

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Request for Exemption) DOCKET NO. 930111-WU
from Florida Public Service) ORDER NO. PSC-93-0881-FOF-WU
Commission Regulation for) ISSUED: June 10, 1993
Provision of Water Service in)
St. Lucie County by SUNNIER)
PALMS MEMBERS' LODGE, INC.)

ORDER INDICATING NON-JURISDICTIONAL STATUS
OF SUNNIER PALMS MEMBERS' LODGE, INC. AND CLOSING DOCKET

BY THE COMMISSION:

On January 29, 1993, Sunnier Palms Members' Lodge, Inc. (Sunnier Palms) filed an application with this Commission for recognition of its exempt status pursuant to Section 367.022(4), Florida Statutes. Sunnier Palms is located in St. Lucie County at 8800 Okeechobee Road, Fort Pierce, Florida, 34945. Ms. T. A. Wyner, the President and Coordinator of Sunnier Palms and the contact person, filed the application on behalf of the corporation. Ms. T. A. Wyner has the same mailing address as the applicant.

Sunnier Palms is a non-profit corporation established to provide recreational and athletic facilities for its members, their families and their guests. The families do not live on the property on a permanent basis, but use Sunnier as a vacation resort. After a review of the Articles of Incorporation and Bylaws submitted with Sunnier's application, the applicant was advised that it did not qualify for an exemption as a public-lodging establishment.

Subsequently, on May 3, 1993, Sunnier Palms filed an application with this Commission for recognition of its non-jurisdictional status, pursuant to Section 367.021(12), Florida Statutes. Said Section states that a "utility means a water or wastewater utility and except as provided in Section 367.022, includes every person, lessee, trustee, or receiver owning, operating, managing or controlling a system, or proposing construction of a system, who is providing or proposes to provide water or wastewater service to the public for compensation."

DOCUMENT NUMBER-DATE

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FPSC-RECORDS/REPORTING

Upon request and sufficient proof, the Commission will issue an order indicating the nonjurisdictional or exempt status of water or wastewater systems if they qualify under the appropriate provision of Chapter 367, Florida Statutes. The application was filed in accordance with Section 367.021(12), Florida Statutes, and Rules 25-30.060 (1), (2) and (3)(j), Florida Administrative Code. According to the application, water service only is provided to the applicant, there is no charge for providing the service, and all costs of providing service are treated or recovered as operational expenses. Wastewater service is provided by septic tank.

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, T. A. Wyner acknowledged that she is aware of Section 837.06, Florida Statutes, and the penalties for making false statements in the application.

Based on the facts as represented, we find that Sunnier Palms is not a utility pursuant to the provisions of Section 367.021(12), Florida Statutes. Should there be any change, however, in circumstances or method of operation, the owner of Sunnier Palms or any successors in interest, must inform the Commission within 30 days of such change so that we may review the matter to determine whether nonjurisdictional status is still appropriate.

It is, therefore,

ORDERED by the Florida Public Service Commission that, based upon the facts as represented, Sunnier Palms Members' Lodge, Inc. 8800 Okeechobee Road, Fort Pierce, Florida 34945 is not a water utility subject to this Commission's jurisdiction, pursuant to the provisions of Section 367.021(12), Florida Statutes. It is further

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

ORDER NO. PSC-93-0881-FOF-WU
DOCKET NO. 930111-WU
PAGE 3

ORDERED that this Docket is hereby closed.

By ORDER of the Florida Public Service Commission this 10th
day of June, 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.