

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Request for Exemption) DOCKET NO. 930308-WS
From Florida Public Service) ORDER NO. PSC-94-0597-POF-WS
Commission Regulation for) ISSUED: May 19, 1994
Provision of Water and)
Wastewater Service in Broward)
County by WILLOWS REAL ESTATE,)
INC.)
_____)

The following Commissioners participated in the disposition of this matter:

J. TERRY DEASON, Chairman
THOMAS M. BEARD
SUSAN F. CLARK
JULIA L. JOHNSON
LUIS J. LAUREDO

NOTICE OF PROPOSED AGENCY ACTION

ORDER GRANTING EXEMPTION FOR WASTEWATER SERVICE AND
DENYING EXEMPTION FOR WATER SERVICE AND REQUIRING FILING
OF GRANDFATHER CERTIFICATE APPLICATION

BY THE COMMISSION:

NOTICE IS HEREBY GIVEN by the Florida Public Service Commission that the action discussed herein is preliminary in nature and will become final unless a person whose interests are substantially affected files a petition for a formal proceeding, pursuant to Rule 25-22.029, Florida Administrative Code.

CASE BACKGROUND

On March 22, 1993, Willows Real Estate, Inc., (Willows) filed an application for an exemption from Public Service Commission regulation pursuant to Section 367.0222(8), Florida Statutes, as a reseller of water and wastewater services. Willows owns the Willows Apartments, an apartment complex in Broward County with 16 units. H2Oulton Metering Systems, Inc. d/b/a/ Water & Sewer Services of Florida (WSS) filed the application on behalf of Willows.

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FPSC-RECORDS/REPORTING

Pursuant to Section 367.022(8), Florida Statutes, "any person who resells water or wastewater service at a rate or charge which does not exceed the actual purchase price thereof" is exempt from Commission regulation. Also, the exempt entity must file an annual report which shows that the rate or charge for water and/or wastewater does not exceed the actual purchase price for the year. In order to verify that an applicant for an exemption as a reseller will not charge for water and/or wastewater service at a higher rate or charge, Rule 25-30.060(3)(h), Florida Administrative Code, requires that the applicant provide a schedule of all of its proposed rates and charges, an explanation of the proposed method of billing customers separately for both water and wastewater, and a schedule showing that the amount billed will not exceed the amount paid for water, wastewater, or both.

Upon review of the application submitted by WSS on behalf of Willows, we determined that there was a possibility of WSS charging more for water service than the Willows' service provider, the City of Coral Springs. The City of Coral Springs' method for billing this type of customer for water service is as follows:

Water:

Base Charge:	Base charge + 10% water tax \$13.49 per unit (\$12.26 + \$1.23)
Gallonge Charge:	0 to 5,000 gallons per unit \$1.22 per 1,000 gallons
	above 5,000 gallons per unit \$1.22 per 1,000 gallons

The City of Coral Springs bases the rates and charges on the amount of units behind each master meter. In this instance, there is only one master meter which measures service for 16 units. The base charge for this master meter is \$486.50. For one unit, the total base charge is \$30.41 (\$13.49 + \$16.92). Therefore, the base charge for water and wastewater service is \$486.50 which is the sum of the per unit base charges for water and wastewater times 16 units (\$30.41 x 16). For water service, the gallonge charge is based on a consumption of 80,000 gallons (16 x 5,000). This means that the consumption rate does not move up to the second tier until all 16 units collectively have used 80,000 gallons. After all 16 units collectively have used 80,000 gallons the rate move up to \$1.22 per 1,000 gallons. For wastewater service the gallonge

charge is \$1.35 per 1,000 regardless of how many units are behind the master meter.

WSS has notified the Commission that it intends to use the same methodology for billing the residents of The Willows, with one exception. WSS plans to bill each resident the higher tier after the individual resident has used 5,000 gallons regardless of whether the apartment complex has used 80,000 gallons. If WSS does this, it may be charging the individual unit the higher rate for service prior to the City of Coral Springs charging the apartment complex the higher rate for service.

