

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Investigation into
proposed sale of Florida Water
Services Corporation.

DOCKET NO. 021066-WS
ORDER NO. PSC-02-1617-PCO-WS
ISSUED: November 22, 2002

ORDER REQUIRING FWSC TO RESPOND TO OPC'S FIRST SET OF
REQUESTS FOR PRODUCTION OF DOCUMENTS BY NOVEMBER 25, 2002

On November 11, 2002, the Office of Public Counsel (OPC) served their Notice of Intervention in this docket. By Order No. PSC-02-1558-PCO-WS, issued November 13, 2002, OPC's intervention was acknowledged. Also on November 11, 2002, OPC filed its First Set of Requests for Production of Documents to Florida Water Services Corporation (FWSC), and its Motion to Require Response by FWSC to Citizen's First Set of Requests for Production of Documents by no Later than Monday, November 18, 2002 (Motion). On November 15, 2002, FWSC filed its Response to Office of Public Counsel's Motion for Expedited Response to Office of Public Counsel's First Set of Requests for Production of Documents (Response).

In support of its Motion, OPC states that the Commission opened this docket on October 22, 2002, to investigate the proposed sale of FWSC to a newly created entity named Florida Water Services Authority (FWSA or Authority), and that terms of the purchase agreement between FWSC and FWSA call for a closing by December 15, 2002, subject to FWSA being able to issue bonds for the purchase price and other conditions. OPC further states that the short time frame before the anticipated closing of the transaction between FWSC and FWSA leaves little time to gather information regarding the proposed sale. OPC states that in order to respond to its Request for Production of Documents, FWSC need only produce documents already in existence. Therefore, production of these documents would not be unduly burdensome on the company.

In its Response, FWSC states that as of yet, FWSC has not filed with the Commission its application for acknowledgment of the sale of its facilities to the FWSA pursuant to Section 367.071(4)(a), Florida Statutes, and because of this, there is no critical date for Commission action on matters within the Commission's jurisdiction associated with this transaction.

DOCUMENT NUMBER-DATE

12848 NOV 22 02

FPSC-COMMISSION CLERK

Further, FWSC states that under the current circumstances, there is no apparent good cause or justification to order expedited responses to OPC's requests. FWSC states that under statutory law and Commission precedent, the sale of the facilities by FWSC to the Authority must be approved as a matter of right under Section 367.071(4)(a), Florida Statutes, and as such, many of the documents requested by OPC are outside the scope of discovery in a proceeding of this nature. Finally, the parties to the transaction are actively involved in various matters concerning the potential sale requiring input and participation from all parties involved, and therefore, to require FWSC to provide expedited responses to OPC's discovery is unnecessary and inequitable.

However, FWSC further states that in an effort to cooperate with OPC, FWSC is prepared to file and serve a response, including objections, to OPC's First Set of Requests for Production of Documents by Monday, November 25, 2002, and in addition, "will produce extensive documents to OPC prior to November 25, 2002." FWSC also points out that under Rule 28-106.206, Florida Administrative Code, and Rule 1.351, Florida Rules of Civil Procedure, it would be required to respond to OPC's discovery within thirty days of service by OPC. The utility goes on to state that by offering to provide expedited responses to OPC's First Set of Requests for Production of Documents, FWSC does not waive its right to provide responses, including objections, to future discovery in this docket pursuant to the normal thirty day response time.

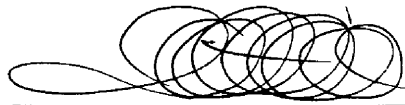
In consideration of the above, it appears that FWSC's offer to provide expedited responses to OPC's discovery by Monday, November 25, 2002, is reasonable and equitable to both parties.

Based on the foregoing, it is

ORDERED by Commissioner Braulio L. Baez, as Prehearing Officer, that FWSC shall file and serve its response to OPC's First Set of Requests For Production on Documents by Monday, November 25, 2002.

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By ORDER of Commissioner Braulio L. Baez, as Prehearing Officer, this 22nd day of November, 2002.



FL BAEZ

BRAULIO L. BAEZ
Commissioner and Prehearing Officer

(S E A L)

LAH

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

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the case of a water or wastewater utility. A motion for reconsideration shall be filed with the Director, Division of the Commission Clerk and Administrative Services, 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.