

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Request for Exemption) DOCKET NO. 920063-WS
From Florida Public Service) ORDER NO. PSC-93-0102-POF-WS
Commission Regulation for) ISSUED: 01/19/93
Provision of Water and)
Wastewater Service in Lake)
County by STEWART/BARTH)
UTILITY)
_____)

ORDER GRANTING EXEMPT STATUS
TO STEWART/BARTH UTILITY AS OWNER OF LAKE
SAUNDERS UTILITIES, INC.

BY THE COMMISSION:

On October 8, 1992, we received an application from Stewart/Barth Utility (applicant or utility) for an exemption from Florida Public Service Commission regulation for its water and wastewater systems in Lake County. The utility is owned by two persons, Mr. Charles Stewart and Mr. Robert Barth, as tenants in common. The mailing address for Charles R. Stewart is 37936 Highway 19, Umatilla, FL 32784. Mr. Barth's mailing address is 4590 North Highway 19A, Mount Dora, FL 32757. The applicant serves three customers: an RV park owned by Mr. Stewart, an RV park owned by Mr. Barth, and 30 units of a condominium complex known as Baywood Condominiums in Lake County. The utility's customers receive both water and wastewater service from the applicant.

By Order No. 24311, issued April 2, 1991, this Commission denied the utility's previous request for a landlord/tenant exemption for the two RV parks and the 30 units in Baywood condominiums. That Order states: "The obstacle to granting a landlord-tenant exemption in this case is that the utility currently serves condominiums, and these condominiums are not owned wholly or in part by the utility's owners. Thus, for that portion of the service area, the utility's owners are not landlords. If the utility's owners are not the landlords for all customers served by the systems, the landlord-tenant exemption cannot apply."

Subsequently, on January 17, 1992, the utility filed an application for a combined exemption pursuant to Sections 367.022(5) and 367.022(6), Florida Statutes. At the April 21, 1992, Agenda Conference, we withheld our decision to deny the utility's combined exemption to allow our staff and the utility the opportunity to discuss possible alternatives whereby it might qualify for an exemption.

After discussions with the utility regarding feasible alternatives, the utility owners leased the system to a newly-formed nonprofit corporation, known as Lake Saunders Utilities,

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Inc. (Lake Saunders). As a result of this arrangement, the utility as owner of Lake Saunders sought recognition of its exempt status under Section 367.022(7), Florida Statutes. This section provides an exemption for nonprofit associations providing service solely to members who own and control them.

The information submitted in the application included a statement that: the corporation is nonprofit, service will be provided solely to members who own and control it, water and wastewater service will be provided to its members, Lake Saunders will be responsible for the billing, and the service territory will be limited to the 30 units in Baywood Condominiums, the Lake Saunders RV Resort, and Woods-N-Water Trails. In addition, the applicant provided the Articles of Incorporation as filed with the Secretary of State and the Bylaws, which clearly show the requirements for membership, and that the members' voting rights are one vote per unit of ownership.

In addition, the applicant provided sufficient evidence in the form of a 99-year lease that Lake Saunders will lease the land upon which the utility facilities are located. The applicant also acknowledged Section 837.06, Florida Statutes, regarding false statements.

Upon consideration of the facts as discussed above, we find that Stewart/Barth Utility, owner of Lake Saunders, is exempt from our regulation pursuant to Section 367.022(7), Florida Statutes, as a nonprofit corporation providing service solely to members who own and control it. However, should there be any change in circumstances or method of operation, Stewart/Barth, or its successor(s) in interest, shall notify this Commission within 30 days of such change so that its exempt status may be reevaluated.

Based on the foregoing, it is, therefore,

ORDERED by the Florida Public Service Commission that Stewart/Barth Utility, owner of Lake Saunders Utilities, Inc., is exempt from this Commission's regulation under Section 367.022(7), Florida Statutes, as a nonprofit corporation providing service solely to members who own and control it. It is further

ORDERED that should there be any change in circumstances or method of operation, Stewart/Barth Utility, owner of Lake Saunders Utilities, Inc. or its successor(s) in interest, shall notify this Commission within 30 days of such change so that we may reevaluate its exempt status. It is further

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ORDERED that this docket is closed.

By ORDER of the Florida Public Service Commission this 19th
day of January, 1993.



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.