We advised WSS of this situation on several occasions and requested that it advise us as to whether it will charge the higher rate for service before the City begins charging the higher rate for service. WSS has indicated that it will charge the higher rate prior to the City, however, WSS plans to refund the excess monies collected at the end of the year. Despite this intention to refund the excess monies, the apartment complex will be collecting more than the amount of the bill from the City. Therefore, we find that the Willows does not qualify for exemption for provision of water service pursuant to Section 367.022(8), Florida Statutes.

Although WSS is proposing to charge at higher levels than the City of Coral Springs for water service, it is proposing the same rates for wastewater service. The rates for wastewater service for both the City and Willows are below:

Wastewater:

Base Charge:	\$16.92 per unit
Gallonge Charge:	\$1.35 per 1,000 gallons

Based on the above, we find it appropriate to deny the application for exemption pursuant to Section 367.022(8), Florida Statutes, made by Willows Real Estate, Inc. for water service. However, we approve the application for exemption for wastewater service. We also find it appropriate to require the apartment complex to file, within 60 days of the effective date of this order, an application for an original certificate for the provision of water service. The utility may file an application for exemption for the provision of water service, with the proper documentation, if it believes it will qualify for the exemption in accordance with the provisions of this Order.

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If a protest is not received from a substantially affected person within 21 days of the issuance date of this Order, no further action will be required and the docket shall be closed.

Based on the foregoing, it is, therefore,

ORDERED by the Florida Public Service Commission that Willows Real Estate, Inc.'s application for an exemption from our regulation for the provision of water service at the Willows Apartments is hereby denied. It is further

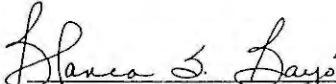
ORDERED by the Florida Public Service Commission that Willows Real Estate, Inc.'s application for an exemption from our regulation for the provision of wastewater service at the Willows Apartments is hereby granted. It is further

ORDERED that Willows Real Estate, Inc., shall file an application for an original certificate for the provision of water service to the Willows Apartments within 60 days of the effective date of this Order. It is further

ORDERED that the provisions of this Order are issued as proposed agency action and shall become final unless an appropriate petition for formal proceeding is received by the Division of Records and Reporting, 101 E. Gaines Street, Tallahassee, Florida, 32399-0870, by the close of business on the date indicated in the Notice of Further Proceedings or Judicial Review. It is further

ORDERED that unless a timely protest to the proposed agency action order is filed, there will be no further action required in this docket and this docket shall be closed.

By ORDER of the Florida Public Service Commission, this 19th day of May, 1994.



BLANCA S. BAYÓ, Director
Division of Records and Reporting

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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.

The action proposed herein is preliminary in nature and will not become effective or final, except as provided by Rule 25-22.029, Florida Administrative Code. Any person whose substantial interests are affected by the action proposed by this order may file a petition for a formal proceeding, as provided by Rule 25-22.029(4), Florida Administrative Code, in the form provided by Rule 25-22.036(7)(a) and (f), Florida Administrative Code. This petition must be received by the Director, Division of Records and Reporting at his office at 101 East Gaines Street, Tallahassee, Florida 32399-0870, by the close of business on June 9, 1994.

In the absence of such a petition, this order shall become effective on the day subsequent to the above date as provided by Rule 25-22.029(6), Florida Administrative Code.

Any objection or protest filed in this docket before the issuance date of this order is considered abandoned unless it satisfies the foregoing conditions and is renewed within the specified protest period.

If this order becomes final and effective on the date described above, any party adversely affected may request judicial review by the Florida Supreme Court in the case of an electric, gas or telephone utility or by the First District Court of Appeal in the case of a water or wastewater utility by filing a notice of appeal with the Director, Division of Records and Reporting 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 of the effective date 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.