

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-11-0504-PCO-WS
ISSUED: October 27, 2011

ORDER DENYING YES'S MOTION FOR ENTRY OF ORDER SETTING DATE FOR TESTIMONY AT TECHNICAL HEARINGS

On September 27, 2011, YES Companies, LLC d/b/a Arredondo Farms (YES), filed its Motion for Entry of Order Setting Date for Testimony at Technical Hearings (Motion). In that Motion, YES notes that it owns a mobile home park consisting of 445 mobile home lots (Property), and that those lots are provided water and wastewater by Aqua Utilities Florida, Inc. (AUF). YES is also a customer of AUF and has intervened in this rate case and has prefiled testimony.

YES's Motion

In its Motion, YES notes that dozens of customers testified at the Gainesville Service Hearing, and that since that date, several residents of the Property have indicated that they also wish to testify at the technical portion of the hearing currently scheduled for November 29-30, and December 1, 7-8, 2011. YES notes that most of these residents "are on fixed incomes, have work and family commitments, and lack the funds and flexibility to attend the Technical Hearing on short notice and without coordinating transportation well in advance of the Technical Hearing." "Therefore, in an effort to facilitate customer testimony and to make the Technical Hearing accessible to the residents of the Property, YES moves the Commission" to set dates certain in those five days scheduled for the Technical Hearing for testimony of residents of the Property and YES representatives Gray, Harpin, Starling, Kurz, and Green.¹

AUF's Response

On October 4, 2011, AUF timely filed its Response to YES's Motion. In its Response, AUF notes that it "is not opposed to working with counsel for YES on an agreed-upon schedule

¹ In its prefiled testimony, YES prefile testimony for Ms. Kurz and Mr. Harpin, and noted that Ms. Starling, Mr. Gray, and Mr. Green testified at the Gainesville Service Hearing. For these latter three witnesses, YES requested that the testimony they gave at the Gainesville Service Hearing should be incorporated by reference, and that YES anticipated that the testimony for these three witnesses would be similar in scope to the testimony provided at the Gainesville Service Hearing.

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whereby the aforementioned YES witnesses could appear in Tallahassee to sponsor and defend their prefiled testimony.” However, AUF notes that “YES’s Motion appears to request that the Commission set aside the Order Establishing Procedure in order to permit YES to submit, additional, supplemental, live testimony at the Technical Hearing,” and, if that were so, AUF would object.

AUF notes that the Order Establishing Procedure required prefiled testimony of the intervenors to be filed on September 22, 2011, and that YES did in fact prefile testimony. AUF argues that “permitting YES to offer additional, supplemental testimony live at the Technical Hearing will open the door” for all other parties to do the same. AUF also notes that the procedures for the prefiling of testimony are to reduce and manage rate case expense, and that to allow supplemental, live testimony would increase rate case expense. Based on the above, AUF requests that the Commission reject YES’s attempt to set aside the Order Establishing Procedure and deny its request to present additional, supplemental testimony live at the Technical Hearing.

Conclusion

As regards the actual dates in the Technical Hearing for which the witnesses who prefiled testimony must be present, the Commission has generally tried to be accommodating to the extent possible. The Commission also encourages the parties to work together to accommodate the work and travel schedules of such witnesses. It is generally at the Prehearing Conference, or shortly thereafter, that such agreements are reached and approved. Therefore, I find that YES’s Motion for the setting of dates for its five witnesses to be premature, and will decline to rule on that request at this time. Perhaps at the Prehearing Conference, we may have a better idea as to when those witnesses might be required or when would be the best dates for those witnesses.

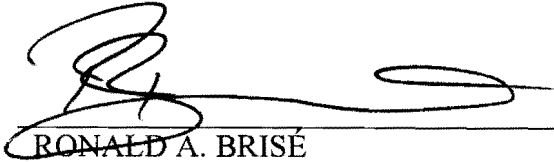
As regards additional customer testimony, I note that we just completed ten Customer Service Hearings, one each at Greenacres, Ft. Myers, Sebring, Oviedo, Gainesville, Palatka, Eustis, Chipley, New Port Richey, and Lakeland in which we heard from the customers. AUF is scheduled to file its late-filed exhibit in response to this customer testimony on November 3, 2011. The Technical Hearing does not contemplate any customer testimony, but only the testimony prefiled by the parties. Therefore, YES’s Motion for the setting aside of time for customer testimony at the Technical Hearing is denied.

Based on the foregoing, it is

ORDERED by Commissioner Ronald A. Brisé, as Prehearing Officer, that the Motion for Entry of Order Setting Date for Testimony at Technical Hearings as to customer testimony is denied and no time is set aside to hear customer testimony at the Technical Hearing. It is further

ORDERED that for YES’s five witnesses, I find that it is premature to set the time for their attendance at the Technical Hearing, and this may be discussed at the Prehearing Conference.

By ORDER of Commissioner Ronald A. Brisé, as Prehearing Officer, this 27th day of October, 2011.



RONALD A. BRISÉ

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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.