

## BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Request by FLORIDA WATERWORKS	)	DOCKET NO. 860184-PU
ASSOCIATION for investigation of	)	
proposed repeal of Section 118(b),	)	ORDER NO. 22428
Internal Revenue Code (Contributions-	)	
in-aid-of-Construction)	)	ISSUED: 1-18-90
	)	

ORDER GRANTING MOTION FOR EXTENSION OF TIME  
TO PREFILE TESTIMONY

By Order No. 16971, issued December 18, 1986, this Commission authorized certain corporate water and wastewater utilities to elect to "gross-up" contributions-in-aid-of-construction (CIAC) in order to offset the tax impact of an amendment to Section 118(b), Internal Revenue Code, under the Tax Reform Act of 1986. To date, forty-four water and/or wastewater utilities have elected to implement such a gross-up.

By Order No. 21266, issued May 22, 1989, this Commission proposed to establish guidelines to control the collection of taxes on CIAC. On or before June 12, 1989, a number of substantially affected persons filed protests to Order No. 21266. On June 13, 1989, Florida Home Development Corporation (FHDC) filed a protest to Order No. 21266.

On July 3, 1989, a number of the other protesters filed a motion to dismiss FHDC's protest. The protesters argued that FHDC's petition was not timely filed and that, as such, it should be dismissed.

On July 13, 1989, FHDC filed a response to the motion to dismiss. FHDC argued that, since Order No. 21266 was protested in any event, it never became final and should be viewed as either still proposed or nonexistent. Either way, FHDC argued that there were no grounds to warrant a dismissal of its protest. FHDC stated that, in the interest of administrative economy and efficiency, it would not object to having its protest treated as a petition to intervene.

By Order No. 21921, issued September 19, 1989, FHDC was granted status as an intervenor in this case.

This case is currently scheduled for an administrative hearing on April 27, 1990, with a prehearing conference to be held on April 12, 1990

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By Order No. 21801, issued August 29, 1989, the Prehearing Officer established a schedule to govern key activities in this case. Pursuant to the provisions of Order No. 21801, intervenors are to prefile their direct testimony and exhibits no later than December 15, 1989.

On December 15, 1989, FHDC filed a motion for extension of time to prefile its direct testimony. FHDC argued that, although it believes that its testimony will be useful to the Commission, it has not yet secured the services of an expert witness. In addition, FHDC argues that granting its motion will not prejudice any party or the Staff of this Commission in any way. Accordingly, FHDC requests that it be granted until February 2, 1990, to prefile its direct testimony.

No objections have been filed to FHDC's motion and the time for the filing of such objections has passed.

Upon consideration, it does not appear that granting FHDC's motion for extension of time will prejudice any party or do any harm to the case schedule. Its motion is, therefore, granted.

Based upon the foregoing, it is

ORDERED by Chairman Michael McK. Wilson, as Prehearing Officer, that Florida Home Development Corporation's motion for extension of time to prefile direct testimony is hereby granted. It is further

ORDERED that Florida Home Development Corporation shall prefile its direct testimony no later than February 2, 1990.

By ORDER of Chairman Michael McK. Wilson, as Prehearing Officer, this 18th day of JANUARY, 1990.

  
MICHAEL MCK. WILSON, Chairman

( S E A L )

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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 sewer 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.