

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Request for Exemption) DOCKET NO. 920628-WS
From Florida Public Service) ORDER NO. PSC-92-1182-POF-WS
Commission Regulation For) ISSUED: 10/19/92
Provision of Water and Waste-)
water Services in Columbia)
County by Villa Mobile Home)
Park.)
_____)

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

NOTICE OF PROPOSED AGENCY ACTION

ORDER DENYING REQUEST FOR EXEMPTION

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 adversely affected files a petition for a formal proceeding, pursuant to Rule 25-22.029, Florida Administrative Code.

On June 22, 1992, Villa Mobile Home Park (Villa) filed an application for exemption from Commission regulation. In its application, it requested that the Commission find it exempt as a small system, pursuant to Section 367.022(6), Florida Statutes. Villa provides water service to 34 mobile homes within the park; wastewater service is provided by private septic tanks.

According to Section 367.022(6), Florida Statutes, an entity with the "capacity or proposed capacity to serve 100 or fewer persons" is exempt from Commission regulation. Further, Rule 25-30.055, Florida Administrative Code, states that an entity is exempt

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if its current or proposed water or sewage treatment facilities and distribution or collection system have and will have a capacity, excluding fire flow capacity, of no greater than 10,000 gallons per day or if the entire system is designed to serve no greater than 40 equivalent residential connections (ERCs). For purposes of this rule only, one ERC equals 250 gallons per day.

Villa's capacity is 36,000 gallons per day, which equates to 144 ERCs. Also, the system could potentially provide service to new developments in the area. Therefore, Villa exceeds the maximum capacity allowed by Section 367.022(6), Florida Statutes.

Based on the facts as represented, we find that Villa's request for exemption from Commission regulation, pursuant to Section 367.022(6), Florida Statutes, as a small system, must be denied. However, since the lots within the mobile home park are rented to the residents, Villa may possibly qualify for exemption as a landlord/tenant, pursuant to Section 367.022(5), Florida Statutes. This exemption provision would be applicable if service is provided as a nonspecific portion of the rent.

Therefore, if Villa meets the requirements of Section 367.022(5), Florida Statutes, it shall file an application for a landlord/tenant exemption within 90 days of the effective date of this Order. Should Villa fail to qualify for exemption under that Section, it shall file an application with this Commission for an original certificate within 90 days of the effective date of this Order.

It is, therefore,

ORDERED by the Florida Public Service Commission that the request of Villa Mobile Home Park, Route 10, Box 337, Lake City, Florida 32055, for exemption from Commission regulation pursuant to Section 367.022(6), Florida Statutes, as a small system, is hereby denied. It is further

ORDERED that, depending upon Villa Mobile Home Park's situation, as set forth in the body of this Order, it shall file either an application for a landlord/tenant exemption, pursuant to Section 367.022(5), Florida Statutes, or an application for an original certificate within 90 days of the effective date of this Order. It is further

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ORDERED that the provisions of this Order, issued as proposed agency action, shall become final and effective unless an appropriate petition, in the form provided by Rule 25-22.036, Florida Administrative Code, is received by the Director, Division of Records and Reporting, 101 East Gaines Street, Tallahassee, Florida 32399-0870, by the close of business on the date set forth in the "Notice of Further Proceedings or Judicial Review" attached hereto. It is further

ORDERED that in the event this Order becomes final, this Docket shall be closed.

By ORDER of the Florida Public Service Commission this 19th day of October, 1992.



STEVE TRIBBLE Director
Division of Records and Reporting

(S E A L)

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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.

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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 at his office at 101 East Gaines Street, Tallahassee, Florida 32399-0870, by the close of business on November 9, 1992.

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.