

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application for transfer of water and wastewater facilities of Tymber Creek Utilities, Inc., water Certificate No. 303-W, and wastewater Certificate No. 252-S to CSWR-Florida Utility Operating Company, LLC, in Volusia County.

DOCKET NO. 20220064-WS
ORDER NO. PSC-2024-0065-PCO-WS
ISSUED: March 12, 2024

ORDER DENYING MOTION FOR EXTENSION OF TIME

Tymber Creek Utilities, Inc. (Tymber Creek) is a Class B utility serving approximately 423 water and wastewater customers in Volusia County. On March 15, 2022, CSWR-Florida Utility Operating Company, LLC (CSWR-Tymber Creek) filed an application for the transfer of Certificate Nos. 303-W and 252-S from Tymber Creek to CSWR-Tymber Creek in Volusia County.

CSWR-Tymber Creek provided notice of the application to its customers and, in response, Tymber Creek Homeowners' Association (TCHOA) sent a letter to the Commission objecting to the proposed certificate transfer. On March 20, 2023, CSWR-Tymber Creek filed a motion to dismiss TCHOA's objections. On October 13, 2023, Order No. PSC-2023-0305-PAA-WS was issued granting CSWR-Tymber Creek's motion to dismiss and approving the transfer, among other things. For the portions of the order that issued as proposed agency action, the order provided that any person whose substantial interests were affected could file a petition for an administrative hearing by close of business on November 3, 2023.

TCHOA filed a Motion for Extension of Time to File a Petition for a Formal Proceeding (Motion) on November 3, 2023. TCHOA represents that the extension of time will not prejudice any party to the proceeding and is not requested for the purposes of delay.

CSWR-Tymber Creek filed its Response in Opposition to TCHOA's Motion (Response) on November 13, 2023. CSWR-Tymber Creek argues that TCHOA failed to show good cause for an extension pursuant to the plain language of Rule 28-106.111(3), Florida Administrative Code (F.A.C.). Under that rule, an agency may, for good cause shown, grant a request for an extension of time for filing an initial pleading. CSWR-Tymber Creek also represents in the Response that TCHOA failed to provide proper notice of the Motion pursuant to Rule 28-106.110, F.A.C., by failing to serve the Motion on CSWR-Tymber Creek. CSWR-Tymber also represents that TCHOA, as the moving party, failed to contain a certificate within its Motion that it consulted with all other parties concerning the extension and that the agency and any other parties agree to or oppose the extension, pursuant to Rule 28-106.111(3), F.A.C.

Pursuant to Rule 28-106.204(4), F.A.C., motions for extension of time shall be filed prior to the expiration of the deadline sought to be extended and shall state good cause for the request. TCHOA timely filed its Motion but failed to meet the other requirements of the Uniform Rules by failing to confer with CSWR-Tymber Creek regarding the Motion and failed to properly serve

the Motion. Nonetheless, we find that CSWR-Tymber Creek was not prejudiced by TCHOA's failure to do so as CSWR-Tymber Creek was able to promptly file its Response. However, Rule 28-106.204, F.A.C., also requires TCHOA to provide good cause for the extension. TCHOA's Motion provides no cause upon which we could find good cause for the requested extension of time. Therefore, TCHOA's motion is denied.

Therefore, it is

ORDERED by Commissioner Gary F. Clark, as Prehearing Officer, that the Motion for Extension of Time to File a Petition for a Formal Proceeding filed by Tymber Creek Homeowners' Association is denied.

By ORDER of Commissioner Gary F. Clark, as Prehearing Officer, this 12th day of March, 2024.



GARY F. CLARK
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.

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.