

STATE OF FLORIDA



COMMISSIONERS:
JULIE I. BROWN, CHAIRMAN
ART GRAHAM
RONALD A. BRISÉ
DONALD J. POLMANN
GARY F. CLARK

DIVISION OF ENGINEERING
TOM BALLINGER
DIRECTOR
(850) 413-6910

Public Service Commission

September 28, 2017

Mr. Eric Brown
Hilltop Grocery
14855 Mahan Drive
Tallahassee, FL 32309

Re: Docket No. 20170171-WS - Resolution of the Board of County Commissioners of Leon County declaring Leon County subject to the provisions of Section 367, Florida Statutes.

Dear Mr. Brown:

The Board of County Commissioners of Leon County (County) adopted Resolution No. R17-12 on June 20, 2017. The resolution transferred jurisdiction over privately-owned water and wastewater utilities in Leon County to the Florida Public Service Commission (FPSC or Commission), effective the date the County voted on the resolution. A copy of the Commission's order acknowledging the transfer of jurisdiction is provided as Enclosure 1.

The FPSC is a state agency which provides service regulation over the provision of service to utility customers, and economic regulation over a utility's rates and charges pursuant to Chapter 367, Florida Statutes (F.S.). Our jurisdiction is separate and distinct from the jurisdiction of the Florida Department of Environmental Protection and your local water management district. Section 367.021(12), F.S., states that "utility" means a water or wastewater utility and, except as provided in s. 367.022, includes every person, lessee, trustee, or receiver owning, operating, managing, or controlling a system, or proposing construction of a system, who is providing, or proposes to provide, water or wastewater service to the public for compensation.

Based on your conversation with Commission staff, it appears that Hilltop Grocery does not meet the definition of a utility in that it does not provide water or wastewater service to the public for compensation, and is, therefore, not subject to Commission regulation. Please provide a written response by October 27, 2017, affirming that Hilltop Grocery does not provide water or wastewater service to the public for compensation.

However, the owner of Hilltop Grocery or any successors in interest are put on notice that if there is any change in circumstance or method of operation which causes it to meet the definition of a utility, and if it does not qualify for exemption pursuant to Section 367.022, F.S. (Enclosure 2), it should inform the Commission within 30 days of such change so that its status may be reevaluated.

Mr. Eric Brown
September 28, 2017
Page 2

Please be advised that pursuant to Section 837.06, F.S., whoever knowingly makes a false statement in writing with the intent to mislead a public servant in the performance of his or her official duty shall be guilty of a misdemeanor of the second degree, punishable as provided in Sections 775.082 or 775.083, F.S.

Your response should include the docket number and be mailed to :

Director, Office of Commission Clerk
2540 Shumard Oak Blvd.
Tallahassee, FL 32399-0850

If you have any questions, please contact Mrs. Melinda Watts by phone at (850) 413-6952 or email at mwatts@psc.state.fl.us.

Sincerely,



Melinda Watts
Engineering Specialist
Division of Engineering

MW:tj

cc: Office of Commission Clerk (DN 20170171-WS)

Enclosures

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Resolution of the Board of County
Commissioners of Leon County declaring
Leon County subject to the provisions of
Section 367, Florida Statutes.

DOCKET NO. 20170171-WS
ORDER NO. PSC-2017-0357-FOF-WS
ISSUED: September 20, 2017

The following Commissioners participated in the disposition of this matter:

JULIE I. BROWN, Chairman
ART GRAHAM
RONALD A. BRISÉ
DONALD J. POLMANN

ORDER ACKNOWLEDGING RESOLUTION OF THE BOARD OF COUNTY
COMMISSIONERS OF LEON COUNTY DECLARING LEON COUNTY SUBJECT TO THE
PROVISIONS OF CHAPTER 367, FLORIDA STATUTES

BY THE COMMISSION:

Background

On June 20, 2017, the Board of County Commissioners of Leon County (County) passed and adopted Resolution No. R17-12 (Resolution, Attachment A), transferring regulation of the privately-owned, for profit water and wastewater utilities in the County to this Commission. Effective upon the adoption of the resolution, all non-exempt water and wastewater systems in the County became subject to the provisions of Chapter 367, Florida Statutes (F.S.). Therefore, the effective date of the transfer of jurisdiction is June 20, 2017. This Order addresses the acknowledgement of that Resolution. We have jurisdiction pursuant to Section 367.171, F.S.

Decision

On June 20, 2017, the Board of County Commissioners of Leon County passed and adopted Resolution No. R17-12, which transfers jurisdiction over the County's privately-owned water and wastewater utilities to this Commission. The Resolution contained a list of the privately-owned water and wastewater utilities, which were regulated by Leon County on June 20, 2017. In addition, Commission staff has contacted the County requesting information on each utility's current rates, charges, and territory served. Since they are now subject to Chapter 367, F.S., each utility must continue to collect the rates and charges for water and wastewater service, which were being collected on June 20, 2017, until changed by this Commission.

