

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Request for exemption) DOCKET NO. 940192-SU
from Florida Public Service) ORDER NO. PSC-94-1003-POF-SU
Commission regulation for) ISSUED: August 18, 1994
provision of sewer service and)
cancellation of Certificate No.)
213-S in Lee County by SPRING)
CREEK VILLAGE UTILITIES, LTD.)
_____)

The following Commissioners participated in the disposition of this matter:

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

NOTICE OF PROPOSED AGENCY ACTION
ORDER ACKNOWLEDGING INTERCONNECTION WITH BONITA SPRINGS,
RESULTING EXEMPT STATUS, AND CANCELLING CERTIFICATE

BY THE COMMISSION:

NOTICE IS HEREBY GIVEN by the Florida Public Service Commission that the action discussed herein is preliminary in nature and 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.

Background

Spring Creek Village Utilities, Ltd. (Spring Creek) is a Class C utility in Lee County providing water and wastewater service to approximately 303 customers. On February 23, 1994, pursuant to Section 367.022(8), Florida Statutes, Spring Creek filed an application requesting that its wastewater operation be acknowledged as exempt from the Commission's jurisdiction. Spring Creek also requested the cancellation of wastewater Certificate No. 213-S. However, Spring Creek will continue to provide water service to its customers pursuant to its water Certificate No. 271-W.

Spring Creek's application included a statement regarding the statutory and factual basis for the exemption. Pursuant to Section 367.122, Florida Statutes, Spring Creek also acknowledged its annual reporting requirements and its obligations regarding the examination and testing of meters. According to its 1993 Annual

DOCUMENT NUMBER-DATE

08437 AUG 18 94

FPSC-RECORDS/REPORTING

Report, Spring Creek's annual gross revenues were \$17,111 for water and \$8,018 for wastewater. Net operating losses were \$3,763 for water and \$8,344 for wastewater.

Spring Creek discontinued operation of its wastewater treatment facilities and interconnected with Bonita Springs Utilities (BSU) in July 1993 without seeking prior approval from the Commission. Spring Creek stated that it did not know that it had to obtain prior approval from the Commission. However, Spring Creek gave each customer advance notice of its intentions to interconnect with BSU along with an explanation for the increased rates that would follow its interconnection. Prior to its interconnection with BSU, Spring Creek charged 60% of its water bill with a minimum charge of \$3.50 and a maximum charge of \$8.00. BSU charges a residential base facility charge of \$14.94 and a gallonage charge of \$1.88 per 1,000 gallons. Neither the Commission, nor the utility has received any complaints about the interconnection, the increased rates, or the utility's quality of service. BSU waived its connection fee to Spring Creek conditional on Spring Creek's early interconnection, which saved Spring Creek's customers \$2,000 each in connection fees. Spring Creek's interconnection with BSU also reduces the risk of pollution by providing a central system which will result in more efficient and economical sewer service in the area.

Spring Creek is a member of the Bonita Springs Utility Cooperative, and Spring Creek is paying the same rates to BSU as it is charging its customers for wastewater service. Spring Creek will continue to own and maintain the wastewater collection lines and lift station, at no expense to its customers. In addition, Spring Creek will not pass on to its customers its administrative costs for providing service.

Spring Creek's application also contained a copy of its contractual agreement with BSU, and a copy of its customer notice discussing its interconnection with BSU. Spring Creek's contract states that BSU shall pay for the extension of its wastewater transmission main to a location abutting the Spring Creek property. Spring Creek shall pay for connecting with BSU's wastewater system transmission main. Further, in exchange for Spring Creek paying for the physical connection, BSU will not require Spring Creek's customers to pay service availability charges.

BSU's rate structure, which includes a flat base charge and a variable consumption charge for each thousand gallons of water, is similar to the base facility charge rate structure preferred by the Commission. We have determined that a show cause action against Spring Creek would not be meaningful or appropriate at this time.

Therefore, based on the above, we hereby grant Spring Creek its request for an exemption pursuant to Section 367.022(8), Florida Statutes, for its wastewater system and cancellation of its wastewater Certificate No. 213-S. Therefore, since no further action is required, this docket shall be closed, unless we receive a timely protest from a substantially affected person.

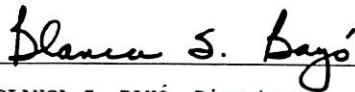
Based on the foregoing, it is, therefore,

ORDERED by the Florida Public Service Commission that the request for exemption from the Commission's regulation for provision of sewer service and cancellation of Certificate No. 213-S in Lee County by Spring Creek Village Utilities, Ltd., is hereby approved. It is further

ORDERED that all provisions of this Order are issued as proposed agency action and shall become final, unless an appropriate petition in the form provided by Rule 25-22.029, Florida Administrative Code, is received by the Director of Records and Reporting at her office at 101 East Gaines Street, Tallahassee, Florida 32399-0807, by the date set forth in the Notice of Further Proceedings below. It is further

ORDERED that, if no substantially affected person timely files a protest to this proposed agency action, this docket shall be closed.

By ORDER of the Florida Public Service Commission, this 18th day of August, 1994.



BLANCA S. BAYÓ, Director
Division of Records and Reporting

(S E A L)

ELS

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, 101 East Gaines Street, Tallahassee, Florida 32399-0870, by the close of business on September 8, 1994.

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 wastewater 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.