

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Application for ) DOCKET NO. 941121-WS  
amendment of Certificates Nos. ) ORDER NO. PSC-96-0252-PCO-WS  
359-W and 290-S to add territory ) ISSUED: February 22, 1996  
in Broward County by SOUTH )  
BROWARD UTILITY, INC. )  
\_\_\_\_\_ )

ORDER DENYING MOTION FOR EMERGENCY HEARING

On January 22, 1996, South Broward Utility (SBU or utility) filed a Motion for Emergency Hearing and a Motion for Preservation of Jurisdiction, or, in Alternative, Motion to Expedite Hearing (Motion for Preservation). SBU's Motion for Emergency Hearing requests that the Commission act upon its Motion for Preservation as quickly as possible. In its Motion for Emergency Hearing, SBU asserts that "there is an immediate need for the Commission to take action to preserve the status quo in the matter...."

In its Motion for Preservation, SBU states that the City of Sunrise (Sunrise or city) will install water lines in SBU's proposed service territory prior to, or at the time of the April 8-9, 1996 formal hearing scheduled in this docket. SBU states that pursuant to Section 367.045(5)(a), Florida Statutes, the Commission may not grant an amendment to a certificate of authorization for the extension of an existing system, which will be in competition with, or a duplication of, any system or portion of a system. SBU states that once Sunrise installs its lines, the Commission will no longer have jurisdiction over this matter. Therefore, SBU argues that it will be irreparably harmed. In its motion, SBU requests that the Commission enter an order prohibiting Sunrise from installing its lines prior to hearing in order to preserve its jurisdiction over this matter.

On February 2, 1996, SBU filed a Renewal of Motion for Emergency Hearing, in which it attached a copy of Sunrise's invitation to contractors to bid on construction of the lines. The invitation to bid indicates that bids were scheduled to open on February 7, 1996.

On February 13, 1996, Sunrise timely responded to SBU's Renewal of Motion for Emergency Hearing. In its response, Sunrise states that from the time of its objection to SBU's application, SBU was aware that Sunrise's existing facilities abutted the disputed territory, and that the city was under contract for the design of lines in the territory. Sunrise alleges that when it prefiled its direct testimony on December 1, 1995, SBU was made aware that Sunrise planned on installing the lines by the time of

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the hearing. However, SBU failed to allege that an emergency existed until almost two months after it made this discovery. Therefore, Sunrise asserts that there is no basis for an emergency.

Upon review of the parties' pleadings, we have determined that SBU's motion fails to show that an emergency exists, requiring immediate action by the Commission on SBU's Motion for Preservation. Due to the unique nature of SBU's Motion for Preservation and its request for an expedited hearing, which requires the Chairman's approval, this motion shall be considered by the entire Commission at the March 5, 1996, Agenda Conference.

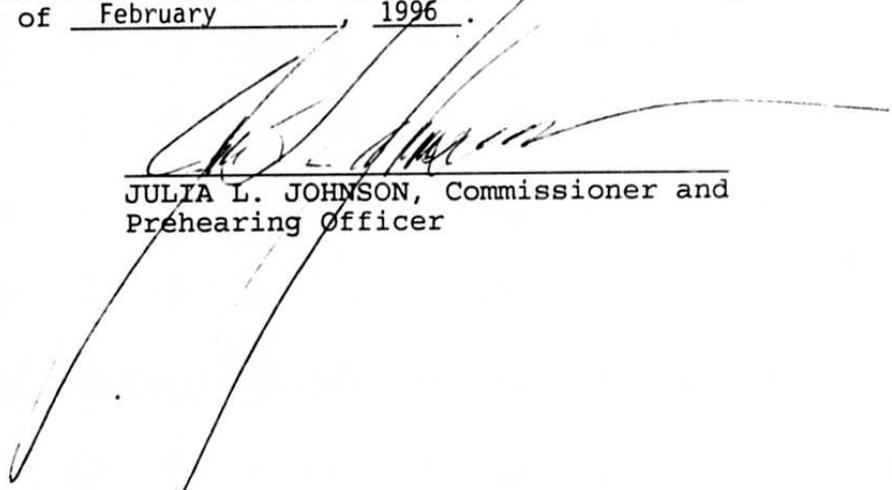
Based on the foregoing, it is

ORDERED by Commissioner Julia L. Johnson, as Prehearing Officer, that South Broward Utility's Motion for Emergency Hearing is hereby denied. It is further

ORDERED that South Broward Utility's Motion for Preservation of Jurisdiction, or, in Alternative, Motion to Expedite Hearing shall be considered by the entire Commission at the March 5, 1996, Agenda Conference. It is further

ORDERED that this docket shall remain open.

By ORDER of Commissioner Julia L. Johnson, as Prehearing Officer, this 22nd day of February, 1996.



JULIA L. JOHNSON, Commissioner and  
Prehearing Officer

( 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 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.