BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Complaint by Miami-Dade County for order requiring Florida City Gas to show cause why tariff rate should not be reduced and for the Commission to conduct a rate proceeding, overearnings proceeding, or other appropriate proceeding regarding Florida City Gas' Acquisition adjustment.	DOCKET NO. 100315-GU ORDER NO. PSC-10-0619-FOF-GU ISSUED: October 18, 2010

The following Commissioners participated in the disposition of this matter:

LISA POLAK EDGAR
NATHAN A. SKOP
ART GRAHAM
RONALD A. BRISÉ

ORDER GRANTING FLORIDA CITY GAS' MOTION TO DISMISS MIAMI-DADE COUNTY'S COMPLAINT

BY THE COMMISSION:

Background

Florida City Gas (FCG), formerly City Gas Company of Florida, executed a ten-year Natural Gas Transportation Services Agreement with Miami-Dade Water and Sewer Department (MDWASD) in 1998 (1998 Agreement). FCG and MDWASD negotiated a successor agreement to the 1998 Agreement, dated August 28, 2008 (2008 Agreement), which required Commission approval before becoming effective. By petition dated November 13, 2008, FCG requested that we approve the 2008 Agreement between FCG and MDWASD.[1] Thereafter, FCG voluntarily withdrew its petition on February 17, 2009, and the docket was administratively closed.

Since we had not approved the 2008 Agreement, FCG began charging MDWASD its general service tariff rate in August 2009. In September 2009, MDWASD stopped paying the tariff rate in full and began remitting payment for only the previously agreed to 2008 Agreement rate. MDWASD claims that it has since been placing the difference between the tariff rate and the 2008 Agreement rate into a separate, private account.

On December 14, 2009, MDWASD filed its own petition for approval of the 2008 Agreement with FCG.[2] In its petition, MDWSD requested that we find that the Commission

[1] See Docket No. 080672-GU, In re: Petition for approval of Special Gas Transportation Service agreement with MDWASD by Florida City Gas.
[2] See Docket No. 090539-GU, In re: Petition for approval of Special Gas Transportation Service agreement with Florida City Gas by Miami-Dade County through Miami-Dade Water and Sewer Department.

lacks jurisdiction over the 2008 Agreement executed by MDWSD and FCG. Alternatively, MDWSD requested that if we found we did have jurisdiction, that we approve the 2008 Agreement and order FCG to refund to MDWSD the difference between the 2008 Agreement rates and the current tariff rates now being charged to MDWSD by FCG. We are scheduled to address the jurisdictional question in Docket No. 090539-GU at the October 26, 2010 Agenda Conference.

On June 4, 2010, Miami-Dade County (Miami-Dade or the County) initiated the present docket by filing a Complaint for an order requiring FCG to show cause why FCG's tariff rate should not be reduced and for us to conduct a rate proceeding, overearnings proceeding or other appropriate proceeding regarding FCG's acquisition adjustment (Complaint). On June 24, 2010, FCG filed a Motion to Dismiss the County's Complaint with prejudice (Motion to Dismiss) and a Request for Oral Argument. FCG filed a correction to its Motion to Dismiss to remove the phrase "with prejudice" on June 28, 2010. By Order No. PSC-10-0425-PCO-GU, we granted the County a seven-day extension of time within which to file its response to FCG's Motion to Dismiss, which it filed on July 12, 2010 (Response).

This Order addresses FCG's Motion to Dismiss and its Request for Oral Argument. For the reasons described below, FCG's Motion to Dismiss is granted. We have jurisdiction pursuant to Section 366.04, Florida Statutes (F.S.).

Analysis and Decision

Oral Argument

Pursuant to Rule 25-22.022(1), Florida Administrative Code (F.A.C.), FCG filed its Request for Oral Argument concurrently with its Motion to Dismiss. No objections to FCG's request were filed. We have traditionally granted oral argument upon a finding that oral argument would aid in our understanding and disposition of the underlying motion. Rule 25-22.0022(3), F.A.C., provides that granting or denying a request for oral argument is within our sole discretion. Since we believed that we would benefit from oral argument on FCG's Motion to Dismiss and Miami-Dade County's Response, we granted FCG's Request for Oral Argument, allowing ten minutes per side. At the September 28, 2010 Agenda Conference, we heard oral argument from both FCG and Miami-Dade County.

