

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Request for exemption from)	DOCKET NO. 910385-SU
Florida Public Service Commission)	ORDER NO. 24806
regulation for a wastewater treatment)	ISSUED: 7-11-91
plant in Highlands County by OAK LEAFE)	
WASTEWATER TREATMENT PLANT)	
)	

The following Commissioners participated in the disposition of this matter:

THOMAS M. BEARD, Chairman
 J. TERRY DEASON
 BETTY EASLEY
 MICHAEL MCK. WILSON

NOTICE OF PROPOSED AGENCY ACTIONORDER DENYING REQUEST FOR EXEMPTION

BY THE COMMISSION:

NOTICE IS HEREBY GIVEN by the Florida Public Service Commission that the actions discussed herein are preliminary in nature and will become final unless a person whose interests are substantially affected files a petition for a formal proceeding pursuant to Rule 25-22.029, Florida Administrative Code.

By letter dated March 13, 1991, Oak Leafe Wastewater Treatment Plant (Oak Leafe), requested an exemption from Florida Public Service Commission regulation. Included with Oak Leafe's request were copies of an affidavit averring the facts upon which its asserted status is based.

Upon request and sufficient proof, the Commission will issue an order indicating the nonjurisdictional or exempt status of water or wastewater facilities, if they qualify under the appropriate section of Chapter 367, Florida Statutes. Oak Leafe requested recognition of its exempt status under Section 367.022(5), Florida Statutes.

Section 367.022(5), Florida Statutes, provides that "[l]andlords providing service to their tenants without specific compensation for the service" are not subject to Commission regulation. However, for an entity to qualify under Section 367.022(5), Florida Statutes, it must provide service solely to tenants.

According to the letter, some of Oak Leafe's residents will own their lots. Section 83.43(4), Florida Statutes, defines tenant

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as "any person entitled to occupy a dwelling unit under a rental agreement." Thereby, Oak Leafe would not be providing service strictly to tenants as required by Section 367.022(5), Florida Statutes.

Upon consideration of the foregoing, we find that Oak Leafe does not qualify for exemption from Commission regulation under Section 367.022(5), Florida Statutes, as a landlord providing services solely to tenants. Therefore, Oak Leafe must file an application for a certificate or appropriate exemption within six (6) months of this Order.

It is, therefore,

ORDERED by the Florida Public Service Commission that Oak Leafe Wastewater Treatment Plant's request for exemption under Section 367.022(5), Florida Statutes, from Florida Public Service Commission regulation for a wastewater system in Highlands County, Florida is hereby denied. It is further

ORDERED that Oak Leafe Wastewater Treatment Plant shall file an application for an original certificate or appropriate exemption within six (6) months of the date of this Order. It is further

ORDERED that the provisions of this Order, issued as proposed agency action, shall become final, unless an appropriate petition in the form provided by Rule 25-22.029, Florida Administrative Code, is received by the Director, Division of Records and Reporting at his office at 101 East Gaines Street, Tallahassee, Florida 32399-0870, by the date set forth in the Notice of Further Proceedings below. It is further

ORDERED that this docket shall be closed if no protest is timely filed.

By ORDER of the Florida Public Service Commission, this
 11th day of July, 1991.


 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.

The action proposed herein is preliminary in nature and will not become effective or final, except as provided by Rule 25-22.029, Florida Administrative Code. Any person whose substantial interests are affected by the action proposed by this order may file a petition for a formal proceeding, as provided by Rule 25-22.029(4), Florida Administrative Code, in the form provided by Rule 25-22.036(7)(a) and (f), Florida Administrative Code. This petition must be received by the Director, Division of Records and Reporting at his office at 101 East Gaines Street, Tallahassee, Florida 32399-0870, by the close of business on
8-1-91.

In the absence of such a petition, this order shall become effective on the day subsequent to the above date as provided by Rule 25-22.029(6), Florida Administrative Code.

Any objection or protest filed in this docket before the issuance date of this order is considered abandoned unless it satisfies the foregoing conditions and is renewed within the specified protest period.

If this order becomes final and effective on the date described above, any party adversely affected may request judicial review by the Florida Supreme Court in the case of an electric, gas or telephone utility or by 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 of the effective date 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.