

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application for increase in water and
wastewater rates in Pasco County by Labrador
Utilities, Inc.

DOCKET NO. 110264-WS
ORDER NO. PSC-12-0139-PCO-WS
ISSUED: March 26, 2012

ORDER DENYING MOTION TO INTERVENE

On September 27, 2011, Labrador Utilities, Inc. (Labrador) filed its Application for an increase in water and wastewater rates in Pasco County, Florida. Labrador asked that the Commission conduct the rate proceeding under its Proposed Agency Action (PAA) procedure, pursuant to Section 367.081(8). That procedure is underway at present. A customer meeting was held in Pasco County on January 19, 2012, a staff recommendation on Labrador's application was filed with the Commission on March 15, 2012, and the Commission will vote on the recommendation at its March 27, 2012 Agenda Conference.

On January 11, 2012, Forest Lake Estates Co-Op, Inc. (Forest Lake) filed an Emergency Motion for Intervention in the case on January 11, 2012, in order to be able to participate in the customer meeting on January 19, as well as all other matters involving the rate case. Forest Lake did participate in that customer meeting. Forest Lake owns and operates the Forest Lake Estates Mobile Home Park and the Forest Lake Estates R.V. Park, which receive water and wastewater services from Labrador. Labrador filed its Response in Opposition to Forest Lake's motion on January 12, 2012, and thereafter Forest Lake filed an Amended Motion for Intervention on January 18, 2012.

In its motion and amended motion, Forest Lake asserts that it is entitled to intervene as a party in this rate case because it is a Labrador customer, receiving water and wastewater service for the common areas of its property, and thus its interests will be substantially affected by the outcome of the case. Forest Lake also asserts that the customers of Labrador who reside in Forest Lake's mobile home and RV parks will also be affected by any increase in rates for water and wastewater service, which in turn will adversely affect Forest Lake's ability to provide affordable housing to its tenants. For these reasons, Forest Lake states that it is entitled to intervene on behalf of both itself as a customer of Labrador and its tenants, who are also customers of Labrador. Forest Lake cites Order No. PSC-11-0162-PCO-WS¹ as precedent for its request, which it claims granted intervention in favor of a mobile home park owner to contest a rate increase application on behalf of the community.

Labrador objects to Forest Lake's motion to intervene on procedural grounds, claiming that intervention is premature in the PAA portion of a proceeding. While acknowledging that the Commission granted intervention to a party other than the Office of Public Counsel in the PAA portion of the Aqua rate case cited by Forest Lakes, Labrador asserts that the utility did not

¹ Issued March 8, 2011, in Docket No. 100330-WS, In re: Application for increase in water/wastewater rates in Alachua, Brevard, DeSoto, Hardee, Highlands, Lake, Lee, Marion, Orange, Palm Beach, Pasco, Polk, Putnam, Seminole, Sumter, Volusia, and Washington Counties by Aqua Utilities Florida, Inc.

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object to the intervention in that case. According to Labrador, the purpose of the PAA process is to provide an inexpensive and expedient proposed determination. If parties are allowed to intervene in this stage of a proceeding, "that would give them the right to initiate discovery, depositions and the like which will wreak havoc on the PAA process." Response page 3. Labrador does not challenge Forest Lake's substantive standing to intervene in the case; it objects to the timing of the intervention.

Forest Lake's motion is denied at this time. There is potential for considerable administrative inefficiency if interested persons are granted formal party status during the PAA process, which, as Labrador points out, would thwart the purpose of the process. Furthermore, there is no need for formal intervention, because all interested persons have the ability to participate in the PAA process. Forest Lake has participated fully in this case to this point, and will have the opportunity to either protest the PAA decision itself, or refile its motion to intervene if the Commission's PAA decision is protested and a formal administrative hearing process begins. Furthermore, since the PAA portion of the case will be concluded soon, it does not appear that any harm will be caused by denying the intervention at this time.

Based on the foregoing it is

ORDERED by Commissioner Art Graham, as Prehearing Officer, that the Motion for Intervention is denied as set out in the body of this Order. It is further

By ORDER of Commissioner Art Graham, as Prehearing Officer, this 26th day of March, 2012.



ART GRAHAM
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.