Motion to Dismiss

Standard of Review

A motion to dismiss challenges the legal sufficiency of the facts alleged in a complaint to state a cause of action. Meyers v. City of Jacksonville, 754 So. 2d 198, 202 (Fla. 1st DCA 2000). The standard to be applied in disposing of a motion to dismiss is whether, with all the allegations in the complaint assumed to be true, the complaint states a cause of action upon which relief can be granted. Id. When making this determination, only the complaint and documents incorporated therein can be reviewed, and all reasonable inferences drawn from the

complaint must be made in favor of the complainant. Varnes v. Dawkins, 624 So. 2d 349, 350 (Fla. 1st DCA 1993); Flye v. Jeffords, 106 So. 2d 229 (Fla. 1st DA 1958), overruled on other grounds, 153 So. 2d 759, 765 (Fla. 1st DCA 1963); and Rule 1.130, Florida Rules of Civil Procedure.

County's Complaint

On June 4, 2010, Miami-Dade initiated the present docket by filing a complaint for an order requiring FCG to show cause why its tariff rate should not be reduced and for us to conduct a rate proceeding, overearnings proceeding or other appropriate proceeding regarding FCG's acquisition adjustment. In its Complaint, the County states that by Order No. PSC-07-0913-PAA-GU[3] (Positive Acquisition Adjustment Order), we determined that AGL Resources, Inc.'s (AGLR) acquisition of FCG resulted in a benefit to FCG's customers because FCG would realize a $442,270 annualized cost savings. Accordingly, the Positive Acquisition Adjustment Order allowed FCG to record the purchase price premium of $21,656,835 as a positive acquisition adjustment to be amortized by FCG over a 30-year period beginning in November 2004. The County notes that we also approved FCG's proposed five-year base rate stay-out period, which prohibits FCG from increasing base rates for five years beginning October 23, 2007, as being in the best interest of customers. According to the County, we reserved the right to reevaluate the reasonableness of the acquisition adjustment at any time during the stay out period and to revisit the effects of the acquisition adjustment in FCG's next rate proceeding. The County states that we may partially or totally remove the acquisition adjustment in the event it is determined that the $442,270 annualized cost savings no longer exist.

The County asserts that we should reexamine the alleged $442,270 annual savings for AGLR's acquisition of FCG because our approval in the Positive Acquisition Adjustment Order took into account the contract rates that the County was paying FCG under the 1998 Agreement.[4] The County asserts that the higher tariff rates that the County is currently being charged by FCG will provide FCG with $800,000 more annually than the amount provided for in the 2008 Agreement that is before us for approval in Docket No. 090539-GU. The County contends that if we do not approve the 2008 Agreement in Docket No. 090539-GU and allow FCG to continue charging the County the tariff rates, FCG will receive a $8 million windfall ($800,000 a year for ten years). Accordingly, the County believes that the increased rates FCG is charging will allow FCG to overearn in light of the acquisition adjustment.

FCG's Motion to Dismiss

FCG asserts that the County's Complaint is premature and duplicative of the issues in Docket No. 090539-GU. FCG claims that the County has failed to state a cause of action because it has not made a prima facie showing of overearnings that would justify the initiation of a rate proceeding or overearnings investigation. FCG also contends that the County's challenge

[3] Issued November 13, 2007, in Docket No. 060657-GU, In re: Petition for approval of acquisition adjustment and recognition of regulatory asset to reflect purchase of Florida City Gas by AGL Resources, Inc.
[4] The County notes that the 2008 Agreement contains the same rates as the 1998 Agreement. Complaint at 5.

of the tariff rate and the Positive Acquisition Adjustment Order amounts to an out of time motion for reconsideration that must be denied.

FCG states that we will determine the legality of the 2008 Agreement and the otherwise applicable tariff rate that the County must pay in the absence of a special contract in Docket No. 090539-GU, and Docket No. 090539-GU is thus the appropriate forum within which to address that dispute. According to FCG, the County's fundamental objection is that it does not want to pay FCG's lawfully approved and applicable tariff rate because it is significantly higher than the 1998 and 2008 Agreement rates. FCG asserts that the County's attempt to re-litigate the issues in Docket No. 090539-GU in the present docket constitutes a collateral attack that would be duplicative and a waste of Commission and party time and resources. Furthermore, FCG asserts that any alleged overearnings associated with the County paying FCG's tariff rate cannot begin to be established until we decide the issues in Docket No. 090539-GU.

