

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

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

DOCKET NO. 100330-WS
ORDER NO. PSC-11-0162-PCO-WS
ISSUED: March 8, 2011

ORDER GRANTING INTERVENTION

BY THE COMMISSION:

On January 31, 2011, YES Communities, Inc. d/b/a Arredondo Farms (hereinafter YES), by and through its attorney, Kenneth M. Curtin, filed its Motion for Intervention in the above-captioned proceeding. However, on February 7, 2011, Aqua Utilities Florida, Inc. (AUF) timely filed its Response in Opposition to Motion for Intervention (Response in Opposition). In its Response in Opposition, AUF alleged that YES had failed to comply with Rules 28-106.201(2)(b), (c), (d), (e), (f), and (g), Florida Administrative Code (F.A.C.). AUF also alleged that the Motion to Intervene of YES should be denied because it had failed to show that its interests in this proceeding were not being adequately protected by the Office of the Public Counsel (OPC), and would defeat the cost-saving purpose of the propose agency action (PAA) procedures being used to process AUF's application for increased water and wastewater rates.

Subsequently, on February 8, 2011, without admitting any alleged deficiencies or prejudice, YES filed its Amended Motion for Intervention (Amended Motion) in which it clarified its original motion and provided additional information in relation to Rule 28-106.201(2), F.A.C. AUF filed its timely Response to Amended Motion for Intervention (Second Response). In its Second Response, AUF states that it no longer objects to YES's intervention, but requests the Commission to clarify its grant of intervention in the following two ways:

1. YES's participation should be expressly limited to those issues within the jurisdiction and scope of this rate proceeding; and
2. It should be made clear that YES takes the case as it finds it.

In its Motion for Intervention, as amended, YES states that it owns the Arredondo Mobile Home Park consisting of 445 mobile home lots, which lots are provided water and wastewater service by AUF. Moreover, YES states that it rents lots and mobile homes to third parties, which rental can be immediately and adversely affected by increased rates for water and wastewater services. Because it can be greatly affected by increased water and wastewater rates, YES states that it has a substantial interest in this case.

DOCUMENT NUMBER-DATE

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FPSC-COMMISSION CLERK

Because AUF has withdrawn its objection, and it appears that YES's substantial interests may be affected in this proceeding, the Motion for Intervention shall be granted. As regards AUF's two requests for clarification, pursuant to Rule 25-22.039, F.A.C., YES takes the case as it finds it. Also, as regards the appropriate issues, the Commission has repeatedly noted that the granting of intervention will not be construed to allow issues outside the jurisdiction and scope of the rate proceeding being conducted pursuant to Section 367.081(8), F.S.¹ Based on the above, all parties to this docket shall furnish copies of all testimony, exhibits, pleadings and other documents that are hereinafter filed in this proceeding to:

Kenneth M. Curtin, Esquire
Attorney for Intervenor YES Communities, Inc. d/b/a Arredondo Farms
Adams and Reese, LLP
150 Second Avenue North
Suite 1700
St. Petersburg, FL 33701

Based on the foregoing, it is


ORDERED by Chairman Art Graham, as Prehearing Officer, that the Motion for Intervention, as amended, of YES Communities, Inc. d/b/a Arredondo Farms 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 Kenneth M. Curtin, Esquire, Attorney for Intervenor YES Communities, Inc. d/b/a Arredondo Farms, Adams & Reese, LLP, 150 Second Avenue North, Suite 1700, St. Petersburg, FL 33701. It is further

ORDERED that YES Communities, Inc. d/b/a Arredondo Farms takes the case as it finds it.

¹ See Order No. PSC-09-0280-PCO-EI, issued April 29, 2009, in Docket No. 080677-EI, In re: Petition for increase in rates by Florida Power and Light Company; and Order No. 24486, issued May 7, 1991, in Docket No. 900816-WS, In re: Petition for a rate increase in Martin County by Sailfish Point Utility Corporation.

By ORDER of Chairman Art Graham, as Prehearing Officer, this 8th day of March, 2011.


ART GRAHAM
Chairman 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; 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 25-22.0376, 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.