

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application for transfer of water and) DOCKET NO. 20220064-WS
wastewater facilities of Tymber Creek)
Utilities, Inc., water Certificate No. 303-W,) FILED: November 13, 2023
and wastewater Certificate No. 252-S to)
CSWR-Florida Utility Operating)
Company, LLC, in Volusia County.)
_____)

**CSWR-FLORIDA UTILITY OPERATING COMPANY, LLC'S
RESPONSE IN OPPOSITION TO TYMBER CREEK HOMEOWNERS
ASSOCIATION, INC.'S MOTION FOR EXTENSION OF TIME
TO FILE A PETITION FOR FORMAL PROCEEDING**

Applicant CSWR-Florida Utility Operating Company, LLC (“CSWR-Florida UOC”) responds in opposition to the Motion For Extension Of Time To File A Petition For Formal Proceeding filed on November 3, 2023 (“Motion”) by Tymber Creek Homeowners Association, Inc. (“TCHOA”) as follows:

1. On October 13, 2023, the Commission entered its Notice Of Proposed Agency Action Order Establishing Net Book Value, Denying Acquisition Adjustment, And Revising Miscellaneous Service Charges And Order Granting Motion To Dismiss, Transferring Certificate Nos. 303-W And 252-S, And Continuing Existing Rates And Charges. Order No.: PSC-2023-0305-PAA-WS (“Transfer Order”).

2. The Transfer Order was proposed agency action on three (3) issues -- staff’s establishment of the net book value of water and wastewater systems for transfer purposes, denial of the positive acquisition adjustment requested by CSWR-Florida UOC, and staff’s revision of the miscellaneous service charges to replace the initial connection and normal reconnection charges with a premises visit charge to comply with the 2021 amendments to rule 25-30.460, F.A.C.

3. Pursuant to rule 28-106.111(2), F.A.C., “persons seeking a hearing on an agency decision which does or may determine their substantial interests shall file a petition for hearing with the agency within 21 days of receipt of written notice of the decision.” As stated in the Transfer Order, this period expired at the “close of business on November 3, 2023.”

4. On November 3, 2023, TCHOA filed its Motion, seeking an extension of time to file a petition for formal proceeding, ostensibly on one or more of the Transfer Order’s proposed agency action issues.¹

5. In violation of rule 28-106.110, F.A.C., which provides that “every pleading and every other paper filed in a proceeding . . . shall be served on each party or the party’s representative at the last address of record,” TCHOA did not serve the Motion on CSWR-Florida UOC, nor apparently on any of the other parties. This is even though the identity and contact information for CSWR-Florida UOC and the other parties and staff is conspicuously posted on the docket page for this case, and even though CSWR-Florida UOC served TCHOA with its Motion to Dismiss Objections on March 20, 2023. Accordingly, TCHOA is well aware of CSWR-Florida UOC and the other parties to this docket and simply ignored its service obligation under the rules.

6. The Motion fails to show good cause for an extension. Rule 28-106.111(3), F.A.C., provides in part that “[a]n agency may, for good cause shown, grant a request for an extension of time for filing an initial pleading” (underlining added). *See In Re: Complaint Nos. 445185E, 446514E, 446515E, and 446516E Filed by Mr. Jude Alcegueire Against Florida Power & Light Company for High Bills and Other Alleged Violations of Commission Rules and Statutes*, Order

¹ The Transfer Order’s approval of the transfer of water certificate 303-W and wastewater certificate 252-S from Tymber Creek Utilities, Inc. to CSWR-Florida UOC and continuation of the utility’s current rates and charges, are final agency actions not subject to a petition for formal administrative proceeding.

No.: PSC-05-0037-PCO-EI, Docket No.: 041169-EI, 2005 WL 229846 (Fla. P.S.C. Jan. 11. 2005) (denying request for extension to file a petition for administrative hearing and finding that complainant's allegation that he failed to receive a letter from staff that he alleged was necessary for him to respond to staff's recommendation before the PSC dismissed his complaint at an agenda conference did not constitute "good cause").

7. The Motion makes no attempt to show good cause, or any cause, for an extension. The Motion states it "will not prejudice any party to the proceeding and is not requested for purposes of delay." As it is wholly without basis, the only possible goals of the Motion are for TCHOA to prejudice the parties and attempt to delay the closing of CSWR-Florida UOC's purchase of the systems from Tymber Creek Utilities, Inc.

8. As at least its third violation of the rules, a request for extension of time "shall contain a certificate that the moving party has consulted with all other parties, if any, concerning the extension and that the agency and any other parties agree to or oppose the extension." Rule 28-106.111(3), F.A.C. Again, TCHOA ignored its obligation under this rule. Most likely, TCHOA misapprehends the limited proposed agency action issues on which a formal administrative proceeding would have even been possible -- the denial of CSWR-Florida UOC's requested acquisition adjustment, and staff's determination of net book value and correction of the utility's miscellaneous service charges. Had TCHOA complied with its conferral obligation, this could have been pointed out to them before legal staff and CSWR-Florida UOC have had to waste time and resources responding to TCHOA's baseless Motion.

WHEREFORE, CSWR-Florida UOC requests that the Prehearing Officer summarily DENY the Motion For Extension Of Time To File A Petition For Formal Proceeding filed on November 3, 2023 by Tymber Creek Homeowners Association, Inc.

Respectfully submitted this 13th day of November, 2023.

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing has been furnished via electronic mail to the following this 13th day of November, 2023.

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