FCG claims that the County's naked assertion that FCG is overearning merely because the County has been billed for transportation service under its approved tariff does not meet the minimal pleading requirements for invoking Commission action.[5] According to FCG, the County has not demonstrated, as required by Section 366.071(1), F.S., that FCG is earning outside the range of reasonableness on its approved rate of return. FCG contends that the statute's prerequisite is met when the utility's surveillance reports indicate that the utility's achieved return on equity exceeds its authorized return. FCG insists that the County failed to include such prima facie allegations in its Complaint because there is no evidence to support or indicate that FCG is overearning. In support of this contention, FCG states that its surveillance reports for the June 2009, September 2009, December 2009, and March 2010 quarters indicate that FCG is in fact earning *below* its 7.36 percent rate of return authorized by Order No. PSC-04-0128-PAA-GU.[6]

In addition, FCG argues that even accepting the County's figures, the fact that the County is paying a higher rate than it desires does not automatically result in an increase in net revenues to FCG. FCG states that once it began charging the County the tariff rate in August 2009, it stopped charging its end users the Competitive Rate Adjustment (CRA) rider in its tariff. FCG explains that the CRA rider provides that if FCG's contract customers are not paying the tariff rate, the difference between the contract rate and the tariff rate is recovered by a surcharge paid by the general body of ratepayers. Once FCG began charging MDWASD the tariff rate, FCG ceased charging the CRA rider for the County differential since FCG was recovering its revenue

[5] FCG acknowledges that while it has charged the County the tariff rate, the County has only actually paid FCG the old contract rate, with the County holding the difference between the contract and tariff rates in a separate, private account pending the outcome of Docket No. 090539-GU. FCG notes, however, that for regulatory reporting purposes and calculation of the utility's rate of return, FCG has booked the billed revenue and accounts for the escrow amounts as a receivable on its books, so the full billed amount is included in the rate of return calculation. Motion to Dismiss at 7, fn.9.

[6] Motion to Dismiss at 5, fn. 5, citing Order No. PSC-04-0128-PAA-GU, issued on February 9, 2004, in Docket No. 030569-GU, In re: Application for rate increase by City Gas Company of Florida.

requirements through the County paying the tariff rate. Accordingly, FCG's charging the County the tariff rate "has been revenue neutral to FCG."[7]

Finally, FCG contends that any review of the cost savings from AGLR's acquisition of FCG should occur in FCG's next rate proceeding. FCG states that according to the Positive Acquisition Adjustment Order:

> The permanence of the cost savings supporting FCG's request shall be reviewed in the Company's next rate proceeding. The Company shall file its earnings surveillance reports with and without the effect of the acquisition adjustment. If it is determined that the cost savings no longer exist, the acquisition adjustment may be partially or totally removed as deemed appropriate by this Commission.

Positive Acquisition Adjustment Order at 9. FCG insists that the Positive Acquisition Adjustment Order does not provide an independent cause of action that would allow the County to petition this Commission for a rate or overearnings proceeding. In the absence of any evidence of overearnings, FCG claims that the County has failed to cite to any rule, order or statute that would permit us to initiate a rate case proceeding solely to again review the appropriateness of our prior decision in the Positive Acquisition Adjustment Order. FCG also states that the County has failed to indicate that, whether the positive acquisition adjustment is included or excluded, FCG is in an overearnings situation now that the County is being charged the tariff rate. Accordingly, FCG argues that the County has not offered any legal basis for reexamining the Commission's determinations in the Positive Acquisition Adjustment Order, or for initiating a rate case.

County's Response to FCG's Motion to Dismiss

The County contends that it has not failed to state a cause of action. In support of its contention, the County cites Sections 366.076 and 366.07, F.S. Section 366.076, F.S., permits us to conduct a limited proceeding upon petition or our own motion regarding any matter which requires a public utility to adjust its rates consistent with statutory provisions. Section 366.07, F.S., also provides us with authority upon our own motion or a complaint to fix fair and reasonable rates whenever we find the rates to be unjust, unreasonable, insufficient, excessive, unjustly discriminatory or preferential, or in violation of law. The County argues that pursuant to these statutes, FCG must establish that the revenues generated from the tariff rates it is charging the County do not place FCG in an overearnings situation.

