

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Request for Exemption) DOCKET NO. 921254-WU
From Florida Public Service) ORDER NO. PSC-93-0564-FOF-WU
Commission Regulation for) ISSUED: April 13, 1993
Provision of Water Service in)
Okaloosa County by Shalimar)
Yacht Basin, Inc.)
_____)

ORDER INDICATING EXEMPT STATUS OF SHALIMAR YACHT
BASIN, INC. AND CLOSING DOCKET

BY THE COMMISSION:

On December 14, 1992, Shalimar Yacht Basin, Inc. (Shalimar), filed an application with this Commission for recognition of its exempt status pursuant to Section 367.021(12), Florida Statutes, Shalimar is a marina which provides water service to its customers who rent dockage space at the marina. In our review of the utility's application, we learned that Shalimar charges rent for dockage space and that water service is provided as a non-specific part of the rent. As a result, we advised Shalimar that it would not qualify for nonjurisdictional status pursuant to Section 367.021(12), Florida Statutes, since it is a utility providing water service to its tenants.

Therefore, on February 26, 1993, Shalimar filed an amended application for recognition of its exempt status pursuant to Section 367.022(5), Florida Statutes. Shalimar is located at 100 Old Ferry Road, Shalimar, Florida 32579. Mr. Robert P. Maxon, the president of the system, filed the application on behalf of Shalimar.

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. The application was filed under Section 367.022(5), Florida Statutes, and Rule 25-30.060(1), (2) and (3)(e), Florida Administrative Code. The application and the license agreement indicates that Shalimar provides water service only to its tenants, the service territory is limited to the marina, and the 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

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misdemeanor. By signing the application, Mr. Maxon acknowledged that he is aware of Section 837.06, Florida Statutes, and the penalties for making false statements in the application.

Based upon the facts as represented, we find that Shalimar's water system is exempt from Commission regulation, pursuant to the provisions of Section 367.022(5), Florida Statutes. Should there be any change, however, in circumstances or method of operation, the owner of Shalimar or any successor in interest, must inform this Commission within 30 days of such change so that its exempt status may be reevaluated.

Based upon the foregoing, it is, therefore,

ORDERED by the Florida Public Service Commission that, based upon the facts as represented, the owner of Shalimar Yacht Basin, Inc., 100 Old Ferry Road, Shalimar, Florida 32579 is exempt from Commission regulation, pursuant to the provisions of Section 367.055(5), Florida Statutes. It is further

ORDERED that should there be any change in circumstances or method of operation, the owner of Shalimar Yacht Basin, Inc. or any successor in interest, shall inform this Commission with 30 days of such change so that its exempt status may be reevaluated. It is further

ORDERED that this Docket is hereby closed.

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

STEVE TRIBBLE, Director
Division of Records and Reporting

(S E A L)

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by: Kary Hign
Chief, Bureau of Records

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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.