

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application of PALM COAST)	DOCKET NO. 890277-WS
UTILITY CORPORATION for rate increase)	ORDER NO 23327
in Flagler County)	ISSUED: 8-8-90
)	

ORDER DENYING REQUESTS FOR ORAL ARGUMENT

By Order No. 18785, issued February 2, 1988, this Commission initiated an investigation into, among other matters, the level of investment of Palm Coast Utility Corporation (PCUC) in utility plant assets. Docket No. 871395-WS was opened in order to process the investigation.

On May 19, 1989, during the pendency of the investigation docket, PCUC completed the minimum filing requirements for a general rate increase and that date was established as the official filing date. Docket No. 890277-WS was opened in order to process PCUC's rate application.

By Order No. 21794, issued August 28, 1989, the Commission subsumed Docket No. 871395-WS, the investigation docket, into Docket No. 890227-WS, the rate case docket.

A hearing was held on the rate case and investigation matters on December 6 through 8, 1989, in Palm Coast, and continued on January 6, 1990, in Tallahassee.

By Order No. 22843, issued April 23, 1990, the Commission established increased rates for water and wastewater service.

On May 8, 1990, PCUC filed a motion for reconsideration and oral argument. The request for oral argument was not contained on a separate document and, other than the naked request, PCUC's motion made no mention of oral argument.

On May 15, 1990, the Office of Public Counsel (OPC) filed a response to PCUC's motion, along with its own cross-motion for reconsideration. In its response, OPC argues that PCUC's request for oral argument did not conform with the requirements of Rule 25-22.058, Florida Administrative Code, and that it must, therefore, be denied.

DOCUMENT NUMBER-DATE

07166 AUG -8 1990

FPSC-RECORDS/REPORTING

ORDER NO. 23327
DOCKET NO. 890277-WS
PAGE 2

OPC is correct. Under Rule 25-22.058, Florida Administrative Code:

(1) The Commission may grant oral argument upon request of any party to a §120.57, F.S. formal hearing. A request for oral argument shall be contained on a separate document and must accompany the pleading upon which argument is requested. The request shall state with particularity why oral argument would aid the Commission in comprehending and evaluating the issues raised by exceptions or responses. Failure to file a timely request for oral argument shall constitute waiver thereof.

Since PCUC's request was not contained on a separate document and did not state with particularity how oral argument would help the Commission understand the issues, it did not meet the requirements of the rule.

On June 4, 1990, PCUC filed an amended request for oral argument on its motion for recommendation. Since the amended request did not accompany the document upon which argument was requested, this request must also fail. Further, since the original request for oral argument did not conform to the rule requirements, and did not, therefore, constitute a valid request, the amended request for oral argument cannot be considered timely.

Also on June 4, 1990, PCUC filed a response to OPC's cross-motion for reconsideration, along with a request for oral argument thereon. Although its request was on a separate document and did accompany the document upon which argument was requested, it does not "state with particularity why oral argument would aid the Commission in comprehending and evaluating the issues raised by exceptions or responses." Rather, it merely states that "[i]t is important for the Commission to understand that OPC's Cross Motion does not contain any allegations of mistake, oversight or misapprehensions of law or fact. . . ." PCUC's request also suggests that due to a change in the Commission panel assigned to this case "oral argument will provide a valuable summary to these complex issues."

ORDER NO. 23327
DOCKET NO. 890277-WS
PAGE 3

Since PCUC's request for oral argument on its response to OPC's cross-motion for reconsideration does not give any indication how oral argument will help us understand the issues, it too must be rejected.

Accordingly, it is

ORDERED by Commissioner Thomas M. Beard, as Prehearing Officer, that Palm Coast Utility Corporation's request for oral argument on its motion for reconsideration is hereby denied. It is further

ORDERED that Palm Coast Utility Corporation's amended request for oral argument on its motion for reconsideration is hereby denied. It is further

ORDERED that Palm Coast Utility Corporation's request for oral argument on its response to the Office of Public Counsel's cross-motion for reconsideration is hereby denied.

By ORDER of Commissioner Thomas M. Beard, as Prehearing Officer, this 8th day of AUGUST, 1990.


THOMAS M. BEARD, Commissioner
and Prehearing Officer

(S E A L)

RJP

ORDER NO. 23327
DOCKET NO. 890277-WS
PAGE 4

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.