

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Request for exemption from )  
Florida Public Service Commission )  
regulation for a water system in Lake )  
County by Silver Oaks Subdivision )  
)

DOCKET NO. 910736-WU  
ORDER NO. 25097  
ISSUED: 9/24/91

The following Commissioners participated in the disposition of this matter:

THOMAS M. BEARD, CHAIRMAN  
SUSAN F. CLARK  
J. TERRY DEASON  
BETTY EASLEY  
MICHAEL MCK. WILSON

NOTICE OF PROPOSED AGENCY ACTION

ORDER DENYING EXEMPTION FROM  
FLORIDA PUBLIC SERVICE COMMISSION REGULATION

AND

REQUIRING FILING OF APPLICATION FOR CERTIFICATE

BY THE COMMISSION:

NOTICE IS HEREBY GIVEN by the Florida Public Service Commission that the actions discussed herein are preliminary in nature, and as such, 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.

On July 1, 1991, we received an application from Silver Oaks Subdivision (Silver Oaks or Utility) for an exemption from Florida Public Service Commission regulation under Section 367.022(6) for its water system in Lake County. Silver Oaks is a 38 lot residential subdivision. It is presently providing service to five homes without compensation. In Docket No. 900712-WU, Southern States Utilities had filed an application to amend its Lake County Certificate to include the Silver Oaks system. However, the application was withdrawn when Southern States decided not to acquire the system. At that point, Silver Oaks was instructed to file for either an original certificate or an exemption by July 1, 1991.

As part of this application, Silver Oaks submitted a letter from the Department of Environmental Regulation (DER) verifying the utility's plant capacity. This letter indicates that the maximum daily rated design capacity of the water plant is 122,000 gallons

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per day which could serve up to 155 equivalent residential connections (ERCs).

Upon request and sufficient proof, this Commission will issue an order indicating the nonjurisdictional or exempt status of water or wastewater utilities if they qualify under the appropriate section of Chapter 367, Florida Statutes. As previously stated, the utility seeks recognition of its exempt status under Section 367.022(6), Florida Statutes, which provides for an exemption from Florida Public Service Commission regulation for "systems with the capacity or proposed capacity to serve 100 or fewer persons." In addition, Rule 25-30.055(1), Florida Administrative Code, provides that:

A water or sewer system is exempt under Section 367.022(6), Florida Statutes, if its current or proposed water or sewage treatment facilities and distribution or collection system have and will have a capacity, excluding fire flow capacity, of no greater than 10,000 gallons per day or if the entire system is designed to serve no greater than 40 equivalent residential connections (ERCs). For purposes of this rule only, an ERC equals 250 gallons per day.

Since Silver Oak's plant capacity is well in excess of 10,000 gallons per day and could serve up to 155 ERCs, we find that Silver Oaks does not qualify for an exemption from Commission regulation pursuant to Section 367.022(6), Florida Statutes. The request for exemption is hereby denied. In addition, we direct Silver Oaks to file an application for original certificate within ninety (90) days of the date of this Order. Further, since Silver Oaks is presently providing service without compensation, it shall not implement any rates or charges pending finalization of a certification docket.

Based on the foregoing, it is, therefore

ORDERED by the Florida Public Service Commission that the provisions of this Order are issued as proposed agency action and shall become final, unless a person whose interests are substantially affected files an appropriate petition in the form provided by Rule 25-22, Florida Administrative Code, with the Director, Division of Records and Reporting at his office at 101 East Gaines Street, Tallahassee, Florida 32399-0870, by the date

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set forth in the Notice of Further Proceedings or Judicial Review.  
It is further

ORDERED that the request for an exemption from Commission regulation by Silver Oaks Subdivision for its water system in Lake County, Florida is hereby denied. It is further

ORDERED that Silver Oaks Subdivision shall submit an application for original certificate within ninety (90) days of the date of this Order. It is further

ORDERED that Silver Oaks cannot implement any rates or charges pending finalization of its certification docket.

ORDERED that this docket shall be closed if no timely protest is received from a substantially affected person.

By ORDER of the Florida Public Service Commission this 24th  
day of SEPTEMBER, 1991.

  
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STEVE TRIBBLE, Director  
Division of Records and Reporting

(S E A L)

LAJ

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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 10/15/91.

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 sewer 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.

**MEMORANDUM**

**September 23, 1991**

**TO : DIVISION OF RECORDS AND REPORTING**  
**FROM : DIVISION OF LEGAL SERVICES (JABER) *JABER***  
**RE : DOCKET NO. 910736-WU - REQUEST FOR EXEMPTION FROM FLORIDA  
PUBLIC SERVICE COMMISSION REGULATION FOR A WATER SYSTEM  
IN LAKE COUNTY BY SILVER OAKS SUBDIVISION**

*25097*

Attached is a Notice of Proposed Agency Action Order Denying Exemption from Florida Public Service Commission Regulation and Requiring Filing of Application for Certificate in the above-referenced docket, consisting of -4- pages, which is ready to be issued.

LAJ/lp  
cc: Division of Water and Sewer

*Protests  
due 10/15/91*

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