

STATE OF FLORIDA

ORIGINAL

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DIVISION OF WATER & WASTEWATER
CHARLES H. HILL
DIRECTOR
(850) 413-6900

Public Service Commission

May 7, 1998

Mr. Benjamin T. Shuman
611 N. Pine Hills Road
Orlando, Florida 32808

RE: Docket No. 980307-WS - Application for certificate to provide water and wastewater service in Orange County by Zellwood Station Co-op, Inc.

Dear Mr. Shuman:

Thank you for your letter filed with the Commission on April 23, 1998, which answered Mr. Ferguson's previous letter to you of March 30, 1998. Please be advised that your letter was placed in the docket file for this proceeding. I would also like to take this opportunity to answer some of the comments in your letter.

Subsequent to Mr. Ferguson's letter to you, a protest to this application was filed by Banbury Village Association, Inc. Based on that letter of protest, a hearing has been tentatively scheduled for December 16-18, 1998. At the beginning of the hearing, customers will have an opportunity to address the Commission on this docket. We expect that the issues you raised in your letter to be fully litigated at the hearing. You will receive notice of the hearing at the appropriate time.

Based upon information thus far reviewed, we believe that Zellwood Station Co-Op, Inc., was a utility already in existence, operating without a certificate. Therefore, pursuant to caselaw and Section 367.011, Florida Statutes, the Commission would have exclusive jurisdiction over Zellwood regarding authority, service, and rates. Your letter seems to take issue with Zellwood's ownership and operation of a public utility and whether or not Zellwood might qualify for exemption under Section 367.022, Florida Statutes. Since Zellwood evidently provides service to persons who are not members of the cooperative, that exemption may not apply. Your letter indicates that, as an attorney, you are quite familiar with the business nature of cooperative organizations.

Your letter indicates that you have elected to stand on certain "self-evident" facts relative whether or not Zellwood should be granted a certificate. You also indicate that you do not wish individually participate as an intervenor, but will join the objections of others. The question

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whether or not Zellwood qualifies for exemption will surely be examined as part of this proceeding. The information presented in your letter is helpful in this regard.

As a final note, you indicate that meter readings and corresponding customer billings would be preferable to Zellwood's proposal to rely upon flat charges absent excessive usage patterns. Your comments are well taken. Usually, this Commission prefers closely monitored metered usage to encourage conservation practices.

Again, thank you for your letter. We believe the issues you discuss in your letter will be fully examined during this proceeding. Please call if additional information is needed.

Sincerely,

A handwritten signature in black ink, appearing to read "CH Hill", written in a cursive style.

Charles H. Hill
Director

cc: Division of Water and Wastewater (Lowe, Messer, Walker, Redemann)
Division of Legal Services (Ferguson, Brubaker)
Division of Records and Reporting