

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Application for ) DOCKET NO. 921206-WU  
certificate to provide water ) ORDER NO. PSC-94-0753-PCO-WU  
service in Pasco County by GEM ) ISSUED: June 20, 1994  
ESTATES UTILITY COMPANY. )  
\_\_\_\_\_ )

ORDER DENYING MOTION TO LIMIT NUMBER  
OF COPIES SERVED AND TO REQUIRE  
COMPLIANCE WITH SECTION 25-22.008, F.A.C.

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 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 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 substantial number of Gem's customers filed an objection to Gem's application.

On March 14, 1994, Gem filed a motion to dismiss the residents' objections. 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 suggested that all further pleadings and correspondence should only be sent to three specifically named objectors; Charles and Joan Newland, and Stephen Monsulick.

On April 19, 1994, Gem filed a "Motion to Limit Number of Copies Served and to Require Compliance With Section (sic) 25-22.008, F.A.C." Gem argues that it does not appear that any of the named objectors are either Class A or Class B practitioners. Gem argues that, since the objectors are not represented, they must be

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representing themselves. As such, Gem argues that the Commission's rules would require all pleadings, correspondence, testimony, and exhibits to be served upon all parties of record, which then numbered approximately 55. Gem contends that such a service requirement is unduly burdensome and expensive. Accordingly, Gem moves the Commission to limit the number of copies served and to require the objectors to retain either a Class A or a Class B practitioner.

On May 2, 1994, the objectors responded to Gem's motion. The response consisted of a short written response to Gem's allegations, along with a notice of appearance of counsel. In other words, the objectors are now represented by a Class A practitioner, who is now solely responsible for receiving copies of pleadings and other documents. Accordingly, Gem's motion is moot. It is, therefore, denied.

Based upon the foregoing, it is

ORDERED by Commissioner Susan F. Clark, as Prehearing Officer, that the Motion to Limit Number of Copies Served and to Require Compliance With Section 25-22.008, F.A.C., filed by Gem Estates Utilities, Inc. is denied.

By ORDER of Commissioner Susan F. Clark, as Prehearing Officer, this 20th day of June, 1994.

  
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SUSAN F. CLARK, Commissioner and  
Prehearing Officer

( S E A L )

RJP

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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 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.