

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Revocation by Florida ) DOCKET NO. 930944-WS  
Public Service Commission of ) ORDER NO. PSC-94-0809-PCO-WS  
Certificates Nos. 451-W and ) ISSUED: June 29, 1994  
382-S Issued to SHADY OAKS )  
MOBILE-MODULAR ESTATES, INC. in )  
Pasco County, Pursuant to )  
Section 367.111(1), F.S. )  
\_\_\_\_\_ )

ORDER GRANTING EXTENSION OF TIME TO FILE  
REBUTTAL TESTIMONY AND PREHEARING STATEMENT AND  
GRANTING UTILITY'S REQUEST TO POSTPONE PREHEARING CONFERENCE

Background

On September 23, 1993, this Commission, pursuant to Section 367.111(1), Florida Statutes, noticed its Intent to Initiate Revocation of Certificates Nos. 451-W and 382-S issued to Shady Oaks Mobile-Modular Estates, Inc. (Shady Oaks or utility). On October 18, 1993, Shady Oaks timely filed an objection to the Notice. Accordingly, this matter has been scheduled for an August 4-5, 1994, administrative hearing.

By Order No. PSC-93-1779-PCO-WS, issued December 13, 1993, the Prehearing Officer established the dates for filing rebuttal testimony and prehearing statements, June 13, 1994, and June 17, 1994, respectively. Shady Oaks did not timely file its rebuttal testimony and prehearing statements.

On June 22, 1994, Shady Oaks filed a Motion for Extension of Time to File Prehearing Statement Through July 1, 1994, and for Continuance of Hearing until after July 18, 1994. On the same day, the utility filed a Motion for Extension of Time to File Rebuttal Testimony of Richard D. Sims. On June 23, 1994, Shady Oaks filed an Amendment to the previously filed motion requesting a continuance, advising that the continuance is, in fact, sought for the July Prehearing Conference. The prehearing conference is currently scheduled for July 11, 1994.

Rebuttal Testimony

In support of its motion requesting an extension of time to file rebuttal testimony, Shady Oaks states the following: 1) in an effort to assist Mr. Sims in his pro se representation, the attorneys for Shady Oaks mailed Mr. Sims' prefiled testimony to the Commission by Federal Express on June 9, 1994; and 2) the testimony was inadvertently sent to the Legal Division instead of the

06432-94  
6/29/94

Division of Records and Reporting. The utility filed its rebuttal testimony on June 23, 1994, with the motion.

Upon consideration, it is apparent that the utility did make an effort to timely file its rebuttal testimony. Therefore, Shady Oaks' motion for extension of time to file rebuttal testimony is granted.

#### Prehearing Statement

In support of its motion requesting additional time to file its prehearing statement through July 1, 1994, the utility asserts that: 1) the deadline for submission of the prehearing statement was missed through inadvertence and miscommunication or misunderstanding between Shady Oaks and its attorneys; 2) counsel were retained on May 11, 1994, to represent Shady Oaks in its efforts to comply with the Circuit Court Contempt Order; however, because the issues underlying this administrative action are closely intertwined with the Circuit Court proceedings, there arose some confusion; and 3) given the status of the Circuit Court action, it does not appear that any prejudice will result from the requested extension.

Upon consideration, the utility's motion requesting an extension of time to file its prehearing statement is granted. Shady Oaks shall file its prehearing statement on or before the close of business on July 1, 1994.

#### Prehearing Conference

In support of its motion requesting continuance of the prehearing, Shady Oaks asserts the following: 1) On June 15, 1994, Judge Lynn Tepper granted Shady Oaks an extension of time through and including July 18, 1994, in which to sell the utility; 2) Shady Oaks is making a diligent effort to comply with the terms of Judge Tepper's order directing sale; 3) if Shady Oaks is successful in selling the facility by July 18, 1994, further action in the instant docket will become moot, and if, on the 18th of July, the utility is not sold and a receiver must be appointed, then the action is still moot; 4) it is in the interests of justice and judicial economy to postpone the prehearing in this matter until after the July 18, 1994, deadline; 5) because the final hearing is not scheduled until August, there will be no prejudice in postponement of the prehearing; and 6) Shady Oaks agrees to file a status report in this action by July 21, 1994, representing the Circuit Court status.

ORDER NO. PSC-94-0809-PCO-WS  
DOCKET NO. 930944-WS  
PAGE 3

Because the Circuit Court's decision and the ultimate transfer of the utility will impact any action that this Commission takes against Shady Oaks, as well as the final outcome of the proceeding, the utility's request to postpone the Prehearing Conference is granted. The prehearing conference shall be held on July 22, 1994. Further, the utility shall file a status report, with the Division of Records and Reporting, on the Circuit Court action by July 20, 1994.

Based on the foregoing, it is therefore,

ORDERED by Commissioner Diane K. Kiesling that Shady Oaks Mobile-Modular Estates, Inc.'s, Motion for Extension of Time to File Prefiled Rebuttal Testimony is granted. It is further

ORDERED that Shady Oaks Mobile-Modular Estates, Inc.'s, request for an extension of time to file its prehearing statement is granted. It is further

ORDERED that Shady Oaks Mobile-Modular Estates, Inc., shall file its prehearing statement on or before the close of business on July 1, 1994. It is further

ORDERED that Shady Oaks Mobile-Modular Estates, Inc.'s, request to continue the Prehearing Conference is granted to the extent set forth herein. It is further

ORDERED that Shady Oaks Mobile-Modular Estates, Inc., shall file a status report on the Circuit Court action by July 20, 1994.

By ORDER of Commissioner Diane K. Kiesling, as Prehearing Officer, this 29th day of June, 1994.

  
DIANE K. KIESLING, Commissioner and  
Prehearing Officer

( S E A L )

LAJ

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.59(4), 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.

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 25-22.038(2), Florida Administrative Code, if issued by a Prehearing Officer; (2) reconsideration within 15 days pursuant to Rule 25-22.060, Florida Administrative Code, if issued by the Commission; or (3) 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 Director, Division of Records and Reporting, in the form prescribed by Rule 25-22.060, 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.