

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Application for ) DOCKET NO. 921206-WU  
certificate to provide water ) ORDER NO. PSC-94-0838-FOF-WU  
service in Pasco County by Gem ) ISSUED: July 11, 1994  
Estates Utility Company )  
\_\_\_\_\_ )

The following Commissioners participated in the disposition of this matter:

SUSAN F. CLARK  
DIANE K. KIESLING

ORDER DENYING MOTION TO DISMISS

BY THE COMMISSION:

Gem Estates Utilities, Inc. (Gem) is a Class C utility which provides water service to a mobile home subdivision in Pasco County. Gem has been operating as a utility, without Commission approval, for approximately twenty years. The Commission first became aware of Gem pursuant to a customer complaint regarding Gem Estates Mobile Home Subdivision's intent to raise its maintenance fee. Water service was, at that time, included in the maintenance fee.

During the Commission Staff's initial contacts with Gem, it appeared that it might be exempt from Commission regulation under the landlord-tenant exemption, Section 367.022(5), Florida Statutes. However, further investigation revealed that the residents own both their homes and their lots. Therefore, Gem was advised by Staff to apply for a certificate of authorization.

On November 20, 1992, Gem filed an application for a certificate of authorization as an existing utility charging for service. On May 2, 1993, Gem served notice of its application by U.S. Mail. On May 20, 27, and June 3, 1993, Gem published notice of its application in the Zephyrhills News. On May 7, 1993, a number of Gem's customers filed an objection to Gem's application. Accordingly, this matter was set for an administrative hearing, which is currently scheduled to be held on September 2, 1994.

On March 14, 1994, Gem filed a motion to dismiss the residents' objections. The gist of Gem's motion is that the objectors failed to provide a statement of all known disputed issues of fact, a statement of the ultimate facts alleged as well as the statutes and/or rules which entitle the objectors to relief,

COMM. FILE NO. 94-0838

06847 JUL 11 5

COMM. FILE NO. 94-0838

ORDER NO. PSC-94-0838-FOF-WU  
DOCKET NO. 921206-WU  
PAGE 2

or a demand for relief, as required by Rule 25-22.036, Florida Administrative Code.

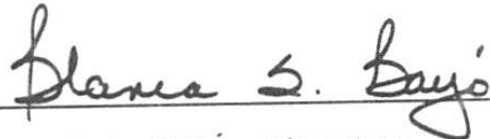
On March 24, 1994, the objectors filed a response to Gem's motion to dismiss, along with an amended objection. In their amended objection, the objectors question the financial and technical ability of Gem to provide quality water service. They also suggest that the proximity of Gem's wells to the residents' septic tanks and the lack of fire protection pose potential health and safety risks. The objectors further allege that they would be better served by the City of Zephyrhills. Accordingly, the objectors suggest that it would not be in the public interest to grant Gem's application for a certificate.

Since, in their amended petition, the objectors have raised issues concerning their health and safety, as well as the financial and technical ability of Gem to provide quality service, Gem's motion to dismiss is, essentially, rendered moot. Accordingly, it is denied.

It is, therefore,

ORDERED by the Florida Public Service Commission that the motion to dismiss filed by Gem Estates Utility, Inc. is denied.

By ORDER of the Florida Public Service Commission, this 11th day of July, 1994.



BLANCA S. BAYÓ, Director  
Division of Records and Reporting

( S E A L )

RJP

ORDER NO. PSC-94-0838-FOF-WU  
DOCKET NO. 921206-WU  
PAGE 3

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.

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 25-22.038(2), 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.