

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

ORIGINAL

In re: Complaint and request for)
hearing by Linda J. McKenna and 54) DOCKET NO. 990080-WS
petitioners regarding unfair rates)
and charges by SHANGRI-LA BY-THE-LAKE)
UTILITIES, INC. in Lake County, FL.)
_____)

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MOTION FOR RECONSIDERATION
BY ENTIRE COMMISSION

SHANGRI-LA BY THE LAKE UTILITIES, INC. ("Company"), by and through its undersigned attorneys and pursuant to Rule 25-22.0376, Florida Administrative Code, files this Motion for Reconsideration by Entire Commission of PSC Order No. PSC-00-1549-PCO-WS ("Order") issued by Prehearing Officer Jacobs and in support thereof states the following matters which were overlooked by Commissioner Jacobs in issuing Order No. PSC-00-1549-PCO-WS:

1. Interestingly, the single case relied upon in the Order has absolutely nothing to do with the facts as they exist in the instant case. In that case, MCI filed a protest of a PAA Order solely with regard to Bell South and GTE Florida. Sprint-Florida sought to withdraw from the docket asserting that MCI's protest did not apply to it and the Commission was limited to the issues raised

by MCI in its protest. This case did not involve an attempt by the non-protesting parties to raise new issues but only the Commission's discretion to add issues it determines to be relevant to the full resolution of a case when a PAA Order is protested.

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2. Further, the Order ignores the Commission's long standing policy as articulated in its standard Order Establishing Procedure such as was entered in the instant case, Order No. PSC-00-0629-PCO-WS ("Procedural Order"). That Procedural Order includes the following:

Failure of a party to timely file a prehearing statement shall be a waiver of any issue not raised by other parties or by the Commission.

. . .
Any issue not raised by a party prior to the issuance of the prehearing order shall be waived by the party, except for good cause shown.

The Procedural Order goes on to point out the basis for raising a new issues after the issuance of the prehearing order. The Commission may not deviate from its longstanding policy without a factual basis to do so, and an articulation of the reasons therefore. The Order in the instant case is devoid of both.

3. Public Counsel's Motion is in effect a rehearing of Order No. PSC-00-0629-PCO-WS and as such is untimely.

4. There is a practical aspect to the result of the Order which clearly points out the absurdity of the result. If this Order is allowed to stand, it will require that every PAA Order be protested by the regulated utility, as well as by Public Counsel in those cases in which it is involved. This puts a utility in an untenable position, particularly when Public Counsel or customers have not participated in the proceeding leading up the issuance of

the PAA. In many cases, the utility disagrees with portions of a PAA Order but as a whole, the result is acceptable or the cost of protesting the PAA outweighs the result to be gained; thus, it does not protest the PAA Order. The Public Counsel, or a customer, which previously had not indicated any interest in the proceeding could then file a protest challenging determinations which were acceptable to the utility and the utility would be precluded from challenging the determinations which were unacceptable to it, but which did not justify the filing of a protest on its own.


In those instances where the Public Counsel or a customer were involved in the proceeding leading up to the issuance of the PAA Order, the utility and Public Counsel would both have to file protests even though the PAA Order was acceptable to each party or they would both be standing at the Clerk's office with protest in hand at 5:00 p.m. on the last day of the protest period to make sure the other did not file a protest. Then the two parties would have to get together and each agree to dismiss their protests. This results in substantial time and expense to the utility, the Public Counsel and the Staff, which is a needless waste of time and money to all involved.

5. If the Commission is going to follow the Order, then it should adopt rule amendments providing for a cross protest. Until such an amendment is adopted, this Commission must follow its longstanding procedure as set forth in the Commission's standard Order on Procedure.

WHEREFORE, Shangri-La by the Lake Utilities, Inc. requests reconsideration of the Order by the entire commission.


Respectfully submitted this 1st day of September, 2000, by:

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MARTIN S. FRIEDMAN
For the Firm

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been forwarded by U.S. Mail to Tyler VanLeuven, Esquire, Florida Public Service Commission, 2540 Shumard Oak Boulevard, Tallahassee, FL 32399-0850, Linda J. McKenna, 134 Shanghai Island Road, Leesburg, Florida 34788 and Steve Burgess, Esquire, Office of Public Counsel, 111 West Madison Street, Room 812, Tallahassee, Florida 32399-1400 on this 1st day of September, 2000.


MARTIN S. FRIEDMAN