

MEMORANDUM

Feb. 7
January 26, 1995

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FPSC-RECORDS/REPORTING

TO: DIVISION OF RECORDS AND REPORTING

FROM: DIVISION OF LEGAL SERVICES (SAGER *EJS* *JAT*)

RE: DOCKET NO. 941044-WS - Resolution of Board of Commissioners of Charlotte County declaring Charlotte County subject to provisions of Chapter 367, Florida Statutes - Request for exemption for provision of water and wastewater service by Gasparilla Mobile Estates

0171-FBF

Attached is an Order Indicating Exempt Status of Gasparilla Mobile Estates to be issued in the above-referenced docket. (Number of pages in Order -3)

ELS/dp

Attachment

cc: Division of Water and Wastewater (Coker)

I: 1044GASP.ES

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Resolution of Board of) DOCKET NO. 941044-WS
Commissioners of Charlotte) ORDER NO. PSC-95-0171-POF-WS
County declaring Charlotte) ISSUED: February 7, 1995
County subject to provisions of)
Chapter 367, Florida Statutes -)
Request for exemption for)
provision of water and)
wastewater service by Gasparilla)
Mobile Estates)

ORDER INDICATING EXEMPT STATUS OF GASPARILLA MOBILE ESTATES

BY THE COMMISSION:

On November 23, 1994, Gasparilla Mobile Estates (Gasparilla or utility) filed an application for a landlord-tenant exemption for its water and wastewater system, pursuant to Section 367.022(5), Florida Statutes. The utility's water and wastewater system is located approximately one-half mile northeast of Placida, Florida on Highway 771. Mr. Harold Whitcomb, the president and primary contact parson, filed the application on behalf of the utility.

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 the utility provides water and wastewater service only to its tenants and its service territory is limited to the area approximately one-half mile northeast of Placida. The water and wastewater service is included as a nonspecific portion of the monthly rent. The application also included a copy of the utility's most recent version of its standard lease.

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, the utility acknowledged that is aware of Section 837.06, Florida

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01367 FEB-78
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Statutes, and the penalties for making false statements in the application.

Based upon the facts as represented, we find that the utility 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 the utility, or any successor in interest, must inform the Commission within 30 days of such change so that its exempt status may be reevaluated.

Based on the foregoing, it is, therefore,

ORDERED by the Florida Public Service Commission that, based upon the facts as represented, Gasparilla Mobile Estates, 2001 Gasparilla Road, Placida, Florida 33946, is exempt from Commission regulation, pursuant to the provisions of Sections 367.022(5), Florida Statutes. It is further

ORDERED that should there be any change in circumstances or method of operation, the owner of the utility, or any successor in interest, must inform this Commission within 30 days of such change so that we may reevaluate Gasparilla Mobile Estates' exempt status. It is further

ORDERED that this docket shall remain open.

By ORDER of the Florida Public Service Commission, this 7th day of February, 1995.

BLANCA S. BAYO, Director
Division of Records and Reporting

by: Kay DeLeon
Chief, Bureau of Records

(S E A L)

ELS

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 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.