

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application for increase in water and wastewater rates in Alachua, Brevard, DeSoto, Highlands, Lake, Lee, Marion, Orange, Palm Beach, Pasco, Polk, Putnam, Seminole, Sumter, Volusia, and Washington Counties by Aqua Utilities Florida, Inc.

DOCKET NO. 080121-WS
ORDER NO. PSC-08-0497-PCO-WS
ISSUED: August 5, 2008

ORDER GRANTING INTERVENTION

By petition, filed July 25, 2008, Bill McCollum, Attorney General, State of Florida (Attorney General), has requested permission to intervene in this rate proceeding of Aqua Utilities Florida, Inc. (AUF or Utility). The Attorney General states that, acting in his proprietary capacity on behalf of the State of Florida, he has a substantial interest in the pending proceeding, and in support cites to State ex rel. Shevin v. Yarborough, 257 So. 2d 891 (Fla. 1972).¹ In the request, the Attorney General notes that, at recent public hearings, the customers had testified about the amount of the increase and health concerns with the quality of the water provided by the Utility.

AUF timely filed its response on August 1, 2008. In its response, AUF states that, while it does not necessarily oppose the Attorney General's participation, the petition, as filed, does not comply with Rule 28-106.201(2)(d) & (e), Florida Administrative Code (F.A.C.), as required by Rule 25-22.039, F.A.C. Specifically, AUF argues that the Attorney General's petition "contains neither '[a] statement of all disputed issues of material fact,' nor '[a] concise statement of the ultimate facts alleged.'" Based on this perceived deficiency, AUF requests that the Attorney General be required to submit an amended petition which conforms with Rules 28-106.201 and 25-22.039, F.A.C.

Because the rate application of AUF has been set directly for hearing, the specific issues in this rate proceeding have not been determined, and there has been no agency action. Clearly, the Attorney General has raised concerns about the amount of the increase and quality of service. Any intervenor's testimony is not due until October 13, 2008, and the ultimate issues will be determined at the Prehearing Conference scheduled for December 1, 2008. Also, in the Yarborough case cited by the Attorney General, the Florida Supreme Court concluded "that the Attorney General does have status to represent the State as a consumer and to make all appropriate effort to hold down the rates." Therefore, having considered the Attorney General's petition, I find that it complies with the applicable portions of Rules 25-22.039 and 28-

¹ In this electric rate case before the Commission, the Commission had acknowledged the right of the Attorney General to intervene representing the state of Florida as a substantial consumer, but did not recognize the Attorney General as the advocate of the general body of utility consumers throughout the State of Florida. The court found that "having appeared in such proceedings in behalf of the State of Florida as a consumer, the Attorney General is representing all citizens of the State."

DOCUMENT NUMBER-DATE

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106.201(2), F.A.C., and intervention is therefore granted. Pursuant to Rule 25-22.039, F.A.C., the Attorney General takes the case as he finds it.

Therefore, it is

ORDERED by Commissioner Lisa Polak Edgar, as Prehearing Officer, that the Petition to Intervene filed by Bill McCollum, Attorney General, State of Florida, is hereby granted. It is further

ORDERED that all parties to this proceeding shall furnish copies of all testimony, exhibits, pleadings and other documents which may hereinafter be filed in this proceeding, to:

Cecilia Bradley
Senior Assistant Attorney General
Office of the Attorney General
The Capitol – PL01
Tallahassee, FL 32399-1050

By ORDER of Commissioner Lisa Polak Edgar, as Prehearing Officer this, 5th day of August, 2008.



LISA POLAK EDGAR
Commissioner and Prehearing Officer

(S E A L)

RRJ

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; or (2) 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 Office of Commission Clerk, 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.