

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Request For Exemption)	DOCKET NO. 940564-WU
From Florida Public Service)	ORDER NO. PSC-95-0060-FOF-WU
Commission Regulation For)	ISSUED: January 11, 1995
Provision of Water Service in)	
Gulf County By Dalkeith)	
Recreational Association, Inc.)	
)	
)	

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ORDER INDICATING THE EXEMPT STATUS OF
DALKEITH RECREATIONAL ASSOCIATION, INC. AND CLOSING DOCKET

Florida Public Service Commission
 Division of Water and Wastewater

BY THE COMMISSION:

On May 13, 1994, Dalkeith Recreational Park (Dalkeith) filed a request for recognition of its exempt status, pursuant to Section 367.022(6), Florida Statutes. Dalkeith is located on Highway 381, approximately six miles south of Wewahitchka, Florida. Mr. James Pippin, President and primary contact person filed the application on behalf of Dalkeith.

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(6), Florida Statutes, which states that "[s]ystems with the capacity or proposed capacity to serve 100 or fewer persons" are exempt from Commission regulation.... Upon review of the application, it was determined that Dalkeith more properly qualifies for exemption pursuant to Section 367.022(7), Florida Statutes.

Section 367.022(7), Florida Statutes, states that nonprofit corporations, associations, or cooperatives providing service solely to members who own and control such nonprofit entities are exempt from Commission regulation. Before an exemption of this nature may be granted, the applicant requesting the exemption must file with the Commission a statement specifying the following: that the corporation is nonprofit; providing service solely to the members who own and control it; whether it provides water service, wastewater service, or both; who will do the billing; and the service territory. Additionally, the applicant must submit its Articles of Incorporation as filed with the Secretary of State and

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its Bylaws. These documents must show clearly the requirements of membership, the members' voting rights, and the circumstances under which control passes to the nondeveloper members.

On June 22, 1994, Dalkeith refiled its application requesting recognition of its exemption status pursuant to Section 367.022(7), Florida Statutes. In its application, Dalkeith stated that it is a nonprofit corporation organized pursuant to Chapter 617, Florida Statutes; that it will provide service solely to its members who own and control it; and that it will provide water service for which it will provide its own billing. The service area is specified as the recreational park located on Highway 381, approximately six miles south of Wewahitchka, Florida. The Association provided a recorded warranty deed granting it the use of the land upon which the facilities are located. Also, according to the Articles of Incorporation, the correct name of the association is Dalkeith Recreational Association, Inc.

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. Pippin 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 Dalkeith is exempt from Commission regulation pursuant to the provisions of Section 367.022(7), Florida Statutes. However, should there be any change in circumstances or method of operation, a representative of the Association must inform the Commission within thirty days of such change so that we may reevaluate Dalkeith's exempt status.

It is, therefore,

ORDERED by the Florida Public Service Commission that, based upon the facts as represented, Dalkeith Recreational Association, Inc., Route 1, Box 134A, Wewahitchka, Florida 32465, is hereby exempt from Commission regulation pursuant to the provisions of Section 367.022(7), Florida Statutes. It is further

ORDERED that should there be any change in circumstances of or method of operation, a representative of Dalkeith Recreational Association, Inc. shall inform the Commission within thirty days of such change so that its exempt status may be reevaluated. It is further

ORDERED that this Docket is hereby closed.

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By ORDER of the Florida Public Service Commission, this 11th
day of January, 1995.

BLANCA S. BAYÓ, Director
Division of Records and Reporting

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 and/or wastewater 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.