unreasonable. Specifically, Suntech asserts that: (1) the Commission interpreted Rule 25-30.585, Florida Administrative Code, incorrectly; (2) the Commission did not properly consider future property connections, and after the hearing, a developer agreement was entered into between Suntech and the utility; and (3) the Commission should not have found that Suntech's townhome and villas were equal to a single family residence in terms of equivalent residential connections (ERCs).

Mid-County timely filed a response to Suntech's Motion for Reconsideration on September 20, 1994. In its response, Mid-County asserted that: (1) Suntech's argument is flawed because it argues wording in the recommendation and that if the Commission did set the charge on a pro rata share, the charge would be higher than the one set in Order No. PSC-94-1042-FOF-SU; (2) the developer agreement was signed after the hearing, and therefore should not be considered; and (3) the Commission did look at the record in deciding that the ERCs for a townhome and villa in this development are equal to that of a single family residence.

The purpose of a motion for reconsideration is to point out some matter of law or fact which the Commission failed to consider or overlooked in its prior decision. Diamond Cab Co. of Miami v. King, 146 So. 2d 889 (Fla. 1962); Pingree v. Quaintance, 394 So. 2d 161 (1st DCA 1981). A motion for reconsideration is not an appropriate vehicle for mere reargument or to introduce new evidence or arguments which were not previously considered.

On page 10 of Order No. PSC-94-1042-FOF-SU, we state that:

We believe that Rule 25-30.585, Florida Administrative Code, is subject to the limitations of Rule 25-30.580, Florida Administrative Code. Only after these charges have been approved are negotiations between developers and utilities addressed by using the provisions of Rule 25-30.585, Florida Administrative Code.

Furthermore, page 11 of the Order states:

Since no signed developer agreements or any other evidence was entered into the record to indicate that any future CIAC will be received by Mid-County, we believe that the service availability charge will not be affected by any property which the developer might contribute in the future.

Additionally, page 12 of the Order states:

Based on the testimony in the record, we find that the appropriate ERC factor for townhomes and villas is one ERC equals 350 gallons per day (gpd) for water, and one ERC equals 280 gpd for wastewater.

Based on the foregoing, we believe that all evidence was fully considered and Suntech has not shown any mistake of law or fact. Therefore, Suntech's Motion for Reconsideration is hereby denied.

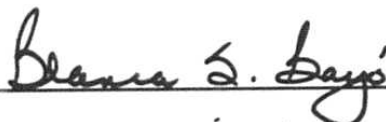
Based on the foregoing, it is, therefore,

ORDERED by the Florida Public Service Commission that Suntech Homes, Inc.'s Request for Oral Argument is hereby denied. It is further

ORDERED that Suntech Mobile Homes, Inc.'s Motion for Reconsideration of Order No. PSC-94-1042-FOF-SU, is hereby denied.

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By ORDER of the Florida Public Service Commission, this 8th
day of December, 1994.



BLANCA S. BAYÓ, Director
Division of Records and Reporting

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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 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. 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.