

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for limited proceeding to implement two-step increase in wastewater rates in Pasco County by Lindrick Service Corporation.

DOCKET NO. 980242-SU
ORDER NO. PSC-99-2555-PCO-SU
ISSUED: December 30, 1999

ORDER GRANTING UTILITY'S REQUESTS FOR EXTENSION OF TIME FOR FILING OBJECTIONS AND SERVING RESPONSES TO PENDING DISCOVERY REQUESTS

On November 18, 1999, the Office of Public Counsel (OPC) served its First Set of Interrogatories and First Request for Production of Documents on Lindrick Service Corporation (Lindrick). By motion filed on December 1, 1999 (First Motion), Lindrick requested that it be given a thirty-day extension of time to file objections and serve responses to the discovery requests for two reasons.

In support of its First Motion, Lindrick cited two main reasons. First, Lindrick noted that it had limited personnel and that the timing of OPC's discovery required responses during "Christmas week." Second, Lindrick noted that it was in the process of discussing the sale of the utility to the City of Port Richey (City), and expected an "affirmative indication from the City as to whether the purchase of Lindrick" would move forward by mid-December, 1999. Such sale might obviate the need to move through the formal hearing process, and Lindrick thought that it would be prudent to avoid the costs of responding to the discovery if possible. OPC stated that it did not object to the relief requested, but noted that such delay might "necessitate" the need for additional time for the filing of OPC's testimony.

Because, OPC's discovery was served by U.S. mail on the utility on November 18, 1999, the objections were due on December 3, 1999, and the responses on December 23, 1999. Pursuant to the first request for extension, the objections would be due on January 3, 2000, and the responses on January 24, 2000.

On December 14, 1999, the Commission staff served its First Set of Interrogatories and First Request for Production of Documents on Lindrick. Also, on December 14, 1999, the City Commission deferred consideration on the matter of the purchase of Lindrick. Because of our Staff's discovery request and the deferral, Lindrick filed a Second Motion for Extension of Time for

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Filing Objections and Serving Responses to Pending Discovery Requests (Second Motion) on December 22, 1999. Lindrick now states that it "expects to have an affirmative indication from the City by January 11, 2000, as to whether the purchase of Lindrick will move forward," and requests that it now be given until January 15, 2000, to file objections to both OPC's and staff's discovery, and until February 4, 2000, to file responses.

OPC again stated that it did not object, but that "additional time for the filing of OPC's testimony may be necessitated." Commission staff objects to the granting of the second request for extension because there is no assurance that the City will even consider purchase of the utility on or prior to January 11, 2000, and that, even if it does, any negotiations for purchase could be long and might never come to fruition.

Based on consideration of the above, Lindrick's motions for extension of time shall be granted. It appears that Lindrick's limited personnel and resources, coupled with discovery deadlines occurring during the holiday season, indicate that Lindrick's request is reasonable. Also, it appears that requiring objections to be filed by January 15, and responses by February 4, 2000, will not delay the hearing now scheduled for June 21-22, 2000. However, while Lindrick has stated that the consideration by the City of a possible sale of Lindrick's system to the City will be considered no later than January 11, 2000, it appears there is no assurance that the matter will be considered by that date. Further, even if the City does express an interest in buying, any negotiations for purchase could last over a long period of time and might prove to be fruitless. Therefore, Lindrick shall file any objections to the outstanding discovery by no later than January 15, 2000, and any responses by no later than February 4, 2000.

Based upon the foregoing, it is

ORDERED by Commissioner Susan F. Clark, as Prehearing Officer, that the two Motions for Extension of Time for Filing Objections and Serving Responses to Pending Discovery Requests shall be granted as set forth in the body of this Order. It is further

ORDERED that Lindrick Service Corporation shall serve its objections to all currently outstanding discovery by no later than January 15, 2000, and its responses by no later than February 4, 2000.

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By ORDER of Commissioner Susan F. Clark, as Prehearing Officer, this 30th day of December, 1999.



SUSAN F. CLARK
Commissioner and Prehearing Officer

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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, 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,

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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.