

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Request for Exemption) DOCKET NO. 930292-WS
From Florida Public Service) ORDER NO. PSC-93-1468-FOF-WS
Commission Regulation for) ISSUED: October 7, 1993
Provision of Water and)
Wastewater Service in Okaloosa)
County by SOUTH WALTON UTILITY)
COMPANY, INC.)

ORDER INDICATING THE EXEMPT STATUS OF
SOUTH WALTON UTILITY COMPANY, INC.

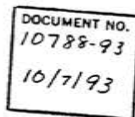
BY THE COMMISSION:

On March 18, 1993 South Walton Utility Company, Inc. (South Walton or utility) filed its request for exemption from Commission regulation pursuant to Section 367.022(7), Florida Statutes. South Walton is located at 5054 Highway 98 East, Destin, Florida 32541-4122. The corporation's contact person and General Manager, Peter E. DeBogory, P.E., filed the application on behalf of the applicant.

South Walton requested that it be found exempt pursuant to Section 367.022(7), Florida Statutes, and filed its application in accordance with Rule 25-30.060 (3) (g), Florida Administrative Code. 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. In order to comport with the statute and rule, South Walton amended its Articles of Incorporation to clearly state that members only will be served and its By-laws to reflect that each member shall have one vote for each certificate of membership.

In its application South Walton states that it is a nonprofit corporation, that it provides water service solely to its members who own and control it, and that it will provide its own billing. Further, South Walton stated it was formed to provide water and wastewater service to the service area located in the southeast portion of Okaloosa County. Proof of ownership of the land upon which the utility facilities are located 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, Peter E. DeBogory acknowledged that he is aware of Section 837.06, Florida Statutes, and the penalties for making false statements in the application.

Based upon the facts as represented, we find that South Walton is exempt from our regulation under the terms of Section 367.022(7), Florida Statutes. However, should there be any change in circumstances of South Walton, 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, South Walton Utility Company, Inc., located at 5054 Highway 98 East, Destin, Florida 32541-4122 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 South Walton, a representative of the utility shall inform the Commission within thirty days of such change so that we may reevaluate the utility's exempt status. It is further

ORDERED that this docket is closed.

By ORDER of the Florida Public Service Commission this 7th day of October, 1993.



STEVE TRIBBLE, Director
Division of Records and Reporting

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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.