

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Request for exemption) DOCKET NO. 920960-WS
from Florida Public Service) ORDER NO. PSC-96-0804-FOF-WS
Commission regulation for) ISSUED: June 20, 1996
provision of water and)
wastewater service in Brevard)
County by South Shores Utility)
Association, Inc.)

ORDER INDICATING THE EXEMPT STATUS OF
SOUTH SHORES UTILITY ASSOCIATION, INC.
AND CLOSING DOCKET

BY THE COMMISSION:

On September 22, 1992, South Shores Utility Association, Inc. (association or applicant) filed an application for a non-profit exemption pursuant to Section 367.022(7), Florida Statutes and Rule 25-30.060(3)(g), Florida Administrative Code. The original application in this docket was filed by Underhill Management Co., then the receiver for the South Shore development and its related utility association. Subsequently, the property and association were held by the Federal Deposit Insurance Corporation. In late 1995, Floridron (South Shores) limited, Inc. (Floridan) purchased the South Shore development and in April 1996, reactivated and restyled the South Shores Utility Association, Inc.

The primary contact person for South Shores is Mr. Brian Sculthorp, Vice President and Treasurer. The mailing address for the above contact person is 100 Caledonia Drive, Melbourne Beach, Florida 32951. The physical address for the utility is 5635 S. Highway A1A, Melbourne Beach, Florida 32951.

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. 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; and who will do the billing. Additionally, the applicant must submit its Articles of Incorporation as filed with the

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Secretary of State and 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.

The application was filed in accordance with Section 367.022(7), Florida Statutes, and Rules 25-30.060(3)(g), Florida Administrative Code. The association's Articles of Incorporation indicate that service will be provided solely to members, the requirements for membership, and that the members' voting rights are one vote per unit of ownership. The association will provide service to the South Shore development as well as the surrounding area. Since the existing utility facilities were initially built to serve the South Shore development, each lot owner in the South Shore development is a member of the association. Additional customers will become members when they physically connect to the system. Since Floridan now owns a majority of the lots within the South Shore development, the Articles of Incorporation provide that control of the association will pass to the members upon the sale of 51 percent of the lots within the South Shores development and that such turnover date will not exceed seven years from the date of incorporation.

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, Brian Sculthorpe acknowledged that he is aware of Section 837.06, Florida Statutes, and the penalties for making false statements in the application.

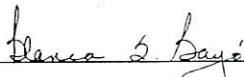
Based on the facts as represented, we find that South Shores Utility Association, Inc., is exempt from our regulation pursuant to Section 367.022(7), Florida Statutes. However, the owner of South Shores Utility Association, Inc., or any successors in interest are put on notice that if there is any change in circumstance or method of operation, it should 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, upon the facts as represented, South Shores Utility Association, Inc., 100 Caledonia Drive, Melbourne Beach, Florida, 32951, is hereby exempt from Commission regulation pursuant to the provisions of Section 367.022(7), Florida Statutes. It is further

ORDERED that this docket is hereby closed.

By ORDER of the Florida Public Service Commission, this 20th
day of June, 1996.



BLANCA S. BAYÓ, Director
Division of Records and Reporting

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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, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, 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.