

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Application for transfer) DOCKET NO. 960235-WS
of Certificates Nos. 404-W and)
341-S in Orange County from Econ)
Utilities Corporation to)
Wedgfield Utilities, Inc.)
_____))
In Re: Application for) DOCKET NO. 960283-WS
amendment of Certificates Nos.) ORDER NO. PSC-97-0377-FOF-WS
404-W and 341-S in Orange County) ISSUED: April 7, 1997
by Wedgfield Utilities, Inc.)
_____))

The following Commissioners participated in the disposition of this matter:

JULIA L. JOHNSON, Chairman
SUSAN F. CLARK
J. TERRY DEASON
JOE GARCIA
DIANE K. KIESLING

ORDER DENYING MOTION TO
ASSIGN DOCKETS TO FULL COMMISSION

BY THE COMMISSION:

On February 27, 1996, Wedgfield Utilities, Inc. (Wedgfield or utility) filed an application for the transfer of Certificates Nos. 404-W and 341-S from Econ Utilities Corporation (Econ) to Wedgfield. On March 5, 1996, Wedgfield filed an application for amendment of Certificates Nos. 404-W and 341-S to include additional territory in Orange County. In Order No. PSC-96-1241-FOF-WS, issued October 7, 1996, this Commission, by final agency action, approved the transfer and granted the amendment of the certificates to include the additional territory requested. By that same order, the Commission, by proposed agency action, established rate base for purposes of the transfer.

The Office of Public Counsel timely protested the order, and accordingly, by Order No. PSC-96-1533-PCO-WS, issued December 17, 1996, this matter was set for an April 29, 1997 hearing in Orange County. By Order No. PSC-97-0070-PCO-WS, issued January 22, 1997, the matter was continued, and the hearing rescheduled for August 19, 1997. A Commission panel of three members is currently assigned to this matter.

On February 10, 1997, the utility filed a Motion to Assign Dockets to the Full Commission, pursuant to Section 350.01(6), Florida Statutes. In its motion, the utility states that a panel is currently scheduled to hear the case, which involves the issue

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of the Commission's policy on negative acquisition adjustments. According to the utility, it would be inappropriate for less than the full Commission to decide the case because any decision other than to deny any acquisition adjustment would result in a change of current Commission policy on acquisition adjustments.

Section 350.01(6) provides:

A majority of the commissioners may determine that the full commission shall sit in any proceeding. The public counsel or a person regulated by the Public Service Commission and substantially affected by a proceeding may file a petition that the proceeding be assigned to the full commission. Within 15 days of receipt by the commission of any petition or application, the full commission shall dispose of such petition by majority vote and render a written decision thereon prior to assignment of less than the full commission to a proceeding. In disposing of such petition, the commission shall consider the overall general public interest and impact of the pending proceeding, including but not limited to the following criteria: the magnitude of a rate filing, including the number of customers affected and the total revenues requested; the services rendered to the affected public; the urgency of the requested action; the needs of the consuming public and the utility; value of service involved; the effect on consumer relations, regulatory policies, conservation, economy, competition, public health, and safety of the area involved. If the petition is denied, the commission shall set forth the grounds for denial.

Section 350.01(6), Florida Statutes, requires that the Commission consider the factors enumerated when determining a request for full Commission assignment to a hearing. We have considered the overall general public interest and impact of the pending proceeding, and believe the following to be of particular relevance to this case: the magnitude of the rate filing, the needs of the consuming public and the utility, the value of service involved, and the effect on consumer relations and regulatory policies.

First, this is not a rate case. Although we recognize that the rate base established by this proceeding will be used to calculate rates in a future rate proceeding, there is no rate change contemplated in this proceeding. Additionally, the needs of the public and the utility, the value of service involved and the effect on consumer relations are significant in this case to the extent they bear on whether extraordinary circumstances warranting an acquisition adjustment exist under these circumstances; however, we do not believe that these issues rise to the level of warranting a full commission hearing. Finally, with regard to the effect on regulatory policies, the Commission panel's grant of an acquisition adjustment based on the specific facts of this case does not have to be a change in Commission policy, but could be a finding of extraordinary circumstances. Therefore, we find that the current panel may appropriately decide whether an acquisition adjustment is warranted in this case.

Further, the first available date for a full commission hearing is December 18, 1997. The reason stated by the utility does not sufficiently justify a delay for at least a period of four months if the utility's motion is granted. Accordingly, Wedgefield's Motion to Assign Dockets to the Full Commission is hereby denied.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that Wedgefield Utilities, Inc.'s Motion to Assign Dockets to the Full Commission is hereby denied. It is further

ORDERED that this docket shall remain open pending final disposition of this case.

By ORDER of the Florida Public Service Commission, this 7th day of April, 1997.

BLANCA S. BAYÓ, Director
Division of Records and Reporting

by: Kay Flynn
Chief, Bureau of Records

(S E A L)

DCW

DISSENTS

Commissioner J. Terry Deason dissented in this decision without opinion.

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 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.