

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application for increase in water and wastewater rates in Charlotte, Highlands, Lake, Lee, Marion, Orange, Pasco, Pinellas, Polk, and Seminole Counties by Utilities, Inc. of Florida.

DOCKET NO. 160101-WS  
ORDER NO. PSC-17-0155-PCO-WS  
ISSUED: May 5, 2017

ORDER GRANTING INTERVENTION TO  
ANN MARIE RYAN, WITH LIMITATIONS

On August 31, 2016, Utilities Inc. of Florida (Utility or UIF) filed an application for an increase in water and wastewater rates in Charlotte, Highlands, Lake, Lee, Marion, Orange, Pasco, Pinellas, Polk, and Seminole Counties in Docket No. 160101-WS. This docket is currently scheduled for hearing on May 8-12, 2017.

On April 27, 2017, counsel for the Summertree Water Alliance filed an Amended Petition to Intervene for the Summertree Water Alliance, and for the first time, also sought intervenor status for Mrs. Ann Marie Ryan, an individual customer of Utilities, Inc. In the April 27, 2017, Amended Petition as well as in the April 28, 2017, Response of the Summertree Water Alliance and Ann Marie Ryan, an Individual Customer of Utilities, Inc. to the Commission's Request for Elaboration of Standing, Counsel for Mrs. Ryan inextricably links her participation and positions to the Summertree Water Alliance.<sup>1</sup> No party responded in opposition to Mrs. Ryan's intervention request. As a UIF customer, Mrs. Ryan is substantially affected by UIF's request for rate relief and has standing in this proceeding. *Agrico Chem. Co. v. Dep't of Env'tl. Regulation*, 406 So. 2d 478, 482 (Fla. 2d DCA 1981).

Our rule on intervention, which is an exception to the Uniform Rules of Procedure, specifies "[i]ntervenors take the case as they find it." Rule 25-22.039, F.A.C.; Rule 25-40.001, F.A.C. The controlling events for processing UIF's rate case were established by Commission order. *See* Order Establishing Procedure (OEP), Order No. PSC-16-0558-PCO-WS, issued December 14, 2016, subsequently amended by Order No. PSC-16-0578-PCO-WS, issued December 20, 2016 (amending discovery deadline and prehearing conference date), Order No. PSC-17-0032-PCO-WS, issued January 24, 2017 (amending deadlines for prefiling testimony, discovery, prehearing statements, and briefs), and Order No. PSC-17-0118-PCO-WS, issued April 4, 2017 (amending the number of interrogatories allowed).

Mrs. Ryan has been informally involved in the rate case since at least the customer service hearings in Central Florida. Mrs. Ryan waited, however, more than three months to seek formal intervention. When she filed her petition, the time for prefiling testimony, conducting discovery, filing prehearing statements, raising new issues, and participating in the prehearing

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<sup>1</sup> Summertree Water Alliance was granted intervention, with limitations, by Order No. PSC-17-0150-PCO-WS, issued May 4, 2017.

conference had passed. The parties had also taken positions on all issues identified in the case that are contested by them. The current parties have expended significant resources and time to litigate this case under the parameters established by Chapters 120 and 367, Florida Statutes (F.S.), Chapters 25-22 and 28-106, F.A.C., and the Commission's procedural orders.

Mrs. Ryan's petition to intervene is granted. Because under Rule 25-22.039, F.A.C., Mrs. Ryan takes the case as she finds it, the following limitations are imposed on her counsel's participation on her behalf. Counsel for Mrs. Ryan may make one opening statement on her behalf, and in conjunction with the Summertree Water Alliance, at the technical hearing. Mrs. Ryan has waived her right to present testimony in the technical hearing, and because she is now a party to the case, she may not provide additional testimony on behalf of herself or the Summertree Water Alliance at the customer service hearing scheduled for May 8, 2017. Her counsel may also conduct cross examination and file post hearing briefs on the issues for which Summertree Water Alliance took a position in the Prehearing Order,<sup>2</sup> and on other issues as deemed appropriate by the presiding officer.

Mrs. Ryan testified at the January 10, 2017, customer service hearing in New Port Richey, Florida, and the February 2, 2017, customer service hearing in Lakeland, Florida. Her testimony previously taken at the service hearings will become part of the hearing record.

This order, as well as all other procedural orders entered in this case, are entered pursuant to the authority granted by Rule 28-106.211, F.A.C., which provides that the presiding officer before whom a case is pending has the authority to issue any orders necessary to effectuate discovery, prevent delay, and promote the just, speedy, and inexpensive determination of all aspects of the case.<sup>3</sup>

Therefore, it is,

ORDERED by Commissioner Ronald A. Brisé, as Prehearing Officer, that the Amended Petition to Intervene filed by Mrs. Ann Marie Ryan is hereby granted subject to the limitations discussed above. It is further

ORDERED that pursuant to Rule 25-22.039, F.A.C., Mrs. Ann Marie Ryan takes the case as she finds it. 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:

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<sup>2</sup> Order No. PSC-17-0148-PHO-WS, issued May 2, 2017.

<sup>3</sup> While we have an exception to the Uniform Rule of Procedure on Intervention, I find it compelling that Rule 28-106.205(1), F.A.C., the Uniform Rule on intervention, provides "[t]he presiding officer may impose terms and conditions on the intervenor to limit prejudice to other parties."

Summertree Water Alliance  
c/o Brian P. Armstrong, Esq.  
Law Office of Brian Armstrong, PLLC  
P.O. Box 5055  
Tallahassee, FL 32314-5055

By ORDER of Commissioner Ronald A. Brisé, as Prehearing Officer, this 5th day  
of May, 2017.



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RONALD A. BRISÉ  
Commissioner and Prehearing Officer  
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Copies furnished: A copy of this document is provided to the parties of record at the time of issuance and, if applicable, interested persons.

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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

ORDER NO. PSC-17-0155-PCO-WS

DOCKET NO. 160101-WS

PAGE 4

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.