

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Complaint and petition of)	DOCKET NO. 910589-WS
RS Properties, Inc. for emergency)	
relief from REGENCY UTILITIES,)	ORDER NO. 25795
INC.'s unlawful refusal to provide)	
service in Duval County)	ISSUED: 2/24/92

The following Commissioners participated in the disposition of this matter:

THOMAS M. BEARD, Chairman
SUSAN F. CLARK
J. TERRY DEASON
BETTY EASLEY
LUIS J. LAUREDO

FINAL ORDER RESOLVING COMPLAINT

BY THE COMMISSION:

BACKGROUND

RS Properties, Inc. (RS) is the developer of a proposed major department store and associated commercial tenant spaces (New Development). The New Development is to be constructed on the site of an existing commercial shopping mall located in Duval County, Florida. The existing mall was conveyed to RS on March 13, 1991, from Regency Square, a Florida general partnership. The existing mall, which receives water and wastewater services from Regency Utilities, Inc. (Regency), had been previously developed by the controlling owners of Regency. Regency is a Class B utility located in Duval County, Florida. The parties stipulate that during the period of common ownership by Regency, the utility provided service to the existing mall for twenty years without a utility agreement.

On May 10, 1991, RS filed a Complaint and Petition for Emergency Relief (Complaint) with this Commission against Regency pursuant to Rule 25-22.036, Florida Administrative Code. In its Complaint, RS requested that the Commission immediately enter an order requiring Regency to provide water and wastewater service to the New Development. RS asked that the Commission require Regency

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to enter into a utility agreement with RS to provide water and wastewater service to the New Development.

On October 15, 1991, this Commission deferred its consideration of RS' complaint to allow RS and Regency time to properly execute a utility agreement. Subsequently, on November 18, 1991, RS filed a Notice of Voluntary Dismissal (Notice). On January 8, 1991, RS submitted an executed copy of an Agreement with Regency. Upon review of the Agreement, our Staff suggested some changes. The parties modified the Agreement accordingly, and on January 8, 1992, submitted an executed copy of the revised Agreement.

The parties' modifications acknowledge that Regency will provide the New Development with water and wastewater services and that the term of Regency's 30 year lease is extended to 99 years. Also, the Agreement provides that Regency:

will not assess any charges or pass through costs to [RS], space tenants, or other customers within the Mall Property for the cost of the Replacement Work, Relocated Facilities or the New Facilities, unless specifically directed to assess such charges or pass through such costs by the Florida Public Service Commission or other governmental authority with jurisdiction that would be applicable to all of it (sic) customers pro rata and spread over its entire customer rate base.

Upon review, we find that the revised Agreement appears to be appropriate. Therefore, we hereby approve the revised Agreement. Since the Agreement between the parties in this case seems to be adequate, we also hereby acknowledge RS' Notice Of Voluntary Dismissal. As there is no need for further action, this docket shall be closed.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that the Complaint of RS Properties, Inc. against Regency Utilities, Inc., is hereby resolved as set forth in the body of this Order. It is further

ORDERED that this docket shall be closed.

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By ORDER of the Florida Public Service Commission, this 24th
day of FEBRUARY, 1992.

STEVE TRIBBLE, Director
Division of Records and Reporting

(S E A L)

NRF/SFS

by: Kay Ferguson
Chief, Bureau of Records

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 Appellate Procedure. The notice of appeal must be in the form specified in Rule 9.900 (a), Florida Rules of Appellate Procedure.