

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Application for Limited) DOCKET NO. 930635-SU
Proceeding Rate Increase for) ORDER NO. PSC-93-1294-FOF-SU
Wastewater Service in Lee County) ISSUED: September 7, 1993
by TAMIAMI VILLAGE UTILITY, INC.)
_____)

The following Commissioners participated in the disposition of this matter:

J. TERRY DEASON, Chairman
SUSAN F. CLARK
JULIA L. JOHNSON
LUIS J. LAUREDO

ORDER SUSPENDING PROPOSED RATES

BY THE COMMISSION:

Tamiami Village Utility, Inc. (TVU or utility) is a Class B water and wastewater utility in Lee County providing water and wastewater service to 717 residential customers and several commercial customers. On June 29, 1993, TVU filed the instant application for a limited proceeding to establish increased rates for wastewater service. According to the utility, the requested rate increase is necessary to comply with a Circuit Court Order requiring the utility to reduce the effluent level at its percolation ponds. In accordance with those instructions, TVU was ordered to remove the effluent by truck, if necessary, to maintain a prescribed two foot freeboard. The court also informed TVU that it should hire a professional engineer to evaluate the treatment facility and comply with the rules and regulations of the Florida Department of Environmental Protection (DEP).

In its application, TVU is requesting our approval of a 21 percent rate increase to recover effluent trucking and disposal costs, legal expenses, and repair charges. The utility contends that this rate increase is needed to comply with DEP directives concerning maintenance of a two foot freeboard.

Pursuant to Section 367.091(5), Florida Statutes, the utility may implement its proposed rates sixty (60) days after the date of filing unless this Commission first acts to withhold consent to implementation of those rates. Section 367.091(5), Florida Statutes, also states that this Commission must render its final decision within 8 months of the official date of filing.

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We have made an initial review of the utility's proposed water and wastewater rates, the amount of additional revenues sought, and the supporting data. In order to determine if the utility's requested charges are appropriate, we find it reasonable and necessary to require further explanation, amplification, and corroboration of the data filed by the utility. In consideration of the above, we therefore suspend the utility's proposed rates.

It is, therefore

ORDERED by the Florida Public Service Commission that the wastewater rates proposed by Tamiami Village Utility, Inc., are hereby suspended.

By ORDER of the Florida Public Service Commission this 7th day of September, 1993.



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 this order, which is preliminary, procedural or intermediate in nature, may request: (1) reconsideration within 10 days pursuant to Rule 25-22.038(2), Florida Administrative Code, if issued by a Prehearing Officer; (2) reconsideration within 15 days pursuant to Rule 25-22.060, Florida Administrative Code, if issued by the Commission; or (3) 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 wastewater utility. A motion for reconsideration shall be filed with the Director, Division of Records and Reporting, in the form prescribed by Rule 25-22.060, Florida Administrative Code. Judicial review of a preliminary, procedural or intermediate ruling or order is available if review of the final action will not provide an adequate remedy. Such review may be requested from the appropriate court, as described above, pursuant to Rule 9.100, Florida Rules of Appellate Procedure.

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Request For Exemption) DOCKET NO. 930811-WS
From Florida Public Service) ORDER NO. PSC-93-1295-FOF-WS
Commission Regulation For) ISSUED: September 7, 1993
Provision of Water and)
Wastewater Service in Pasco)
County by Orange Heights Mobile)
Home Park.)
_____)

ORDER INDICATING EXEMPT STATUS OF
ORANGE HEIGHTS MOBILE HOME PARK AND CLOSING DOCKET

BY THE COMMISSION:

On August 17, 1993, Orange Heights Mobile Home Park (Orange Heights or Park) filed an application with this Commission for recognition of its exempt status pursuant to Section 367.022(5), Florida Statutes. Orange Heights is a mobile home park located at 5912 Twin Bend Loop, New Port Richey, Florida. The Park has a well which is in such poor condition that it is operating on an emergency basis. Orange Heights is currently in the process of constructing a new well and a wastewater treatment plant that will provide service to 45 lots in the park. Mr. Robert D. Pius, Owner and primary contact person, filed the application on behalf of Orange Heights.

Upon request and sufficient proof, the Commission will issue an order indicating the nonjurisdictional or exempt status of water and wastewater facilities, if they qualify under the appropriate provision of Chapter 367, Florida Statutes. The application was filed in accordance with Section 367.022(5), Florida Statutes, and Rule 25-30.060(3)(e), Florida Administrative Code.

Section 367.022(5), Florida Statutes, states that an entity qualifies for exemption from Commission regulation if it provides service solely to its tenants, and there are no specific charges for the utility service. The application indicates that Orange Heights provides water and wastewater service only to its tenants and the service territory is limited to the mobile home park. Also, the water and wastewater service is included as a nonspecific portion of the monthly rent.

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

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guilty of a misdemeanor. By signing the application, Mr. Pius acknowledged that he is aware of Section 837.06, Florida Statutes, and the penalties for making false statements in the application.

Based upon the facts as represented, we find that Orange Heights is exempt from Commission regulation, pursuant to the provisions of Section 367.022(5), Florida Statutes. However, should there be any change in circumstances or method of operation, the owner of Orange Heights or any successor in interest must inform the Commission within 30 days of such change so that its exempt status may be reevaluated.

It is, therefore,

ORDERED by the Florida Public Service Commission that, based upon the facts as represented, Orange Heights Mobile Home Park, 3589 Fairway Forest Drive, Palm Harbor, Florida 34685, is exempt from Commission regulation, pursuant to the provisions of Section 367.022(5), Florida Statutes. It is further

ORDERED that should there be any change in circumstances or method of operation, the owner of Orange Heights Mobile Home Park or any successors in interest, shall inform this Commission within 30 days of such a change so that we may reevaluate Orange Heights' exempt status. It is further

ORDERED that this Docket is hereby closed.

By ORDER of the Florida Public Service Commission this 7th day of September, 1993.



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