

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Request for exemption) DOCKET NO. 930312-WS
for Florida Public Service) ORDER NO. PSC-93-1837-FOF-WS
Commission regulation for) ISSUED: December 27, 1993
provision of water and)
wastewater service in Palm Beach)
County by PALM LAKE APARTMENTS.)
_____)

The following Commissioners participated in the disposition of this matter:

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

ORDER INDICATING EXEMPT STATUS OF
PALM LAKE APARTMENTS AND CLOSING DOCKET

BY THE COMMISSION:

Pursuant to Section 367.022(8), Florida Statutes, and Rules 25-30.060(2) and 3(h), Florida Administrative Code, Palm Lake Apartments (Palm Lake) filed an application for a reseller exemption on March 22, 1993. Mr. Robert F. Oulton, president of H2Oulton Metering System, Inc. d/b/a Water and Sewer Services of Florida (WSS), is the agent and contact person for Palm Lake. Palm Lake's mailing address is c/o Mr. Robert F. Oulton, P.O. Box 5430, Lighthouse Point, Florida 33074-5430.

Palm Lake's service area is an 18 building apartment complex containing 283 units located at 4775 Via Palm Lake, West Palm Beach, Florida. The apartment complex receives water and wastewater service from the Palm Beach County Water Utilities. Previously the charge for water and wastewater was included nonspecifically in the rent. To promote water conservation and reduce the owner's costs for these services, Palm Lake contracted with H2Oulton Metering Services, Inc. d/b/a Water & Sewer Services of Florida (H2Oulton) to submeter each unit and begin billing for service based on actual consumption.

Upon request and sufficient proof, the Commission will issue an order indicating the nonjurisdictional or exempt status of water or wastewater systems if they qualify under the appropriate provision of Chapter 367, Florida Statutes. The application was filed in accordance with Section 367.022(8), Florida Statutes, and Rules 25-30.060(2) and (3)(h), Florida Administrative Code.

DOCUMENT NUMBER-DATE

13718 DEC 27 93

FPSC-RECORDS/REPORTING

Section 367.022(8), Florida Statutes, states, in part, that "[a]ny person who resells water or wastewater service at a rate or charge which does not exceed the actual purchase price thereof," and who complies with certain reporting requirements, is exempt from Commission regulation. According to Palm Lake's application, service is provided at a charge that does not exceed the actual purchase price. The Palm Beach County charges Palm Lake a base rate of \$3.85 and a gallonage rate of \$0.75 per 1,000 gallons for water; and a base rate of \$6.50 and a gallonage rate of \$1.00 per 1,000 gallons for wastewater. According to the application, Palm Lake will collect from its tenants only that amount billed by the County.

It should be noted, however, that the agent, H2Oulton, will collect a customer deposit which exceeds the amount of deposit the Palm Beach County collects from Palm Lake. Palm Beach County does not collect a deposit from Palm Lake due to its prior good payment record. According to the information provided, Palm Lake's agent will collect a combined water and wastewater deposit of \$60 per unit, which totals \$16,980. However, \$60 is the deposit amount charged by Palm Beach County to other residential customers with an individual meter. Although Palm Lake is collecting deposits which are in excess of that paid to Palm Beach County, we find that Palm Lake qualifies for exemption as a reseller pursuant to Section 367.022(8), Florida Statutes, as long as the amount of the deposit collected from the tenants of Palm Lake does not exceed the amount Palm Beach County would collect from the same tenants if each individual apartment was connected directly to the County system.

Palm Lake is aware of the requirements of Rule 25-30.111, Florida Administrative Code, which requires a reseller to file a report with the Commission each year indicating whether or not it has collected more than the amount paid by the reseller to the provider of service, and that it provides water and wastewater service only to the apartment complex.

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. Oulton acknowledged that he 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 Palm Lake is exempt from Commission regulation as a reseller pursuant to Section 367.022(8), Florida Statutes. In the event of any change of circumstances or method of operation, the owner of Palm Lake or any successors in interest, must inform the Commission within 30 days of such change so its exempt status may be reevaluated.

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It is, therefore,

ORDERED by the Florida Public Service Commission that, based upon the facts as represented, Palm Lake Apartments, c/o Robert F. Oulton, P. O. Box 5430, Lighthouse Point, Florida 33074-5430, is hereby exempt from Commission regulation pursuant to the provisions of Section 367.022(8), Florida Statutes. It is further

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

ORDERED that Docket No. 930312-WS is hereby closed.

By ORDER of the Florida Public Service Commission, this 27th day of December, 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.

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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.