

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Petition for Approval of ) DOCKET NO. 950758-WS  
Transfer of Facilities of Harbor ) ORDER NO. PSC-96-1110-PCO-WS  
Utilities Company, Inc., to ) ISSUED: August 29, 1996  
Bonita Springs Utilities and )  
Cancellation of Certificates )  
Nos. 272-W and 215-S in Lee )  
County )  
\_\_\_\_\_ )

ORDER GRANTING MOTION FOR SUBMITTAL OF LATE-FILED TESTIMONY AND  
REVISING DATE FOR SUBMITTAL OF REBUTTAL TESTIMONY

On August 16, 1996, Bonita Springs Utilities, Inc. (BSU or utility), filed the prefiled direct testimony of Fred B. Partin and a Motion for Submittal of Late-Filed Testimony (motion). By Order No. PSC-96-0536-PCO-WS, issued April 5, 1996, the utility was to file direct testimony by June 4, 1996. No party has responded in opposition to BSU's motion, and, with the exception of one who cannot be located, each has represented orally to staff that he or she will not respond.

The utility explained that it did not file prefiled testimony by the required date in the good faith belief that, with the order of the Lee County Circuit Court on May 17, 1996, discharging BSU's receivership, the Commission no longer had jurisdiction over the matter of the transfer of the assets of Harbor Utilities Company, Inc. (Harbor), to BSU. Instead, the utility, on June 12, 1996, filed with the Commission a Notice of Withdrawal of Application for Transfer and Voluntary Dismissal (notice). When the Commission, in Order No. PSC-96-0992-FOF-WS, issued August 5, 1996, declined to acknowledge the notice, the utility "resume[d] its participation" with the instant filings and with the filing as well of its prehearing statement. BSU stated that its participation is not intended to waive its jurisdictional objections "to the proceedings as a whole." Finally, the utility stated that it did not believe that any party would be prejudiced by the late filing of its testimony.

Having reviewed the pleading, and noting that no party has filed nor intends to file a response in opposition, I find it appropriate to grant the utility's motion. Accordingly, it is also appropriate to extend the time for filing rebuttal testimony. Thus, the parties shall file rebuttal testimony no later than September 4, 1996. In all other respects, Order No. PSC-96-0536-PCO-WS is hereby reaffirmed.

DOCUMENT NUMBER-DATE

09188 AUG 29 96

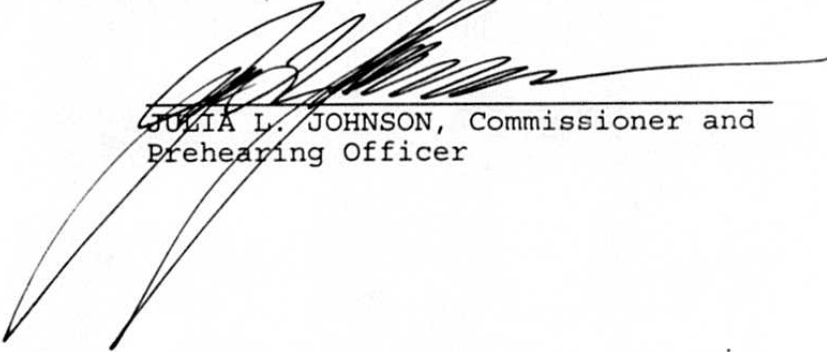
FPSC-RECORDS/REPORTING

Based on the foregoing, it is

ORDERED by Commissioner Julia L. Johnson, as Prehearing Officer, that Bonita Springs Utilities, Inc.'s Motion for Submittal of Late-Filed Testimony is granted. It is further

ORDERED that rebuttal testimony shall be filed no later than September 4, 1996, and that Order No. PSC-96-0536-PCO-WS is in all other respects reaffirmed.

By ORDER of Commissioner Julia L. Johnson, as Prehearing Officer, this 29th day of August, 1996.



JULIA L. JOHNSON, Commissioner and  
Prehearing Officer

( S E A L )

CJP

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 10 days pursuant to Rule 25-22.038(2), Florida Administrative Code, if issued by a Prehearing Officer; (2) reconsideration within 15 days pursuant to Rule 25-22.060, Florida Administrative Code, if issued by the Commission; or (3) 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. A motion for reconsideration shall be filed with the Director, Division of

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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.