

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Request for Exemption) DOCKET NO. 940150-WS
from Florida Public Service) ORDER NO. PSC-94-0503-FOF-WS
Commission Regulation for) ISSUED: April 27, 1994
Provision of Water and)
Wastewater Service in Marion)
County by SILVER SPRINGS)
REGIONAL WATER & SEWER, INC.)
_____)

The following Commissioners participated in the disposition of this matter:

J. TERRY DEASON, Chairman
SUSAN F. CLARK
JULIA L. JOHNSON
DIANE K. KIESLING
LUIS J. LAUREDO

ORDER INDICATING THE EXEMPT STATUS OF
SILVER SPRINGS REGIONAL WATER & SEWER, INC.

BY THE COMMISSION:

On February 10, 1994, Silver Springs Regional Water & Sewer, Inc., (Silver Springs or utility) filed a request for recognition of its exemption from Commission regulation pursuant to Section 367.022(7), Florida Statutes. Silver Springs is located at 5751 East Silver Springs Boulevard, Silver Springs, Florida 34488. E. L. Foster, the utility's President and primary contact person filed the application on behalf of Silver Springs.

Silver Springs requested that it be found exempt pursuant to Section 367.022(7) of Chapter 367, Florida Statutes. Under this section, "[N]onprofit corporations, associations, or cooperatives" are exempt from Florida Public Service Commission regulation. In addition, Rule 25-30.060(3)(g), Florida Administrative Code, states:

For an exemption pursuant to Section 367.022(7), Florida Statutes, a statement from the corporation, association, or cooperative that it is nonprofit; that it provides service solely to members who own and control it; stating whether it provides water service, wastewater service or both; specifying who will do the billing for such service; and specifying the service area. The applicant must submit its articles of incorporation as filed with

DOCUMENT NUMBER-DATE

03943 APR 27 8

FPSC-RECORDS/REPORTING

the Secretary of State and its bylaws, which documents must clearly show the requirements for membership, that the members' voting rights are one vote per unit of ownership, and the circumstances under which control of the corporation passes to the non-developer members. Control of the corporation must pass: 1) at 51 percent ownership by the non-developer members or, 2) at some greater percentage delimited by a time period not to exceed 5 years from the date of incorporation. The applicant must provide proof of ownership of the utility facilities and the land upon which the facilities will be located or other proof of its right to continued use of the land, such as a 99-year lease....

In its application, the Association stated that it is a nonprofit corporation organized pursuant to Chapter 617, Florida Statutes, that it will provide service solely to its members who own and control it, and that the Association will provide water and wastewater service for which it will provide its own billing. The service area is specified as Silver Springs, Florida, as designated in a franchise agreement with the Marion County Board of County Commissioners.

Silver Springs is unable to provide a recorded warranty deed showing ownership of the land upon which the utility facilities are located until Marion County approves the platting. Because the platting can not be approved until the Department of Environmental Protection (DEP) issues the permit to construct and because DEP will not issue its permit until the utility receives an exemption from the Commission, we are granting this exemption with the proviso that the utility provide a recorded warranty deed within 60 days.

In addition, pursuant to Section 837.06, Florida Statutes, and Rule 25-30.060(2)(f), Florida Administrative Code, anyone knowingly making a false statement in writing with the intent to mislead is guilty of a misdemeanor. By signing the application, Mr. Foster acknowledged that he is aware of Section 837.06, Florida Statutes, and the penalties for making false statements in the application.

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 Silver Springs is exempt from Commission regulation pursuant to the provisions of Section 367.022(7), Florida Statutes. However, should there be any change in circumstances or method of operation, a representative of the

ORDER NO. PSC-94-0503-FOF-WS
DOCKET NO. 940150-WS
PAGE 3

Association must inform the Commission within thirty days of such change, so that we may reevaluate Silver Springs' exempt status.

It is, therefore,

ORDERED by the Florida Public Service Commission that, based upon the facts as represented, Silver Springs Regional Water & Sewer, Inc., 5751 East Silver Springs Boulevard, Silver Springs, Florida 34488, is hereby exempt from Commission regulation pursuant to the provisions of Section 367.022(7), Florida Statutes. It is further

ORDERED by the Florida Public Service Commission that Silver Springs Regional Water & Sewer, Inc., provide us with a copy of the recorded warranty deed reflecting ownership of the land upon which the utility facilities are located within 60 days of the date of this Order. It is further

ORDERED that should there be any change in circumstances of or method of operation, a representative of Silver Springs Regional Water & Sewer, Inc., shall inform the Commission within thirty days of such change so that Silver Springs' exempt status may be reevaluated.

By ORDER of the Florida Public Service Commission, this 27th day of April, 1994.

BLANCA S. BAYÓ, Director
Division of Records and Reporting

by: Kay Flynn
Chief, Bureau of Records

(S E A L)

MSN

ORDER NO. PSC-94-0503-FOF-WS
DOCKET NO. 940150-WS
PAGE 4

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.