

VOTE SHEET

FEBRUARY 5, 2002

RE: Docket No. 010726-WS - Complaint by Bayside Mobile Home Park against Bayside Utility Services, Inc. regarding denial of request for water and wastewater service in Bay County.

ISSUE 1: Should the Commission grant Bayside Utility Services, Inc.'s Motion to Dismiss the Developer's Petitions, Protests and Requests for Hearing?

RECOMMENDATION: No. The Commission should deny Bayside Utility Services, Inc.'s Motion to Dismiss the Developer's Petitions, Protests and Requests for Hearing. The petitions serve as adequate notice that there is a dispute as to the applicable law and proper application of the Commission's rules. There being no apparent dispute of material fact, staff recommends that an informal proceeding in accordance with Rule 28-106.301, Florida Administrative Code, be initiated.

DENIED

On the Commission's own motion, this entire matter is to be disposed of by a summary final order.

COMMISSIONERS ASSIGNED: Full Commission

COMMISSIONERS' SIGNATURES

MAJORITY

DISSENTING

[Handwritten signatures: Judy Bradley, [unclear], Ha [unclear], J. Terry [unclear], Michael A. [unclear]]

REMARKS/DISSENTING COMMENTS:

DOCUMENT NUMBER-DATE

01371 FEB-5 02

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(Continued from previous page)

ISSUE 2: Should the Commission grant Bayside Mobile Home Park's Amended Petition to refer this matter to the Division of Administrative Hearings and request that an Administrative Law Judge be assigned to conduct the hearing in Panama City Beach?

RECOMMENDATION: No. The Commission should deny in part and grant in part Bayside Mobile Home Park's Original Petition and Amended Petition Protesting Proposed Agency Action Order No. PSC-01-2095-PAA-WS. Specifically, the Commission should deny the request to assign the protests to the Division of Administrative Hearings, deny the request to hold the hearing in Panama City Beach, and deny the requests for either mediation or arbitration. However, because there appear to be no disputed issues of material fact, the Commission should initiate an informal proceeding in accordance with Section 120.57(2), Florida Statutes, and require the parties to submit legal briefs, and allow oral argument in conjunction with a designated agenda conference. If the Developer requests that it be allowed to participate by telephone, such request should be granted.

DENIED