

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application for a rate increase by GENERAL DEVELOPMENT UTILITIES, INC. (Port Malabar Division) in Brevard County	)	DOCKET NO. 911030-WS
_____	)	
In re: Application for a rate increase by GENERAL DEVELOPMENT UTILITIES, INC. in Charlotte, DeSoto and Sarasota Counties	)	DOCKET NO. 911067-WS
_____	)	ORDER NO. PSC-92-0325-PCO-WS
	)	ISSUED: 5/11/92

ORDER DEFERRING RULING ON CITY OF NORTH PORT'S  
MOTION TO DISMISS FOR LACK OF JURISDICTION

On May 1, 1992, the City of North Port (the City), Intervenor in the above-referenced dockets, filed a Motion to Dismiss for Lack of Jurisdiction. The City asserts that the Public Service Commission (Commission) does not have jurisdiction to consider General Development Utilities, Inc.'s (GDU) Petition for a Rate Increase in Sarasota County. The City asserts that the Commission does not have jurisdiction over the rate request since the only residential customers served by the utility are wholly within Sarasota County and the Commission does not have jurisdiction over water and wastewater utilities in Sarasota County. On May 4, 1992, the City filed an Amendment to its Motion to Dismiss, which adds that an Award of Arbitrators has been given on the value of the North Port property in the amount of \$16.5 million. Therefore, the City argues that even if the Commission were to decide it had jurisdiction over this matter, it would lose jurisdiction once the sale of North Port was completed.

In its Response in Opposition to City's Motion to Dismiss filed on May 5, 1992, GDU states that the City's Motion raises no issue of law or fact that has not been previously considered and decided by the Commission. Specifically, GDU states that by Order No. 22459, issued January 24, 1990, the Commission previously determined it had jurisdiction over GDU's operations in Sarasota County pursuant to Section 367.171(7), Florida Statutes, which gives the Commission jurisdiction over a utility system with service transversing county boundaries, irrespective of whether the counties are jurisdictional.

Although in Order No. 22459, the Commission determined it had jurisdiction, this is an issue which has been identified in the present rate proceeding, and is one which will be briefed by the parties. Therefore, it is appropriate to defer ruling on the City's Motion to Dismiss for Lack of Jurisdiction until the Agenda

DOCUMENT NUMBER-DATE

04640 MAY 11 1992

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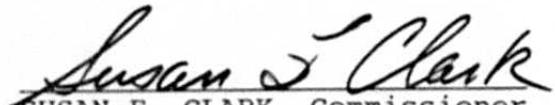
ORDER NO. PSC-92-0325-PCO-WS  
DOCKETS NOS. 911030 & 911067  
PAGE 2

Conference for the final disposition of these dockets.

Based on the foregoing, it is therefore,

ORDERED by Commissioner Susan F. Clark, as Prehearing Officer, that the Motion to Dismiss for Lack of Jurisdiction filed by the City of North Port is hereby deferred.

By ORDER of the Florida Public Service Commission, this 11th day of MAY, 1992.

  
SUSAN F. CLARK, Commissioner  
as Prehearing Officer

(S E A L)

LAJ

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

ORDER NO. PSC-92-0325-PCO-WS  
DOCKETS NOS. 911030 & 911067  
PAGE 3

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.