The County asserts that it is not seeking reconsideration of the Positive Acquisition Adjustment Order but rather for us to reevaluate the adjustment based on the circumstances of the 2008 Agreement and FCG's subsequent treatment of the County. According to the County, our show cause procedures best serve to protect the County's interests in relation to FCG's other customers because FCG should not be permitted to charge the County excessive rates without any ramification on the rates FCG charges its other customers.

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[7] Motion to Dismiss at 7.

Finally, the County acknowledges that its instant Complaint will address many of the issues to be addressed in Docket No. 090539-GU. However, it insists that the issue of whether FCG would overearn if allowed to charge the County the tariff rate rather than the 2008 Agreement rate is not duplicative and should be considered in the instant docket.

Analysis

Upon review of the County's Complaint, we find that the County has failed to state a cause of action upon which we can grant relief. Accordingly, the County's Complaint shall be dismissed, without prejudice, for the reasons provided below.

Show Cause

We have jurisdiction to review conduct that is alleged to violate Chapter 366, F.S., or any lawful rule or order of this Commission. Section 366.095, F.S., provides that if any utility knowingly refuses to comply with, or willfully violates, any provision of Chapter 366, F.S., or any lawful rule or order of the Commission, the utility shall incur a penalty for each offense. Each day that the refusal or violation continues constitutes a separate offense, and a penalty of not more than $5,000 shall be imposed for each offense. The purpose of our show cause procedures is to address specific instances where a utility knowingly refuses to comply with, or willfully violates, a specific Commission order, rule or statute and to bring the utility into compliance.[8]

The County's attempt to invoke our show cause procedures through its Complaint is inappropriate in this case. Upon circumstances brought forth by a utility's customers or other parties, our staff may recommend that a show cause proceeding is warranted and should be initiated. However, the decision to invoke the Commission's show cause procedure is ultimately ours. In its Complaint, the County requests that we enter an order requiring FCG to show cause why its tariff rate should not be reduced. The basis for the County's request is that FCG will overearn if it is allowed to charge the County its currently approved tariff rate. However, in order for us to initiate a show cause proceeding, we must be able to identify a statutory section, rule, or agency order that has been violated, as well as the facts or conduct relied upon to establish the violation.[9] Assuming that all of the allegations in the Complaint are true and viewing all reasonable inferences in favor of the County, the County has failed to plead facts sufficient to make a prima facie showing that the utility is willfully violating or refusing to

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[8] See Section 367.161, F.S.; Order No. PSC-00-1675-PAA-WS, issued September 19, 2000, in Docket No. 991984-WS, In re: Application for transfer of Certificate Nos. 277-W and 223-S in Seminole County from Alafaya Palm Valley Associates, Ltd. to CWS Communities LP d/b/a Palm Valley at 5; Order No. PSC-00-1389-PAA-WU, issued July 31, 2000, in Docket No. 991001-WU, In re: Application for transfer of facilities and Certificate No. 424-W in Highlands County from Lake Josephine Water to AquaSource Utility, Inc. at 4; Order No. PSC-98-1594-FOF-GU, issued December 1, 1998, in Docket No. 981039-GU, In re: Request for authorization, pursuant to Rule 25-7.015, F.A.C., to keep records out of state, by City Gas Company of Florida at 3.

[9] For the reasons discussed below, the County has failed to make a prima facie showing that FCG is violating or failing to comply with the statutes which govern overearnings or unjust rates, namely Sections 366.06 and 366.07, F.S.

comply with any rule, statute or order of the Commission. Accordingly, a show cause proceeding is inappropriate and should not be initiated.

Overearnings Investigation

The County's Complaint also requests that we initiate an overearnings investigation or conduct a rate proceeding or other appropriate proceeding regarding FCG's acquisition adjustment. In support of its request, the County states that notwithstanding the five-year base rate stay-out period, we reserved the right to revisit the effects of the acquisition adjustment in the future. Accordingly, the County contends that we can initiate an overearnings proceeding because we specifically ordered in the Positive Acquisition Adjustment Order that in FCG's next rate proceeding, the acquisition adjustment may be partially or totally removed if it is determined that the $442,270 annual cost savings no longer exist.

