

## BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Request by COVERED BRIDGE )	DOCKET NO. 881131-WS
ASSOCIATION, INC. for exemption from )	
FPSC regulation of water and sewer )	ORDER NO. 21164
facilities in Highlands County )	
_____ )	ISSUED: 5-4-89

The following Commissioners participated in the disposition of this matter:

THOMAS M. BEARD  
 BETTY EASLEY  
 GERALD L. GUNTER  
 JOHN T. HERNDON

ORDER INDICATING THE EXEMPT STATUS OF  
COVERED BRIDGE ASSOCIATION, INC.

BY THE COMMISSION:

Covered Bridge is an existing residential community in Highlands County. Water and sewer service is provided to the common areas of the community by Covered Bridge Association, Inc. (Association). Until recently, the Association was affiliated with a developer-controlled utility, Leisure Lakes Utility (Leisure Lakes) and was, itself, developer-controlled.

During Leisure Lakes' last staff-assisted rate case, three customers, with the assistance of the Office of Public Counsel, argued that the Association was a utility subject to the Commission's regulation. By Order No. 18798, issued February 3, 1988, this Commission found that the Association was subject to its regulation and directed it to apply for certification no later than April 30, 1988. Prior to the expiration of this time period, the developer relinquished control of the Association to the non-developer members.

Subsequent to the change in control, the Association maintained that it was exempt from our regulation pursuant to Section 367.022(7), Florida Statutes. Under that section, nonprofit associations which provide service solely to members who own and control it are exempt from this Commission's regulation. Thereafter, the staff of this Commission made numerous requests for documentation of the Association's regulatory status. On August 31, 1988, the Association filed an affidavit which provided insufficient documentation of its regulatory status. Staff again made a number of requests for further documentation, most of which went unanswered. Finally, by letter dated February 13, 1989, the Association provided a copy of the relevant portions of its amended Articles of Incorporation and an affidavit reciting the facts upon which its asserted regulatory status is based.

The Articles of Incorporation provide for the incorporation of the Association as a nonprofit corporation. Under Article IV, as amended, each lot is entitled to one "membership" regardless of the manner in which title is held or the number of owners. Each membership is entitled to one vote.

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According to its affidavit, the Association is a nonprofit corporation which provides water and sewer service to the common areas of the community. Further, the affidavit states that the Association is not developer-controlled and that the costs of providing water and sewer service are included in monthly member fees.

Based upon the facts as presented herein, we find that the Association is exempt from this Commission's regulation, pursuant to Section 367.022(7), Florida Statutes, as a nonprofit association providing service solely to members who own and control it. Nevertheless, should there be any change in circumstances or method of operation, the Association, or its successor(s) in interest, shall inform this Commission within thirty days of such change so that we may re-evaluate its regulatory status.

It is, accordingly,

ORDERED that Covered Bridge Association, Inc. is exempt from the regulation of this Commission under Section 367.022(7), Florida Statutes, as a nonprofit association providing service solely to members who own and control it. It is further

ORDERED that, should there be any change in circumstances or method of operation, Covered Bridge Association, Inc., or its successor(s) in interest, shall inform this Commission within thirty (30) days of such change so that we may re-evaluate its regulatory status. It is further

ORDERED that Docket No. 881131-WS be and is hereby closed.

By ORDER of the Florida Public Service Commission,  
 this 4th day of MAY, 1989.

  
 STEVE TRIBBLE, Director  
 Division of Records and Reporting

( S E A L )

RJP

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

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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.