

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Request for Exemption) DOCKET NO. 921055-WS
from Florida Public Service) ORDER NO. PSC-96-1316-POF-WS
Commission Regulation for) ISSUED: October 29, 1996
Provision of Water and)
Wastewater Service in St. Lucie)
County by The Grove Community)
Association, Inc.)
_____)

ORDER INDICATING THE EXEMPT STATUS OF THE GROVE
COMMUNITY ASSOCIATION, INC. AND CLOSING DOCKET

BY THE COMMISSION:

On October 12, 1992, The Grove Community Association, Inc. (Grove or Association) filed a request for recognition of its exempt status, pursuant to Section 367.022(7), Florida Statutes, and Rule 25-30.060(3), Florida Administrative Code, as a corporation providing service solely to its members. Grove is located at 200 Sunshine Boulevard, Ft. Pierce, Florida. Grove provides water and wastewater service to its members in St. Lucie County. Mr. Joel F. Wynne, President, and primary contact person filed the application on behalf of Grove.

Upon request and sufficient proof, the Commission will issue an order indicating the exempt status of water or wastewater systems if they qualify under the appropriate provision of Section 367.022, Florida Statutes. Section 367.022(7), Florida Statutes, states that nonprofit corporations, associations, or cooperatives providing service solely to members who own and control such nonprofit corporations, associations, or cooperatives are not subject to regulation by the Commission as a utility, nor subject to the provisions of Chapter 367, Florida Statutes, except as expressly provided.

Grove initially had difficulty in complying with the provision of Rule 25-30.060(3)(g), Florida Administrative Code, which required that the association be owned and controlled by its members. At the time of the filing, the rule required, *inter alia*, that control of the association must pass: 1) at 51 percent ownership by the non-developer members, or 2) at some greater percentage delimited by a time period not to exceed five years from the date of incorporation.

At the time of Grove's filing, revisions to Rule 25-30.060, Florida Administrative Code, were being considered. We have now

DOCUMENT NUMBER-DATE

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amended Rule 25-30.060(3)(g) to allow utilities to provide documentation that control has passed, or the circumstances under which control will pass to nondeveloper members. The rule also requires that the time not exceed seven years from the date of incorporation. By Order No. PSC-96-0134-FOF-WS, issued January 30, 1996, we gave notice of our adoption of the revisions to that rule. We find it appropriate to review Grove's application pursuant to the revised rule, and find that the applicant is in compliance with Section 367.022(7), Florida Statutes, and the revised provisions of Rule 25-30.060, Florida Administrative Code. Specifically, the application includes a statement that Grove will provide water service solely to members who own and control it. Control of the Association passed from the developer to the non-developer members on September 5, 1996. The Association was formed pursuant to Chapter 617, Florida Statutes. Therefore, pursuant to Rule 25-30.060(3)(g)(3), it has provided its articles of incorporation as filed with the Secretary of State, its bylaws, and a description of the voting rights and their location in the articles of incorporation and the bylaws. Each customer of Grove receives one vote.

In addition, pursuant to Section 837.06, Florida Statutes, and Rule 25-30.060(2)(f), Florida Administrative Code, anyone knowingly making a false statement in writing with the intent to mislead is guilty of a misdemeanor. By signing the application, Mr. Wynne acknowledged that he/she is aware of Section 837.06, Florida Statutes, and the penalties for making false statements in the application.

Based on the facts as represented, we find that Grove is exempt from our regulation pursuant to Section 367.022(7), Florida Statutes. However, the owner of Grove or any successors in interest are hereby put on notice that if there is any change in circumstances or method of operation, which causes it to no longer qualify for exemption pursuant to Section 367.022, Florida Statutes, it should inform this Commission within 30 days of such change so that its status may be reevaluated.

It is, therefore,

ORDERED by the Florida Public Service Commission that, based upon the facts as represented, The Grove Community Association, Inc., 8000 South U.S. Highway No. 1, Suite 402, Port St. Lucie, Florida 34952, is hereby exempt from Commission regulation pursuant to the provisions of Section 367.022(7), Florida Statutes. It is further

ORDERED that this docket shall be closed.

ORDER NO. PSC-96-1316-FOF-WS
DOCKET NO. 921055-WS
PAGE 3

By ORDER of the Florida Public Service Commission, this 29th
day of October, 1996.

BLANCA S. BAYÓ, Director
Division of Records and Reporting

by: Kay Flynn
Chief, Bureau of Records

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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.

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, 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 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.