

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Request for Exemption ) DOCKET NO. 921312-WS  
from Florida Public Service ) ORDER NO. PSC-93-0873-FOF-WS  
Commission Regulation for ) ISSUED: June 9, 1993  
Provision of Water and )  
Wastewater Service in Okaloosa )  
County by DESTIN WATER USERS, )  
INC. )  
\_\_\_\_\_ )

ORDER INDICATING THE EXEMPT STATUS OF  
DESTIN WATER USERS, INC.

BY THE COMMISSION:

On December 24, 1992, Destin Water Users, Inc. (Destin) filed its request for exemption from Commission regulation pursuant to Section 367.022(7), Florida Statutes. Destin is located in Okaloosa County. Its treatment plant is situated at Industrial Park Lane and its office is located at 135 Benning Drive, Destin, Florida 32540. The corporation's contact person Erik T. Smith, General Manager, whose mailing address is P. O. Box 308, Destin, Florida 32540, filed the application on behalf of the applicant.

Destin requested that it be found exempt pursuant to Section 367.022(7) of Chapter 367, Florida Statutes. In addition, Destin filed its application in accordance with Rule 25-30.060(3)(g), Florida Administrative Code. In order to comport with the statute and rule, Destin amended its Articles of Incorporation to clearly state that members only will be served and its By-Laws to reflect that members' voting rights are one vote per unit of ownership.

In its application Destin states that it is a nonprofit corporation, that it provides water and wastewater services solely to its members who own and control it, and that it will provide its own billing. Destin is a major provider of water and wastewater services and currently provides these services to most of the City of Destin and some of the surrounding unincorporated area in Okaloosa County. Ownership of the utility facilities was provided by a Warranty Deed.

In addition, the application form states that pursuant to Section 837.06, Florida Statutes, anyone knowingly making a false statement in writing with the intent to mislead is guilty of a misdemeanor. By signing the application, Erik T. Smith acknowledged that he is aware of Section 837.06, Florida Statutes, and the penalties for making false statements in the application.

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Section 367.022(7), Florida Statutes, states that nonprofit corporations, associations, or cooperatives providing service solely to members who own and control such nonprofit entities are exempt from Commission regulation. Based upon the facts as represented, we find that Destin is exempt from our regulation under the terms of Section 367.022(7), Florida Statutes. However, should there be any change in circumstances of Destin, a representative of the applicant must inform the Commission within thirty days of such change, so that we may determine whether exempt status is still appropriate.

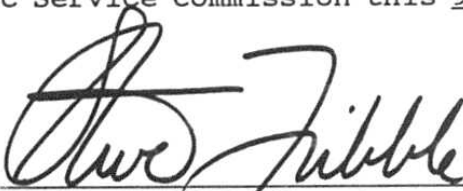
It is, therefore,

ORDERED by the Florida Public Service Commission that, based upon the facts as represented, Destin Water Users, Inc., located at c/o Mr. Erik T. Smith, P. O. Box, Destin, Florida 32540 is hereby exempt from Commission regulation pursuant to the terms of Section 367.022(7), Florida Statutes. It is further

ORDERED that should there be any change in circumstances of Destin, a representative of the applicant shall inform the Commission within thirty days of such change so that we may reevaluate the applicant's exempt status. It is further

ORDERED that this docket is closed.

By ORDER of the Florida Public Service Commission this 9th day of June, 1993.

  
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STEVE TRIBBLE, Director  
Division of Records and Reporting

( S E A L )

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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 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 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 after the issuance of this order, pursuant to Rule 9.110, Florida Rules of Civil Procedure. The notice of appeal must be in the form specified in Rule 9.900 (a), Florida Rules of Appellate Procedure.