

M E M O R A N D U M

December 4, 2000

TO: DIVISION OF RECORDS AND REPORTING (BAYO)
FROM: DIVISION OF LEGAL SERVICES (CHRISTENSEN) ✓
RE: DOCKET NO. 991437-WS - Application for increase in water rates in Orange County by Wedgefield Utilities, Inc.

Please place the attached letter from Ben Girtman, Esquire, dated November 29, 2000, in the above-referenced docket file.

PAC/lw

Attachment

cc: Division of Economic Regulation (Kyle, Merchant)

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FPSC-RECORDS/REPORTING

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November 29, 2000

Patty Christensen, Esq.
Florida Public Service Commission
Division of Legal Services
2540 Shumard Oak Blvd.
Tallahassee, FL 32399-0850

NOV 30 2000

Re: Docket No. 991437-WS, Application of Wedgefield Utilities, Inc. to Increase its Water Rates and Charges

Dear Ms. Christensen:

Thank you for the opportunity to discuss scheduling matters with you today. In light of yesterday's rulings by the Commission panel, this letter is to inform you that Wedgefield Utilities, Inc. has decided to seek appellate review. This brings up several questions about scheduling matters which all parties need to address.

As you stated in our conversation today, the Commission's order memorializing yesterday's vote is due by December 18, and it probably will not be filed much before that time, if any. Wedgefield cannot formally file its notice and start the appellate process until after the order is issued.

As I had previously discussed with you and Mr. Beck, our tentative plan to meet and discuss several discovery issues on Thursday, November 30, was conditioned on the outcome of the Commission vote yesterday. If the Commission granted Wedgefield's motion, the issue of negative acquisition adjustment would not be involved in this case, and the discovery conference could proceed based on what was necessary and appropriate to respond to the remaining issues. If the Commission denied Wedgefield's motion, then the likely appeal would need to be resolved before any of us would know if the negative acquisition issue would remain, and therefore whether the time and expense of dealing with discovery on that issue was necessary.

Now that the Commission has voted, it seems prudent to wait for the ruling of the appellate court to determine if the time and rate case expense should be incurred to deal with this issue. It is comparatively easy and inexpensive for a party to file interrogatories and requests for production, but the burden of acquiring information and developing responses is burdensome and expensive. With the possibility of avoiding that cost and workload, we hope that the Commission will allow the appellate decision to be made before proceeding with the discovery. Wedgefield also would have extensive discovery to serve on OPC, but we cannot in good conscience file that discovery or take depositions on that subject without knowing whether the negative acquisition adjustment issue will have to be heard in this case.

Patty Christensen, Esq.
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Wedgefield is trying to minimize the rate case expense and to avoid spending time and money on matters which, we hope, will not be required to be re-tried again from the last case. If the appellate court rules in Wedgefield's favor, then those rate case expenses can be avoided, and the utility's customers will not be called upon to pay them. If, on the other hand, the appellate court rules against Wedgefield, then there will be ample opportunity for both sides to address the discovery and objections of all parties.

The most prudent approach seems to be to stay any further proceedings on the case before the Commission until the appellate court tells us what the issues will be. That will necessitate a change in the dates in the CASR, including rescheduling the hearing. Although Wedgefield Utilities would like to reach a final resolution of this case sooner rather than later, the recent legal developments dictate that the best way to minimize rate case expense is to find out from the appellate court what the issues will be, then proceed on that basis.

Your assistance in helping to forge a workable schedule would be appreciated, for the benefit of the utility, OPC, the customers, and the Commission Staff whose workload also will be substantially affected by the outcome of the appeal.

Please let me know if there is agreement on this approach. If the Prehearing Officer directs that we attend the informal discovery meeting tomorrow, we will be there. However, that and other discovery matters would turn out to be unnecessary if the appellate court eventually rules in the utility's favor. There will be ample time to address all appropriate discovery after we know what the final issues list will contain. The utility is aware that this will require potential further waiver of the time limitations on its part and only the interim rates will remain in effect subject to a corporate undertaking and possible refund. However, Wedgefield is willing to work with the Commission on finalizing the details of such a change in schedule brought about by the appeal.

Thank you again for your efforts in keeping the schedule moving forward in a workable manner. I look forward to hearing from you.

Sincerely yours,



Ben E. Girtman

cc: Division of Records and Reporting
Charles Beck, Esq.
Mr. Carl Wenz
Mr. Frank Seidman