

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Request by HOVA, INC. for)
 Exemption from FPSC Regulation for)
 a sewer system in Citrus County)

DOCKET NO. 890813-SU
 ORDER NO. 21781
 ISSUED: 8-23-89

The following Commissioners participated in the disposition of this matter:

MICHAEL McK. WILSON, Chairman
 THOMAS M. BEARD
 GERALD L. GUNTER
 JOHN T. HERNDON

ORDER INDICATING THE EXEMPT STATUS
OF HOVA, INC.

BY THE COMMISSION:

HOVA, Inc. plans to construct a sewer facility to serve Homosassa Industrial Park, Inc. The service area of the proposed plant may also include an adjacent commercial shopping center and a proposed adjacent recreational vehicle park. However, before the nonprofit corporation will provide service to the commercial shopping center or the recreational vehicle park, the adjacent properties must join HOVA, Inc. Pursuant to Section 367.031, Florida Statutes, before the Department of Environmental Regulation (DER) will issue a construction permit, it requires either a certificate authorizing service or proof that the utility is not subject to the regulation of this Commission. Therefore, by letter and affidavit received June 20, 1989, HOVA, Inc. has requested recognition of its exempt status.

As a matter of practice, upon request and sufficient proof, the Commission will issue an order indicating the nonjurisdictional or exempt status of water or sewer facilities, if they qualify under the appropriate Section of Chapter 367, Florida Statutes. HOVA, Inc. requested recognition of its exempt status under Section 367.022(7), Florida Statutes.

DOCUMENT NUMBER-DATE
 08560 AUG 23 1989
 FPSC-RECORDS/REPORTING

ORDER NO. 21781
DOCKET NO. 890813-SU
PAGE 2

HOVA, Inc.'s affidavit, letters, amended Articles of Incorporation, Long-term Lease, By-Laws, amended By-Laws, and Minutes of the Organizational Meeting of the Board of Directors provide the documentation which establishes its exempt status.

HOVA, Inc. is a nonprofit corporation which was established to provide sewer service solely to its members. There are two ways in which a person or entity may become a member of HOVA, Inc. First, all lot owners in the Industrial park qualify for membership. Secondly, those persons granted a "capacity allotment" by the Board of Directors also qualify for membership. The "capacity allotment" provides a means for HOVA, Inc. to limit the quantity of sewer service provided to these members. Control passes to the members of HOVA, Inc. when 51 percent of the lots are sold. HOVA, Inc. is responsible for billing its members for sewer service.

HOVA, Inc. holds the proposed sewer facility and underlying land by a long-term lease. This lease provides that if Citrus County or any other local government is able to provide service to the members of HOVA, Inc., either party may terminate the agreement without penalty. The sewer facility will be located on the property of Homassa Industrial Park, Inc.

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. Based upon the facts as represented, we find that HOVA, Inc. is exempt from our regulation under the terms of Section 367.022(7), Florida Statutes. However, should there be any change in circumstances or method of operation, the owner of HOVA, Inc., or any successor(s) in interest, must inform the Commission within thirty days of any 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, HOVA, Inc., located at 255-1 SE 7th Avenue, Crystal River, Florida 32629, is hereby exempt from Commission regulation pursuant to the terms of

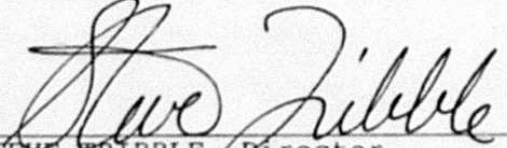
ORDER NO. 21781
DOCKET NO. 890813-SU
PAGE 3

Section 367.022(7), Florida Statutes. It is further

ORDERED that should there be any change in circumstances or method of operation of HOVA, Inc.'s sewer facility, the owner of HOVA, Inc., or any successor(s) in interest, shall inform the Commission within thirty days of such change. It is further

ORDERED that this docket be closed.

By ORDER of the Florida Public Service Commission
this 23rd day of AUGUST, 1989.


STEVE TRIBBLE, Director
Division of Records and Reporting

(S E A L)

MAB

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

ORDER NO. 21781
DOCKET NO. 890813-SU
PAGE 4

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.