

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Request by CUTTER SOUND UTILITY)	DOCKET NO. 890642-SU
ASSOCIATION, INC. for exemption from)	ORDER NO. 21373
FPSC regulation for a sewage treatment)	ISSUED: 6-13-89
facility in Martin County.)	
_____)	

The following Commissioners participated in the disposition of this matter:

MICHAEL MCK. WILSON, CHAIRMAN
 THOMAS M. BEARD
 BETTY EASLEY
 GERALD L. GUNTER
 JOHN T. HERNDON

ORDER INDICATING THE EXEMPT STATUS OF
 CUTTER SOUND UTILITY ASSOCIATION, INC.

BY THE COMMISSION:

Cutter Sound Utility Association, Inc. (Cutter Sound) is a nonprofit corporation established for the sole purpose of providing sewer service to a multi-unit, residential development in Martin County, also known as "Cutter Sound". Cutter Sound proposes to construct a sewage treatment plant to serve the development. Pursuant to Section 367.031, Florida Statutes (1987), before DER will issue a construction permit, it requires either a certificate authorizing service or proof that the utility is not subject to the regulation of this Commission. Therefore, by letter received May 5, 1989, and affidavit, Articles of Incorporation, Bylaws, and Declaration of Covenants and Restrictions received June 5, 1989, Cutter Sound has requested recognition of the exempt status of its proposed sewage treatment facility.

The affidavit, Articles, Bylaws, and Declaration show that: Cutter Sound is a nonprofit corporation that will provide sewer service solely to its members. The requirement for membership is ownership of a development parcel. For the corporation's voting matters, a member is entitled to one vote for each parcel owned. Control of the corporation will pass from the developer, RGA Development Company, to the home owners upon the sale of fifty-one percent of the development parcels. The developer will transfer to Cutter Sound fee simple title to the sewage treatment facility and the underlying land upon commencement of construction of the facility. Cutter Sound will be responsible for billing its members for sewer service. Cutter Sound's address is 951 S.W. Mapp Road, Palm City, Florida 34990.

As a matter of practice, upon request and sufficient proof, the Commission will issue an order indicating the exempt status of water or sewer facilities, if they qualify under the appropriate section of Chapter 367, Florida Statutes (1987). Cutter Sound requested recognition of the exempt status of its proposed sewage treatment facility under Section 367.022(7), Florida Statutes (1987).

DOCUMENT NUMBER-DATE

05869 JUN 13 1989

FPSC-RECORDS/REPORTING

ORDER NO. 21373
DOCKET NO. 890642-SU
PAGE 2

Section 367.022(7), Florida Statutes (1987), states that nonprofit corporations, associations, or cooperatives providing service solely to members who own and control such nonprofit entities are exempt from Commission regulation. Based upon the facts as represented, we find that Cutter Sound is exempt from our regulation under the terms of Section 367.022(7), Florida Statutes (1987). However, should there be any change in circumstances or method of operation, the owner of Cutter Sound, or his successor(s) in interest, must inform the Commission within thirty days of such change, so that we may determine whether exempt status is still appropriate.

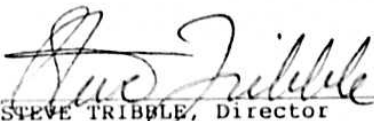
It is, therefore,

ORDERED by the Florida Public Service Commission that, based upon the facts as represented, Cutter Sound Utility Association, Inc. is hereby exempt from Commission regulation pursuant to the terms of Section 367.022(7), Florida Statutes (1987). It is further

ORDERED that should there be any change in circumstances or method of operation of the sewage treatment facility, the owner of Cutter Sound Utility Association, Inc. or any successor in interest shall inform the Commission within thirty days of such change. It is further

ORDERED that this docket be closed.

By ORDER of the Florida Public Service Commission,
this 13th day of JUNE, 1989.


STEVE TRIBBLE, Director
Division of Records and Reporting

(S E A L)

DCS

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)

ORDER NO. 21373
DOCKET NO. 890642-SU
PAGE 3

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.