

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Request for exemption from) DOCKET NO. 900220-WS
FPSC regulation for water and) ORDER NO. 23048
wastewater facilities in Martin) ISSUED: 6-8-90
County by 714 Stuart Associates)
_____)

ORDER INDICATING EXEMPT STATUS OF
714 STUART ASSOCIATES

BY THE COMMISSION:

714 Stuart Associates is a Florida Partnership which proposes to provide water and wastewater services to the nonresidential tenants occupying its seventeen acres of commercial property in Martin County.

Pursuant to Section 367.031, Florida Statutes, before the Department of Environmental Regulation (DER) will issue a construction permit, it requires either a certificate authorizing service or an order recognizing that the utility is not subject to the regulation of this Commission. Therefore, by letter and affidavit received March 29, 1990, 714 Stuart Associates requested recognition of its proposed system's exempt status.

Upon request and sufficient proof, the Commission will issue an order indicating the nonjurisdictional or exempt status of water or sewer facilities, if they qualify under the appropriate section of Chapter 367, Florida Statutes. 714 Stuart Associates requested recognition of its exempt status under Section 367.022(5), Florida Statutes. This section states that landlords providing service to their tenants without specific compensation for the service are exempt from Public Service Commission regulation.

The affidavit, letter, and proposed lease agreement submitted by the applicant show that: 714 Stuart Associates is a Florida Partnership which proposes to provide water and wastewater services to the nonresidential tenants occupying its seventeen acres of commercial property in Martin County; 714 Stuart Associates will provide water and wastewater service solely to its tenants; 714 Stuart Associates will not collect

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any specific charge for water and wastewater service from its tenants, as those charges will be nonspecifically included in the tenants' monthly rents; and the water and wastewater facilities are located at the intersection of State Road 714 and I-95 in Stuart, Florida.

Based upon the facts as represented, we find that 714 Stuart Associates is exempt from our regulation under the terms of Section 367.022(5), Florida Statutes. However, should there be any change in circumstances or method of operation, the owner of 714 Stuart Associates, or any successor 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 the water and wastewater systems owned by the 714 Stuart Associates, located at State Road 714 and I-95 in Stuart, Florida, is hereby exempt from Commission regulation pursuant to the terms of Section 367.022(5), Florida Statutes. It is further

ORDERED that should there be any change in circumstances or method of operation of 714 Stuart Associates' water and wastewater facilities, the owner(s) of 714 Stuart Associates, or any successor in interest, shall inform the Commission within thirty (30) days of such change. It is further

ORDERED that this docket shall be closed.

By ORDER of the Florida Public Service Commission
this 8th day of JUNE, 1990.

STEVE TRIBBLE, Director
Division of Records and Reporting

(S E A L)

MF

by: Kay Flynn
Chief, Bureau of Records

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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.

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.