

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Jurisdictional resolution)	DOCKET NO. 870060-WS
of the Board of County Commis-)	ORDER NO.21204
sioners of Sumter County declaring)	ISSUED: 5-8-89
that Sumter County be subject to)	
the provisions of the water and)	
sewer regulatory law, Chapter 367,)	
Florida Statutes)	
)	

The following Commissioners participated in the disposition of this matter:

GERALD L. GUNTER
JOHN T. HERNDON
THOMAS M. BEARD
BETTY EASLEY

ORDER INDICATING EXEMPT STATUS
OF VARIOUS WATER AND SEWER SYSTEMS
IN SUMTER COUNTY

BY THE COMMISSION:

BACKGROUND

On January 13, 1987, the Board of County Commissioners of Sumter County adopted a resolution, pursuant to Section 367.171, Florida Statutes, whereby jurisdiction over the authority, service and rates of water and sewer utilities providing service in Sumter County was transferred to this Commission. By Order No. 17207, issued February 18, 1987, this Commission acknowledged the jurisdictional transfer and directed all persons providing water or sewer service in Sumter County to register with the Commission for review of their regulatory status.

NONPROFIT ASSOCIATION EXEMPTIONS

Section 367.022(7), Florida Statutes, provides an exemption from this Commission's regulation for a nonprofit corporation providing service solely to members who own and control such nonprofit corporation.

Rivers Edge Estates Homeowners Association, Inc.

Rivers Edge Estates Homeowners Association, Inc. is a nonprofit Florida corporation formed in 1981 which owns and maintains a sewer system serving the Rivers Edge Estates subdivision in Sumter County. An affidavit filed by its president states that the association provides sewer service solely to members of the association. Article III of the Articles of Incorporation confers membership status upon all lot owners and provides that all members shall be entitled to one vote for each single family lot. Thus, control of the association passed from the developer to the residents when 50% of the lots were sold.

Based on the above, we find that this system should be declared exempt from this Commission's jurisdiction under the nonprofit association exemption, Section 367.022(7), Florida Statutes. However, in the event of any change in circumstances or method of operation that might affect its exempt status, the

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association, or its successor in interest, should be ordered to inform the Commission within thirty days of such change so that the exempt status may be reevaluated.

Leisure Time Mobile Home Estates Property Owners Association, Inc.

Leisure Time Mobile Home Estates Property Owners Association, Inc. is a nonprofit Florida corporation formed in 1973 which owns and maintains a water system to serve Leisure Time Mobile Home Estates in Sumter County. An affidavit filed by the Treasurer states that the association provides water service solely to members of the association. The Articles of Incorporation confer membership status upon all lot owners and provides that all members shall be entitled to one vote for each single family lot. Thus, control of the association passed from the developer to the residents when 50% of the lots were sold.

Based on the above, we find that this system should be declared exempt from this Commission's jurisdiction under the nonprofit association exemption, Section 367.022(7), Florida Statutes. However, in the event of any change in circumstances or method of operation that might affect its exempt status, the association, or its successor in interest, should be ordered to inform the Commission within thirty days of such change so that the exempt status may be reevaluated.

Lake Panasoffkee Water Association, Inc.

Lake Panasoffkee Water Association, Inc., is a nonprofit Florida corporation formed in 1965 which owns and maintains a water system in Sumter County. The affidavit signed by its president states that the association provides water service solely to members of the association. The Articles of Incorporation and Bylaws confer membership status upon all record owners in a property served by the water system. The members control the association through the election of a Board of Directors which determines the rates charged to its members. Each member has one vote.

Article III of the Articles of Incorporation states:

The members of the corporation shall be the subscribers hereto and all other persons, partnerships, corporations, or other legal entities having a reasonable accessibility to the sources of and who desire to have water and other services supplied for domestic, commercial, agricultural, industrial, or other uses from the systems constructed, maintained, and operated by the corporation.

The above provision appears to allow the association to provide service to persons or entities who are not currently members of the association. However, as mentioned above, the president of the association provided an affidavit stating that the association provides water service solely to its members.

Based on this affidavit and the provisions in the Articles of Incorporation regarding ownership and control of the association, we find that this system is exempt from this Commission's jurisdiction under the nonprofit association exemption, Section 367.022(7), Florida Statutes. However, if the association begins providing service to any customer which is not a member of the association, or in the event of any other change in circumstances or method of operation that might affect its exempt status, the association, or its successor(s) in interest, should inform the Commission within thirty days of such change so that the exempt status may be re-evaluated.

WHEREFORE, in consideration of the foregoing, it is

ORDERED by the Florida Public Service Commission that the above described utility service provided by Rivers Edge Estates Homeowners Association, Inc., is exempt from this Commission's regulation under the terms of Section 367.022(7), Florida Statutes. It is further

ORDERED that the above described utility service provided by Leisure Time Mobile Home Estates Property Owners Association, Inc., is exempt from this Commission's regulation under the terms of Section 367.022(7), Florida Statutes. It is further

ORDERED that the above described utility service provided by Lake Panasoffkee Water Association, Inc., is exempt from this Commission's regulation under the terms of Section 367.022(7), Florida Statutes. It is further

ORDERED that if any of said three associations begins providing service to any customer which is not a member of the association, or in the event of any other change in circumstances or method of operation that might affect its exempt status, that association, or its successor in interest, shall inform this Commission within thirty days of such change so that the exempt status may be reevaluated.

By ORDER of the Florida Public Service Commission
this 8th day of May, 1989.


STEVE TRIBBLE, 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 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.