

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Request for exemption from)	DOCKET NO. 910193-WS
Florida Public Service Commission)	
regulation for provision of water)	ORDER NO. 24542
and sewer services in Palm Beach)	
County by PALM LAKE COOPERATIVE, INC.)	ISSUED: 5/17/91

The following Commissioners participated in the disposition of this matter:

J. TERRY DEASON
BETTY EASLEY
GERALD L. GUNTER
MICHAEL McK. WILSON

ORDER INDICATING THE EXEMPT STATUS OF
PALM LAKE COOPERATIVE, INC.

BY THE COMMISSION:

Palm Lake Cooperative, Inc. (PLCI or utility), a for profit corporation, provides water and wastewater service to Palm Lake Estates, a large mobile home community in Palm Beach County owned and operated by PLCI. PLCI currently holds Certificate No. 98-W for its water system. Its wastewater system is not certificated.

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 section of Chapter 367, Florida Statutes. On February 20, 1991, PLCI requested that its water system be found exempt from Florida Public Service Commission regulation under Section 367.022(8), Florida Statutes, and that its wastewater system be found exempt under Section 367.022(5). Section 367.022(8) exempts resellers under certain circumstances, and Section 367.022(5) exempts landlords under certain circumstances.

According to Section 367.022(8), Florida Statutes, "any person who resells water . . . service at a rate or charge which does not exceed the actual purchase price thereof" is exempt from Commission regulation if that person also complies with the filing requirements of Rule 25-30.111, Florida Administrative Code. PLCI currently holds water Certificate No. 98-W, which it acquired by Order No. 21401, issued June 19, 1989. In the transfer proceedings

DOCUMENT NUMBER-DATE

04900 MAY 17 1991

SC-RECORDS/REPORTING

ORDER NO. 24542
DOCKET NO. 910193-WS
PAGE 2

which resulted in that order, PLCI acquired the water system and began charging the rates approved for the previous certificate holder. Because of customer complaints, however, PLCI ceased charging its approved base facility charge and began charging only its approved gallonage charge for actual consumption. Each mobile home unit is individually metered. According to the affidavit of the president of PLCI, the water utility currently sells water at a rate not exceeding the actual purchase price.

The City of Riviera Beach, from which PLCI purchases water, charges PLCI a base facility charge per mobile home unit plus a gallonage charge for consumption as recorded by two master meters. Upon reviewing the rates charged PLCI by the City of Riviera Beach and the rates charged the Palm Lake Estates customers by PLCI, we have determined that the existing rate structure should always produce less revenue for PLCI than it pays to the City of Riviera Beach. Thus it does resell water "at a rate or charge which does not exceed the actual purchase price thereof" PLCI, in the affidavit filed with its request for exemption, also acknowledged the reporting requirements of Rule 25-30.111, Florida Administrative Code, and indicated that its service area is limited to Palm Lake Estates. Under the facts as presented, we find that the water system operated by PLCI is exempt from Commission regulation.

Since we have determined that PLCI's water system is exempt from our regulation, Certificate No. 98-W, which PLCI currently holds, should be canceled. Regulatory assessment fees for the portion of 1991 that PLCI has been subject to Commission regulation will be due, however. PLCI should return Certificate No. 98-W to the Commission for cancellation. The cancellation will occur upon payment of outstanding regulatory assessment fees for 1991.

PLCI requested that we find its wastewater system exempt under Section 367.022(5), Florida Statutes. According to that section, "[l]andlords providing service to their tenants without specific compensation for the service" are exempt from Commission regulation. PLCI obtains bulk wastewater service from the City of Riviera Beach. Along with the request for exemption, PLCI filed an affidavit indicating that PLCI provides wastewater service solely to residents of Palm Lake Estates; that any compensation received for wastewater service will be a non-specific portion of the monthly charges to residents; that no specific charge has ever been

made for wastewater service; and that the service area is limited to Palm Lake Estates mobile home park.

In addition to the affidavit, PLCI provided the Commission with sample leases for the mobile home park, which indicate it does not bill tenants specifically for wastewater service. The residents of Palm Lakes Estates include both shareholders and non-shareholders. Shareholders pay \$92.00 per month for maintenance fees and non-shareholders pay \$322.00 per month for maintenance fees. The fees from both shareholders and non-shareholders are deposited in a single account along with fees from water service. From this account, disbursements to the City of Riviera Beach are made. Based on the foregoing, we find that PLCI qualifies for exemption under Section 367.022(5), Florida Statutes.

Under the facts as presented, we find that PLCI's water and wastewater facilities are exempt from Commission regulation pursuant to Sections 367.022(8) and 367.022(5), Florida Statutes, respectively. We further find that PLCI, or its successor in interest, should notify this Commission of any change in circumstances or method of operation within thirty days of such change so that we may review the matter to determine whether exempt status is still appropriate.

It is therefore

ORDERED by the Florida Public Service Commission that based on the facts as presented, the water system operated by Palm Lake Cooperative, Inc., whose mailing address is 7272 42nd Way North, #676, Riviera Beach, Florida 33404, is exempt from regulation by this Commission pursuant to Section 367.022(8), Florida Statutes. It is further

ORDERED that Palm Lake Cooperative, Inc. shall return Certificate No. 98-W to the Commission for cancellation. It is further

ORDERED that based on the facts as presented, the wastewater system operated by Palm Lake Cooperative, Inc. is exempt from regulation by this Commission pursuant to Section 367.022(5), Florida Statutes. It is further

ORDERED that should there be any change in circumstances or method of operation, Palm Lake Cooperative, Inc., or its successor

ORDER NO. 24542
DOCKET NO. 910193-WS
PAGE 4

in interest, shall inform this Commission within thirty days of such change. It is further

ORDERED that this docket is closed.

By ORDER of the Florida Public Service Commission, this 17th
day of MAY, 1991.



STEVE TRIBBLE, Director
Division of Records and Reporting

(S E A L)

MJL

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

ORDER NO. 24542
DOCKET NO. 910193-WS
PAGE 5

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.