

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Request for exemption from)	DOCKET NO. 911076-WU
Florida Public Service Commission)	
regulation for a water utility in)	ORDER NO. 25777
Citrus County by FLORAL CITY WATER)	
ASSOCIATION, INC.)	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

ORDER INDICATING THE EXEMPT STATUS OF
 FLORAL CITY WATER ASSOCIATION, INC.

BY THE COMMISSION:

Floral City Water Association, Inc. (Floral City or utility) is a nonprofit corporation organized pursuant to Chapter 617, Florida Statutes, and serves approximately 1,283 customers in Citrus County. On March 27, 1991, we contacted Floral City after receiving a customer complaint, which involved a \$700 tap-in fee Floral City assesses its customers. The utility claimed to be a non-profit association exempt from Commission regulation. By correspondence dated March 28, 1991, we informed Floral City that the Commission did not have any documentation indicating that the utility was exempt. At such time, we advised Floral City to file a formal request for an exemption from Commission regulation.

On May 14, 1991, we received Floral City's request for exemption as a non-profit association, pursuant to Section 367.022(7), Florida Statutes. With the request, Floral City submitted its Articles of Incorporation, Bylaws, an affidavit from its president, and a warranty deed.

Upon request and sufficient proof, the Commission will issue an order indicating the jurisdictional or exempt status of water or wastewater facilities, if they qualify under the the appropriate section of Chapter 367, Florida Statutes.

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Section 367.022(7), Florida Statutes, provides for an exemption from Commission regulation of "[n]on-profit corporations, associations, or cooperatives providing service solely to members who own and control such corporations, associations, or cooperatives." At the time of this filing, the criteria which an applicant must meet before an exemption can be granted include submitting an affidavit stating that: (1) the corporation is non-profit, providing service solely to members who own and control it; (2) whether it provides water service, wastewater service or both; and (3) specifying the service area. Additionally, the applicant must submit its Articles of Incorporation as filed with the Secretary of State and its Bylaws, which documents must clearly show the requirements for membership, the members' voting rights and the circumstances under which control passes to the non-developer members. Finally, the applicant must provide proof of its ownership of the utility facilities and the land upon which the facilities will be located.

By correspondence dated June 3, 1991, we informed Floral City that several areas in the utility's Articles of Incorporation needed clarification before we could determine whether Floral City qualified for exemption as a non-profit association. Floral City was asked to respond by June 28, 1991. On June 6, 1991, Floral City provided a response and informed us that it would take six weeks to have its Articles of Incorporation amended. On September 17, 1991, Floral City, after calling a Special Meeting with its members, filed with the Florida Department of State, the Amendment to the Articles of Incorporation. On September 23, 1991, we received Floral City's Amended Articles of Incorporation. In addition, Floral City submitted another affidavit which stated that it owned the utility facilities and the land upon which the facilities are located.

The affidavit filed by Floral City states that: Floral City is a non-profit corporation organized pursuant to Chapter 617, Florida Statutes; that it will provide water service solely to members of the corporation who own and control it; and that it will do the billing for such service. The utility facilities were not identified in the warranty deed; therefore, upon our request, Floral City submitted an affidavit which states that the utility owns the utility facilities and the land upon which the facilities are located.

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According to the Articles of Incorporation and Bylaws submitted by Floral City, every person who is a record owner of a fee or undivided fee interest in property, served by the water system, becomes a member of the corporation upon signing an agreement for the purchase of water. Further, each member shall have only one membership for each property or properties served, regardless of the number of service connections he may obtain.

Based on the facts as represented to us, we find that Floral City Water Association, Inc., qualifies under Section 367.022(7), Florida Statutes, as a non-profit association exempt from Commission regulation. In the event of any change in circumstances or method of operation that might affect its exempt status, Floral City, or its successor(s) in interest, shall inform the Commission within thirty (30) days of this change so that the exempt status may be reevaluated.

Further, based on past practices, we hereby find it appropriate to require Floral City to record this Order, with the Clerk of the Court for Citrus County. Such recordation will provide constructive notice to the public, as well as specific notice, to any potential purchaser, of the exempt status of the water utility in the Floral City subdivision.

Based on the foregoing, it is therefore,

ORDERED by the Florida Public Service Commission that Floral City Water Association, Inc., Post Office Box 597, Floral City, Florida, 32636, in Citrus County, is exempt from Commission regulation pursuant to Section 367.022(7), Florida Statutes. It is further

ORDERED that in the event of any change in circumstances or method of operation that might affect its exempt status, Floral City Water Association, Inc., or its successor(s) in interest, shall inform this Commission within thirty (30) days of this change so that the exempt status may be reevaluated. It is further

ORDERED that Floral City Water Association, Inc., record this Commission's Order with the Clerk of the Court for Citrus County. It is further

ORDERED that this docket 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

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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 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.