

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Request for exemption) DOCKET NO. 940233-WU
from Florida Public Service) ORDER NO. PSC-94-0658-FOF-WU
Commission regulation for) ISSUED: May 31, 1994
provision of water service in)
Franklin County by ELL'S COURT)
_____)

ORDER INDICATING EXEMPT STATUS OF
ELL'S COURT AND CLOSING DOCKET

BY THE COMMISSION:

On March 3, 1994, Ell's Court filed an application with this Commission for recognition of its exempt status, pursuant to Section 367.022(4), Florida Statutes. Ell's Court's water system, which consists of a well, is located at Star Route Box 4, Highway 98, Carrabelle, Florida 32322. The water system will be constructed as soon as the Department of Environmental Protection (DEP) issues them a permit. However, DEP will not issue a permit until Ell's Court is certified or found to be exempt. Clifford Nunery, owner and primary contact person, filed the application on behalf of Ell's Court.

Upon request and sufficient proof, the Commission will issue an order indicating the nonjurisdictional or exempt status of water or wastewater systems if they qualify under the appropriate provision of Chapter 367, Florida Statutes. The application was filed in accordance with Section 367.022(4), Florida Statutes, and Rule 25-30.060(3)(d), Florida Administrative Code.

Section 367-022(4), Florida Statutes, states that public lodging establishments providing service solely in connection with service to their guests are exempt from Commission regulation. The application indicates that Ell's Court will provide service only to its guests and the service territory will be limited to the motel. There will be no separate charge for utility service. Wastewater will be provided by septic tank.

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, Mr. Nunery acknowledged that he 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 Ell's Court is exempt from our regulation pursuant to the provisions of Section

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367.022(4), Florida Statutes. However, should there be any change in circumstances or method of operation, the owner of Ell's Court, or any successor in interest, must inform the Commission within 30 days of such change so that its exempt status may be reevaluated.

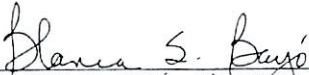
It is, therefore,

ORDERED by the Florida Public Service Commission that, based upon the facts as represented, Ell's Court, Star Route Box 4, Highway 98, Carrabelle, Florida 32322, is exempt from Commission regulation, pursuant to the provisions of Section 367.022(4), Florida Statutes. It is further

ORDERED that should there be any change in circumstances or method of operation, the owner of Ell's Court or any successors in interest, shall inform this Commission within 30 days of such a change so that we may reevaluate Ell's Court's exempt status. It is further

ORDERED that this Docket is hereby closed.

By ORDER of the Florida Public Service Commission, this 31st day of May, 1994.



BLANCA S. BAYÓ, Director
Division of Records and Reporting

(S E A L)

MSN

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.

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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 Civil Procedure. The notice of appeal must be in the form specified in Rule 9.900 (a), Florida Rules of Appellate Procedure.