While the statutory provisions the County cites give us authority to conduct a limiting proceeding or to fix fair and reasonable rates when we finds that rates must be adjusted in order to comply with the statutes, Sections 366.06, 366.07 and 366.071, F.S., are the substantive statutes which govern rate setting. Pursuant to Sections 366.06(2) and 366.07, F.S., when we find, upon a request made, that the rates being charged by a utility are "unjust, unreasonable, unjustly discriminatory, or in violation of law" or yield excessive compensation, we shall hold a public hearing to determine just and reasonable rates to be charged. Such a request by any party must allege sufficiently detailed facts to warrant the our proceeding.[10] In the past, we have proceeded to hearing when a prima facie case has been made that a utility is overearning, i.e., earning in excess of the top of the range of either its last allowed rate of return or its last stipulated rate of return.[11] Likewise, Section 366.071, F.S., provides that "upon petition from any party," we may order interim rate decreases, provided the moving party establishes a prima facie entitlement to such relief by demonstrating that the utility is earning outside the range of reasonableness on its rate of return.[12]

In considering the Motion to Dismiss, the County's assertion that "FCG must . . . establish that the excessive revenues generated from its proposed charges to the County do not place FCG in an overearnings situation" is incorrect. The County, as the requesting party, has the initial burden of going forward.[13] In order to initiate an overearnings investigation, the

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[10] See Order No. 15765, issued March 3, 1986, in Docket No. 860058-EI, In re: Petition by the Citizens of the State of Florida to initiate a show cause action that directs Florida Power Corporation to justify why Crystal River 3 should remain in the utility's rate base.

[11] Id.

[12] Id.

[13] Order No. 8020, issued on October 20, 1977, in Docket No. 750710-TP, In re: On the complaint of Dade Electronics, Inc. against Southern Bell Telephone and Telegraph and the Defendant's answer thereto (holding that "the burden of proving or substantiating the complaint rests at all stages with the Complainant" because the complainant must establish a prima facie case for relief) and Order No. PSC-99-1233-PCO-WS, issued on June 22, 1999, in Docket No. 960545-WS, In re: Investigation of utility rates of Aloha Utilities, Inc. in Pasco County (finding that the burden of proof shifts to the utility once the evidence put on by customers conclusively demonstrates that there is a quality of service problem). We note that FCG, as a regulated utility, would have the ultimate burden of proving that it is in compliance with Commission statutes, rules and orders if the County could clear the initial hurdle of meeting its burden of going forward. Order No. PSC-93-1386-PCO-WS, issued on September 22, 1993, in Docket No.

County must demonstrate that FCG is earning outside the range of reasonableness on its approved rate of return.[14] This means that the County must allege and support its allegations with facts tending to show that FCG is earning over 100 basis points above its authorized return on equity. The County asserts that the higher tariff rate that the County is currently being charged will provide FCG with $800,000 more annually than the amount provided for in the 2008 Agreement. From this, the County concludes that the increased rates FCG is charging will allow FCG to overearn in light of the acquisition adjustment. However, the mere fact that FCG may receive $800,000 more annually if we do not approve the 2008 Agreement does not necessarily establish that FCG will overearn.

Even assuming we can reevaluate our decision in the Positive Acquisition Adjustment Order, the County has also failed to make a prima facie showing that the annual savings from AGLR's acquisition of FCG no longer exist. The County states that we should reexamine the alleged annual savings because our approval in the Positive Acquisition Adjustment Order took into account the contract rates that the County was paying FCG under the 1998 Agreement and would be paying under the 2008 Agreement, if it is approved. However, the County has not alleged, nor has it made specific factual assertions to support an allegation, that the $442,270 annualized cost savings no longer exist. Accordingly, the County has failed to allege that FCG is earning outside the authorized range of its return on equity or that the annual savings no longer exist; thus, it has not established a prima facie entitlement to rate relief.

