

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Request for exemption) DOCKET NO. 921075-WU  
from Florida Public Service ) ORDER NO. PSC-93-0056-FOF-WU  
Regulation for Provision of ) ISSUED: 01/13/93  
Water Service by Lexington )  
Shoppes in St. Lucie County, )  
Florida. )  
\_\_\_\_\_)

ORDER INDICATING EXEMPT STATUS OF  
LEXINGTON SHOPPES AND CLOSING DOCKET

BY THE COMMISSION:

On October 16, 1992, Lexington Shoppes (Lexington) filed an application with this Commission for exemption from Commission regulation pursuant to Section 367.022(5), Florida Statutes. Lexington is a shopping center located at 6800 Block, South U.S. #1 in Port St. Lucie, Florida. Mr. Donald P. Owens, Manager and contact person, filed the application on behalf of Lexington. Mr. Owens was authorized to file the application by Mr. Joel F. Wynne, President of Wynne Building Corporation, Owner of Lexington.

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

According to Section 367.022(5), Florida Statutes, an entity qualifies for exemption from Commission regulation if it provides service solely to its tenants, and charges for utility service are included as a nonspecific portion of the rent. The application indicates that Lexington provides water service only to its tenants and the service territory is limited to the shopping center. Also, the water service is included as a nonspecific portion of the monthly rent.

In addition, the application form states that pursuant to Section 837.06, Florida Statutes, anyone knowingly making a false statement in writing with the intent to mislead is guilty of a misdemeanor. By signing the application, Mr. Owens acknowledged that he is aware of Section 837.06, Florida Statutes, and the penalties for making false statements in the application.

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Based upon the facts as represented, we find that Lexington is exempt from Commission regulation, pursuant to Section 367.022(5), Florida Statutes. However, should there be any change in circumstances or method of operation, the owner of Lexington or any successor in interest must inform the Commission within 30 days of such change so that we may determine whether exempt status is still appropriate.

It is, therefore,

ORDERED by the Florida Public Service Commission that, based upon the facts as represented, Lexington Shoppes, 8000 South U.S. #1, Suite 402, Port St. Lucie, Florida 34952, is exempt from Commission regulation, pursuant to the provisions of Section 367.022(5), Florida Statutes. It is further

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

ORDERED that Docket No. 921075-WU is hereby closed.

By ORDER of the Florida Public Service Commission this 13th day of January, 1993.

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