Commission staff has contacted the Florida Department of Environment Protection (DEP) to advise it of the Resolution, and to obtain a list of all privately-owned water and

wastewater facilities in Leon County, which the DEP monitors for environmental compliance. The utilities identified by the County and the DEP will receive a letter from Commission staff advising them of the transfer of jurisdiction and providing them with information to determine whether or not they are exempt from our regulation pursuant to Section 367.022, F.S.

Entities which are not exempt from our regulation will receive instruction for filing an application for grandfather certificates. The resulting applications will be processed in individual dockets. These applicants will also be advised of their responsibility to file an annual report for 2017, pursuant to Rule 25-30.110, Florida Administrative Code (F.A.C.), as well as their responsibility to remit Annual Regulatory Assessment Fees (RAFs) effective the date a certificate is issued pursuant to Rule 25-30.120, F.A.C. The applicants will also be advised of their right to file for a pass-through of RAFs, should they not be currently collecting RAFs, or if they are collecting a lesser amount than they would be paying to this Commission. Seminole Waterworks, Inc., one of the utilities now subject to our jurisdiction, filed for a grandfather certificate and pass-through RAFs in Docket No. 20170155-WU, *In re: Application for grandfather water certificate in Leon County and application for pass through increase of regulatory assessment fees, by Seminole Waterworks, Inc.*

Accordingly, we acknowledge Resolution No. R17-12 by the County Commissioners of Leon County, effective June 20, 2017. All non-exempt, privately-owned water and wastewater utilities in Leon County shall comply with the provisions of Chapter 367, F.S.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that Resolution No. R17-12 by the County Commissioners of Leon County declaring that the water and wastewater utilities in Leon County shall be subject to the provision of Chapter 367, Florida Statutes, effective June 20, 2017, is hereby acknowledged. It is further

ORDERED that all water and wastewater utilities in the Leon County are hereby directed to comply with Commission procedures as set forth in the body of this Order and Chapter 367, Florida Statutes. It is further

ORDERED that this docket shall be closed.

By ORDER of the Florida Public Service Commission this 20th day of September, 2017.

/s/ Hong Wang

HONG WANG

Chief Deputy Commission Clerk
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399
(850) 413-6770
www.floridapsc.com

Copies furnished: A copy of this document is provided to the parties of record at the time of issuance and, if applicable, interested persons.

DJ

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), 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 Office of Commission Clerk, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, 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 and/or wastewater utility by filing a notice of appeal with the Office of Commission Clerk, 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 Appellate Procedure. The notice of appeal must be in the form specified in Rule 9.900(a), Florida Rules of Appellate Procedure.

The 2017 Florida Statutes

Title XXVII
RAILROADS AND OTHER REGULATED UTILITIES

Chapter 367
WATER AND WASTEWATER SYSTEMS

367.022 Exemptions.—The following are not subject to regulation by the commission as a utility nor are they subject to the provisions of this chapter, except as expressly provided:

- (1) The sale, distribution, or furnishing of bottled water.
- (2) Systems owned, operated, managed, or controlled by governmental authorities, including water or wastewater facilities operated by private firms under water or wastewater facility privatization contracts as defined in s. 153.91, and nonprofit corporations formed for the purpose of acting on behalf of a political subdivision with respect to a water or wastewater facility.
- (3) Manufacturers providing service solely in connection with their operations.
- (4) Public lodging establishments providing service solely in connection with service to their guests.
- (5) Landlords providing service to their tenants without specific compensation for the service.
- (6) Systems with the capacity or proposed capacity to serve 100 or fewer persons.
- (7) Nonprofit corporations, associations, or cooperatives providing service solely to members who own and control such nonprofit corporations, associations, or cooperatives.
- (8) Any person who resells water or wastewater service at a rate or charge which does not exceed the actual purchase price of the water or wastewater.
- (9) Any person who resells water service to his or her tenants or to individually metered residents for a fee that does not exceed the actual purchase price of the water plus the actual cost of meter reading and billing, not to exceed 9 percent of the actual cost of service.
- (10) Wastewater treatment plants operated exclusively for disposing of industrial wastewater.
- (11) The sale of bulk supplies of desalinated water to a governmental authority.
- (12) Any person providing only nonpotable water for irrigation or fireflow purposes in a geographic area where potable water service is available from a governmentally or privately owned utility or a private well.
- (13) The sale for resale of bulk supplies of water or the sale or resale of wastewater services to a governmental authority or to a utility regulated pursuant to this chapter either by the commission or the county.

History.—s. 1, ch. 71-278; s. 3, ch. 76-168; s. 1, ch. 77-457; ss. 3, 25, 26, ch. 80-99; ss. 2, 3, ch. 81-318; ss. 3, 26, 27, ch. 89-353; s. 1, ch. 90-166; s. 4, ch. 91-429; s. 1, ch. 96-107; s. 10, ch. 96-202; s. 24, ch. 97-236; s. 4, ch. 99-319; s. 39, ch. 2002-296; s. 2, ch. 2016-226.