

MEMORANDUM

March 1, 1995

TO: DIVISION OF RECORDS AND REPORTING

FROM: DIVISION OF LEGAL SERVICES (SAGER) *ELS JH*

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 wastewater service by PARK POINTE WASTE WATER TREATMENT PLANT.

0272-FOF

Attached is an Order Indicating Exempt Status of Park Point Waste Water Treatment Plant to be issued in the above-referenced docket. (Number of pages in Order - 3)

ELS/dp

Attachment

cc: Division of Water and Wastewater (Edwards)

I: 1044PPI.ES

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Resolution of Board of) DOCKET NO. 941044-W8
Commissioners of Charlotte) ORDER NO. PSC-95-0272-POF-WS
County declaring Charlotte) ISSUED: March 1, 1995
County subject to provisions of)
Chapter 367, Florida Statutes -)
Request for exemption for)
provision of wastewater service)
by PARK POINTE WASTE WATER)
TREATMENT PLANT.)

ORDER INDICATING EXEMPT STATUS OF PARK POINTE WASTE WATER
TREATMENT PLANT

BY THE COMMISSION:

On January 6, 1995, Park Point Waste Water Treatment Plant (Park Pointe or utility) applied for a landlord-tenant exemption for its wastewater system, pursuant to Section 367.022(5), Florida Statutes. The utility is located at 7500 Park Pointe Drive, Englewood, Florida 34224, Charlotte County. Mr. Eugene Mosco is the president and primary contact person for the utility. Mr. Mosco 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)(a), 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 wastewater service only to its tenants and the service territory is limited to the tenants of the utility. Also, the wastewater service is included as a nonspecific portion of the monthly rent. Water service will be provided by the Englewood Water District and wastewater service will be provided by the utility's small wastewater treatment system. Further, the utility has provided a copy of its 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

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acknowledged that it 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 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.

It is, therefore,

ORDERED by the Florida Public Service Commission that, based upon the facts as represented, Park Pointe Waste Water Treatment Plant, 7500 Park Pointe Drive, Englewood, Florida 34224, is hereby 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 Park Pointe Waste Water Treatment Plant, or any successors in interest shall inform this Commission within 30 days of such change so that we may reevaluate Park Pointe Waste Water Treatment Plant's exempt status. It is further

ORDERED that this docket shall remain open.

By ORDER of the Florida Public Service Commission, this 1st day of March, 1995.



BLANCA S. BAYÓ, Director
Division of Records and Reporting

(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.