Furthermore, the County does not, and cannot, allege that FCG is currently receiving an additional $800,000 each year because we have not yet approved or denied the 2008 Agreement. The County's contention that if we do not approve the 2008 Agreement in Docket No. 090539-GU and allow FCG to continue charging the County the tariff rate, FCG will receive a $8 million windfall is purely speculative and conjectural at this time. We will determine in Docket No. 090539-GU whether the 2008 Agreement should be approved and, if not, what tariff rate should apply to the County. We agree with FCG that any alleged overearnings associated with the County paying FCG's tariff rate cannot begin to be established until after we have decided the issues in the other docket. The County's Complaint, therefore, is not only duplicative of the issues to be decided in Docket No. 090539-GU, but also premature.

920649-WS, In re: Complaint and Petition of Cynwyd Investments Against TAMIAMI VILLAGE UTILITY, INC. Regarding Termination of Water and Wastewater Services in Lee County and Docket No. 930642-WS, In Re: Complaint Against TAMIAMI VILLAGE UTILITY, INC. by CYNWYD INVESTMENTS, and Request for Emergency Order Requiring the Utility to Reestablish Water and Wastewater Service to Cynwyd's Friendship Hall in Lee County at 3-4.

[14] Order No. 19641, issued July 8, 1988, in Docket No. 870220-EI, In re: Request by Occidental Chemical Corporation for reduction of retail electric service rates charged by Florida Power Corporation (granting utility company's motion to dismiss because petitioner did not make a prima facie showing that the company's rates and charges were either unjust, unreasonable, unjustly discriminately, or in violation of law); Order No. 15765, issued March 3, 1986, in Docket No. 860058-EI, In re: Petition by the Citizens of the State of Florida to initiate a show cause action that directs Florida Power Corporation to justify why Crystal River 3 should remain in the utility's rate base; Order No. 22762, issued April 3, 1990, in Docket No. 900038-EI, In re: Review of rates and charges of Florida Power & Light Company; Order No. 17649, issued June 3, 1987, in Docket No. 870220-EI, In re: Request by Occidental Chemical Corporation for reduction of retail electric service rates charged by Florida Power Corporation at 2-3; Order No. 18627, issued on January 4, 1998, in Docket No. 870220-EI, In re: Request by Occidental Chemical Corporation for reduction of retail electric service rates charged by Florida Power Corporation.

Conclusion

Considering the County's Complaint in a light most favorable to the County, we find that the County has failed to state a cause of action upon which relief can be granted. The County's speculative and conclusory assertions that the $442,270 annualized cost savings approved in the Positive Acquisition Adjustment Order *might* no longer exist and that FCG *may* overearn in the future if the 2008 Agreement is not approved in Docket No. 090539-EI are insufficient to warrant our proceeding to hearing. The County also has not made allegations sufficient to warrant the initiation of a show cause proceeding. Accordingly, FCG's Motion to Dismiss is granted.

We note that Section 120.569(2)(c), F.S., provides that dismissal of a complaint shall, at least once, be without prejudice to timely filed amended complaints curing the defect, unless it conclusively appears from the face of the complaint that the defect cannot be cured. In this instance, the Complaint does not conclusively demonstrate that the defect can never be cured. The County could conceivably remedy its failure to state a cause of action if, for example, after the issues in Docket No. 090539-GU are decided, it can specifically allege that FCG is earning above its authorized range of return on equity or that the annual cost savings from the Positive Acquisition Adjustment Order no longer exist. Accordingly, the County's Complaint is hereby dismissed without prejudice, thus giving the County the opportunity to file an amended complaint at a later date.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that Florida City Gas's Motion to Dismiss shall be granted and that Miami-Dade County's Complaint shall be dismissed, without prejudice. It is further

ORDERED that this docket shall be closed after the time for an appeal has run.

By ORDER of the Florida Public Service Commission this 18th day of October, 2010.

ANN COLE
Commission Clerk

(SEAL)

ARW

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), 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 the Commission's final action in this matter may request: 1) reconsideration of the decision by filing a motion for reconsideration with the Office of Commission Clerk, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, within fifteen (15) days of the issuance of this order in the form prescribed by Rule 25-22.060, Florida Administrative Code; or 2) 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 and/or wastewater utility by filing a notice of appeal with the Office of Commission Clerk, and filing a copy of the notice of appeal and the filing fee with the appropriate court. This filing must be completed within thirty (30) days after the issuance of this order, pursuant to Rule 9.110, Florida Rules of Appellate Procedure. The notice of appeal must be in the form specified in Rule 9.900(a), Florida Rules of Appellate Procedure.