

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application for increase in water and wastewater rates in Charlotte, Highlands, Lake, Lee, Marion, Orange, Pasco, Pinellas, Polk, and Seminole Counties by Utilities, Inc. of Florida.

DOCKET NO. 160101-WS  
ORDER NO. PSC-17-0157-PCO-WS  
ISSUED: May 5, 2017

ORDER DENYING SUMMERTREE WATER ALLIANCE AND  
ANN MARIE RYAN'S MOTION TO DISMISS  
AND DENYING REQUEST FOR ORAL ARGUMENT

Background

On August 31, 2016, Utilities Inc. of Florida (Utility or UIF) filed an application for an increase in water and wastewater rates in Charlotte, Highlands, Lake, Lee, Marion, Orange, Pasco, Pinellas, Polk, and Seminole Counties in Docket No. 160101-WS. Intervention has been granted to the Office of Public Counsel, Seminole County, the Summertree Water Alliance, and Mrs. Ann Marie Ryan.<sup>1</sup> This docket is currently scheduled for hearing on May 8-12, 2017.

Motion to Dismiss and Request for Oral Argument

On May 2, 2017, the Summertree Water Alliance and Mrs. Ann Marie Ryan (Movants) jointly filed a Motion to Dismiss the Application for Water and Wastewater Rate Increase by Utilities, Inc. of Florida (UIF). The Movants contend that UIF has not substantiated its rate request, and based on the alleged deficiencies in UIF's prefiled testimony and exhibits, minimum filing requirements (MFRs) and discovery responses, UIF's application should be dismissed, and UIF should be ordered to file a revised application for rates reflecting a proper revenue requirement. Also on May 2, 2017, pursuant to Rule 25-22.0022 Florida Administrative Code (F.A.C.), the Movants filed a request for oral argument on their motion to strike, asserting that oral argument will assist the Commission in understanding and evaluating the Motion to Dismiss.

UIF's Response

UIF timely filed a response in opposition to the Motion Dismiss on May 4, 2017. In its response, UIF argues the Motion should be denied as having been untimely filed pursuant to Rule 28-106.204(2), F.A.C., which requires that a Motion to Dismiss be filed no later than 20 days after the assignment of the presiding officer, unless the motion is based upon a lack of jurisdiction or incurable errors in the petition. UIF contends that the Movants do not challenge

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<sup>1</sup> Order No. PSC-16-0189-PCO-WS, issued May 10, 2106 (Office of Public Counsel); Order No. PSC-17-0146-PCO-WS, issued May 2, 2017 (Seminole County); Order No. PSC-17-0150-PCO-WS, issued May 4, 2017 (Summertree Water Alliance); and Order No. PSC-17-0155-PCO-WS, issued May 5, 2017 (Mrs. Ryan).

the Commission's jurisdiction, and allege as a basis for dismissal what they perceive to be inadequacies in the documentation filed with or subsequent to UIF's application.

### Decision

#### Denying Request for Oral Argument

Rule 25-22.0022(1), F.A.C., provides that oral argument must be sought by separate written request filed concurrently with the motion on which argument is requested. The request must state with particularity why oral argument would aid the Prehearing Officer in understanding and evaluating the issues to be decided.

Although the Movants properly filed their request for oral argument concurrently with their Motion to Dismiss, I find that the pleadings are sufficiently clear on their face and, therefore, oral argument is unnecessary for the disposition of this matter. On the basis of the foregoing, the request for oral argument is denied.

#### Denying Motion to Dismiss

Pursuant to Rule 28-106.204(2), F.A.C., unless otherwise provided by law, motions to dismiss the petition or request for hearing shall be filed no later than 20 days after assignment of the presiding officer, unless the motion is based upon a lack of jurisdiction or incurable errors in the petition. After the Utility's application, prefiled testimony and exhibits, and MFRs were filed on August 31, 2016, I was assigned to the docket as Prehearing Officer on October 4, 2016. Having reviewed the pleadings, I find that the Motion to Dismiss shall be denied as having been untimely filed pursuant to Rule 28-106.204, F.A.C.

Based on the foregoing, it is

ORDERED by Commissioner Ronald A. Brisé, as Prehearing Officer, that Summertree Water Alliance and Mrs. Ryan's Request for Oral Argument concerning Motion to Dismiss Application for Increased Water and Wastewater Rates of Utilities, Inc. of Florida is denied, as set forth herein. It is further

ORDERED that Summertree Water Alliance and Mrs. Ryan's Motion to Dismiss Application for Water and Wastewater Rate Increase is denied, as set forth herein.

By ORDER of Commissioner Ronald A. Brisé, as Prehearing Officer, this 5th day  
of May, 2017.



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Commissioner and Prehearing Officer  
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Copies furnished: A copy of this document is provided to the parties of record at the time of issuance and, if applicable, interested persons.

JSC

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.

Mediation may be available on a case-by-case basis. If mediation is conducted, it does not affect a substantially interested person's right to a hearing.

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; 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 or wastewater utility. A motion for reconsideration shall be filed with the Office of Commission Clerk, in the form prescribed by Rule 25-22.0376, 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.