

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Application for ) DOCKET NO. 961299-WS  
grandfather certificate to ) ORDER NO. PSC-96-1544-PCO-WS  
operate a water and wastewater ) ISSUED: December 18, 1996  
utility in Polk County, by )  
Garden Grove Water Company, Inc. )  
\_\_\_\_\_ )

ORDER GRANTING MOTION FOR A FIVE-DAY EXTENSION OF TIME  
TO FILE RESPONSE OR ANSWER

On October 29, 1996, Garden Grove Water Company, Inc. (Garden Grove) filed an application for a grandfather certificate to operate a water and wastewater utility in Polk County. On November 27, 1996, Emmer Development Corporation (Emmer) filed with the Commission a combined Petition For Leave to Intervene, Request For Proposed Agency Action Procedures, and Response to Garden Grove Water Company, Inc.'s Application For a Grandfather Certificate (Emmer's Petition). Emmer's Petition was hand delivered to both the Commission and to Garden Grove's counsel on that date. On December 4, 1996, counsel for Garden Grove filed a Motion for a Five-Day Extension of Time to respond to Emmer's Petition.

Rule 25-22.037(2)(b), Florida Administrative Code, states that responses in opposition to a written motion must be filed within seven days after service of the motion. If the original motion is delivered to a party by United States mail, five days are added to the response time period. Since Emmer's Petition was hand delivered to both the Commission and Garden Grove's counsel on November 27, 1996, the seven day response time period would apply and Garden Grove's response to Emmer's Petition would be due on December 4, 1996.

Garden Grove's Motion for Extension of Time asserts that it was unable, through all due diligence, to prepare and file its answer or response to Emmer's Petition by December 4, 1996 for two reasons. First, neither Garden Grove's counsel nor its vice-president had knowledge of Emmer's Petition until December 2 and 3, 1996, respectively, due to the Thanksgiving holiday weekend beginning November 28, 1996. Second, Garden Grove states that Emmer's fifteen page Petition raises numerous issues of both law and fact which require more time for counsel to perform adequate research and analysis to formulate a response. Commission staff has confirmed that Emmer does not oppose Garden Grove's Motion for Extension of Time.

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Upon consideration, Garden Grove's Motion for a Five-Day Extension of Time to File a Response is reasonable and is hereby granted. Garden Grove must therefore file its response and/or motion in opposition to Emmer's Petition by December 9, 1996.

Based on the foregoing, it is

ORDERED by Commissioner J. Terry Deason, as Prehearing Officer, that Garden Grove Water Company, Inc.'s Motion for Five-Day Extension of Time to File a Response is hereby granted. The response is due by December 9, 1996.

By ORDER of Commissioner J. Terry Deason, as Prehearing Officer, this 18th day of December, 1996.

  
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J. TERRY DEASON, Commissioner and  
Prehearing Officer

( S E A L )

KMJ

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 25-22.0376, 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.