

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Request for exemption) DOCKET NO. 950508-WS
from Florida Public Service) ORDER NO. PSC-95-1130-FOF-WS
Commission regulation for) ISSUED: September 8, 1995
provision of water and)
wastewater service in Duval)
County by Oaks at Mill Creek)
Limited Partnership, d/b/a/ Oaks)
at Mill Creek.)
_____)

ORDER INDICATING EXEMPT STATUS
OF OAKS AT MILL CREEK AND CLOSING DOCKET

BY THE COMMISSION:

On May 1, 1995, pursuant to Section 367.022(8), Florida Statutes, an application for a reseller exemption from regulation by this Commission was filed on behalf of Oaks at Mill Creek (the Oaks or the apartment complex). The Oaks is an existing 360-unit apartment complex. The complex, which consists of 17 buildings, is located at 653 Monument Road, Jacksonville, Florida 32225. Mr. John S. Ranney, Director of Operations for Envirotech, Utility Management Services (Envirotech), was authorized to act on behalf of the Oaks with regard to the application for reseller exemption, and he has been designated as the primary contact person. His address is c/o Envirotech, 1502 Roberts Drive, Jacksonville Beach, Florida 32250.

Upon request and sufficient proof, the Commission will issue an order indicating the nonjurisdictional or exempt status of water or wastewater systems if they qualify under the appropriate provisions of Chapter 367, Florida Statutes. The application was filed in accordance with Section 367.022(8), Florida Statutes, and Rule 25-30.060(1), (2), and (3)(h), Florida Administrative Code.

Section 367.022(8), Florida Statutes, states, in part, that "[a]ny person who resells water or wastewater service at a rate or charge which does not exceed the actual purchase price thereof," and who complies with certain reporting requirements, is exempt from Commission regulation. According to the application, service is provided at a charge that does not exceed the actual purchase price. By signing the application for the owners, Mr. Ranney has acknowledged that the owners are aware of the requirements of Rule 25-30.111, Florida Administrative Code, regarding annual reporting requirements, as well as the requirements of Section 367.122, Florida Statutes, and Rules 25-30.262 through .267, Florida Administrative Code, relating to the examination and testing of

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meters. Furthermore, Mr. Ranney has acknowledged that he is aware of the penalty pursuant to Section 837.06, Florida Statutes, for knowingly making false statements in writing with the intent to mislead.

Water and wastewater service to the apartment complex is provided through a 2-inch meter by Regency Utilities (Regency). However, Regency's rate structure cannot be used to determine the resale rate since the apartment complex does not intend to retrofit the apartment units with individual meters. According to the revised billing methodology provided by Mr. Ranney in his letter dated June 3, 1995, the apartment complex intends to resell water and wastewater services at a flat rate per apartment unit based on the total combined usage for all residents.

Envirotech will do the billing for the apartment complex. According to Envirotech's service agreement, the meters will be read on a monthly basis and Envirotech will bill the residents for water and wastewater on the same monthly cycle for the Oaks. The combined total of all meters, exclusive of common area and overflow meters, will be divided equally among the 360 apartment units. Mr. Ranney has stated in the application, that there will be no administrative fees, processing fees, or miscellaneous charges assessed the residents.

Based on the facts as represented, we find that Oaks at Mill Creek Limited Partnership, Inc., d/b/a Oaks at Mill Creek, is exempt from Commission regulation as a reseller pursuant to Section 367.022(8), Florida Statutes. In the event of any change of circumstances or method of operation, the owner of Oaks at Mill Creek, or any successors in interest, must inform the Commission within thirty (30) days of such change so its exempt status may be reevaluated.

The Oaks proposes to collect a \$30.00 refundable deposit from its residents. This deposit is for security reasons only and will be kept separate from all other accounts a resident may have with the apartment complex. Regency currently charges residential customers a \$10.00 security deposit. However, multi-family accounts, like the Oaks, are charged an amount equal to the estimated water and wastewater charge for three billing periods, or \$10.00, whichever is greater. Using the monthly bills for March, 1995, the security deposit required for the entire apartment complex would be \$21,816 (\$7,272 x 3 months). Dividing by 360 units, the flat rate per unit would be \$60.60 which exceeds the proposed charge of \$30.00.

Based on the foregoing, it is, therefore,

ORDERED by the Florida Public Service Commission that, based upon the facts as represented, Oaks at Mill Creek Limited partnership, d/b/a Oaks at Mill Creek, 653 Monument Road, Jacksonville, Florida 32225, is hereby exempt from Commission regulation pursuant to the provisions of Section 367.022(8), Florida Statutes. It is further

ORDERED that should there be any change in circumstances or method of operation, the owner of Oaks at Mill Creek, or any successors in interest, shall inform the Commission within 30 days of such a change so that we may reevaluate its exempt status. It is further

ORDERED that Docket No. 950508-WS is hereby closed.

By ORDER of the Florida Public Service Commission, this 8th day of September, 1995.

BLANCA S. BAYÓ, Director
Division of Records and Reporting

by: Kay Flynn
Chief, Bureau of Records

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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.

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 Director, Division of Records and Reporting, 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 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 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.