

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Emergency petition by
D.R. Horton Custom Homes, Inc.
to eliminate authority of
Southlake Utilities, Inc. to
collect service availability
charges and AFPI charges in Lake
County.

DOCKET NO. 981609-WS

In re: Complaint by D.R. Horton
Custom Homes, Inc. against
Southlake Utilities, Inc. in
Lake County regarding collection
of certain AFPI charges.

DOCKET NO. 980992-WS
ORDER NO. PSC-01-1034-PCO-WS
ISSUED: April 27, 2001

ORDER GRANTING JOINT MOTION FOR CONTINUANCE

On August 4, 1998, D.R. Horton Custom Homes, Inc. (Horton) filed a Complaint against Southlake Utilities, Inc. (Southlake or utility) regarding the utility's collection of allowance for funds prudently invested (AFPI) charges. On November 16, 1998, Horton also filed a Petition to immediately eliminate the authority of Southlake to collect service availability and AFPI charges. By Order No. PSC-99-0027-PCO-WS, issued January 4, 1999, this Commission initiated an investigation into Southlake's AFPI and service availability charges and held these charges subject to refund.

On May 9, 2000, this Commission issued Order No. PSC-00-0917-SC-WS, ordering the utility to show cause and to provide security for the service availability charges held subject to refund. Moreover, by proposed agency action, the Commission discontinued the utility's water plant capacity and AFPI charges, reduced the amount of the utility's wastewater plant capacity charges, and required refunds. On May 30, 2000, the utility timely requested a hearing on the show cause portion of the Order. The utility also filed a protest to the proposed agency action portion of the Order and requested a formal hearing. Additionally, by Order No. PSC-00-1518-SC-WS, issued August 22, 2000, the Commission ordered the utility to show cause as to why it should not be fined for its apparent failure to file the security required by Order No. PSC-00-

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0917-SC-WS. On September 13, 2000, the utility responded to Order No. PSC-00-1518-SC-WS and requested a hearing. An administrative hearing was scheduled in this matter for March 13 and 14, 2001.

By Order No. PSC-00-1461-PCO-WS (Order Establishing Procedure), issued August 11, 2000, controlling dates were established for these dockets. By Order No PSC-00-1817-PCO-WS, issued October 4, 2000, the utility's Motion for Extension of Time to file testimony, exhibits, and prehearing statements was granted. By Order No. PSC-00-2267-PCO-WS, issued November 29, 2000, the prehearing conference and hearing dates in these dockets were changed to April 30, 2001, and May 10 and 11, 2001, respectively, to accommodate the Commission calendar.

On April 24, 2001, the parties filed a Joint Motion for Continuance of the hearing until August 24, 2001, at the latest, and to reschedule the prehearing conference accordingly. In support of their motion, the parties state that they believe that they have reached a settlement of their dispute, and that such negotiated settlement would address their concerns, including, but not limited to, the amount of refunds at issue. The parties further state that they are in the process of drafting settlement documents and that they anticipate that the settlement agreement will be completed, executed, and filed on or before May 7, 2001.

The parties believe that it would not be cost effective and not conducive to facilitating a settlement to proceed with the upcoming notices of hearing, depositions, requests for production, and the April 30, 2001, prehearing conference in order to conduct the hearing on May 10 and 11, 2001. The parties agree that the dates for providing responses to requests for production of documents and conducting depositions of various witnesses should also be continued to dates agreed upon by the parties and the Commission staff consistent with the new hearing date. Finally, the parties state that there will be no prejudice to any party.

Upon consideration of the foregoing, I find that the requested continuance of the proceedings may result in the resolution of this matter without the need for a hearing and may thereby avoid a substantial expenditure of time and expense for the parties and the Commission. Therefore, the Joint Motion for Continuance is granted. In the event that a settlement agreement is not approved


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beforehand, August 2, 2001, at 1:30 p.m., has been reserved for a prehearing conference in Tallahassee, and August 24, 2001, has been reserved for a hearing in this matter, in or around the utility's service area, with a service hearing scheduled for 9 a.m. that morning. The hearing will begin immediately following the conclusion of the service hearing.

Based on the foregoing, it is

ORDERED by Commissioner J. Terry Deason, as Prehearing Officer, that the parties' Joint Motion for Continuance is hereby granted. In the event that a settlement agreement is not approved beforehand, August 2, 2001, at 1:30 p.m., has been reserved for a prehearing conference in Tallahassee, and August 24, 2001, has been reserved for a hearing in this matter, in or around the utility's service area, with a service hearing scheduled for 9 a.m. that morning. The hearing will begin immediately following the conclusion of the service hearing.

By ORDER of Commissioner J. Terry Deason as Prehearing Officer, this 27th day of April, 2001.



J. TERRY DEASON
Commissioner and Prehearing Officer

(S E A L)

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NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), 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.

Mediation may be available on a case-by-case basis. If mediation is conducted, it does not affect a substantially interested person's right to a hearing.

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 25-22.0376, 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 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.