

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Request for exemption ) DOCKET NO. 940766-WU  
from Florida Public Service ) ORDER NO. PSC-94-1166-FOF-WU  
Commission regulation for ) ISSUED: September 22, 1994  
provision of water service in )  
Citrus County by OZELLO WATER )  
ASSOCIATION, INC. )  
\_\_\_\_\_ )

ORDER INDICATING THE EXEMPT STATUS OF  
OZELLO WATER ASSOCIATION, INC.

BY THE COMMISSION:

On July 19, 1994, Ozello Water Association, Inc., (Ozello or Association) filed a request for recognition of its exempt status pursuant to Section 367.022(7), Florida Statutes. Ozello is located at 9769 West Ozello Trail, Crystal River, Florida, 34429. Ozello's mailing address is Post Office Box 1285, Crystal River, Florida, 34423. Mr. W.A. Rawls, Vice President, filed the application on behalf of Ozello. The primary contact person, Ms. Linda W. Elliott, General Manager, is at Ozello's mailing address.

Upon request and sufficient proof, this Commission will issue an order indicating the non-jurisdictional or exempt status of water or wastewater systems if they qualify under the appropriate provision of Chapter 367, Florida Statutes. Ozello has requested an exemption pursuant to Section 367.022(7), Florida Statutes, which states that nonprofit corporations, associations, or cooperatives providing service solely to members who own and control such nonprofit entities are exempt from Commission regulation. Pursuant to Rule 25-30.060(3)(g), Florida Administrative Code, the applicant requesting the exemption must file with the Commission a statement specifying the following: that the corporation is nonprofit; that it provides service solely to the members who own and control it; whether it provides water service, wastewater service, or both; who will do the billing; and the service territory. Additionally, the applicant must submit its Articles of Incorporation as filed with the Secretary of State and its Bylaws. These documents must clearly show the requirements for membership, that the members' voting rights are one vote per unit of ownership, and the circumstances under which control of the corporation passes to the nondeveloper members.

In its application, Ozello stated that it is a nonprofit corporation organized pursuant to Chapter 617, Florida Statutes, that it will provide service solely to its members who own and

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control it, and that it will provide water service for which it will provide its own billing. The service territory encompasses the east and west sides of U.S. Highway 19 from, and including, West Arber Court, Homosassa Springs, north three and one-half miles to, and including, Mayo Drive, Crystal River, also including all subdivisions off Fort Island Trail, Crystal River, and all of Ozello off Ozello Trail. The Association provided copies of two county maps which delineate the service territory. The Association also provided a copy of its Articles of Incorporation as filed with the Secretary of State, and its Bylaws. The Articles of Incorporation show the requirements of membership, and that control passed to the nondeveloper members at the time of incorporation. The Bylaws show that no cumulative voting is allowed, and that the members' voting rights are one vote per member. In addition, the Association provided copies of two recorded warranty deeds granting it fee simple title to the lands upon which the facilities are located.

Pursuant to Section 837.06, Florida Statutes, and Rule 25-30.060(2)(f), Florida Administrative Code, anyone knowingly making a false statement in writing with the intent to mislead is guilty of a misdemeanor. By signing the application, Mr. Rawls 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 Ozello is exempt from Commission regulation pursuant to the provisions of Section 367.022(7), Florida Statutes. However, should there be any change in circumstances or method of operation, a representative of the Association must inform the Commission within thirty days of such change, so that we may reevaluate Ozello's exempt status.

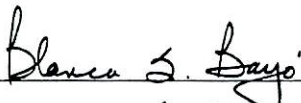
It is, therefore,

ORDERED by the Florida Public Service Commission that, based upon the facts as represented, Ozello Water Association, Inc., Post Office Box 1285, Crystal River, Florida, 34423, is hereby exempt from Commission regulation pursuant to the provisions of Section 367.022(7), Florida Statutes. It is further

ORDERED that should there be any change in circumstances or method of operation, a representative of Ozello Water Association, Inc., or any successors in interest, shall inform the Commission within thirty days of such change so that Ozello's exempt status may be reevaluated. It is further

ORDERED that this Docket is hereby closed.

By ORDER of the Florida Public Service Commission, this 22nd day of September, 1994.



BLANCA S. BAYÓ, 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 wastewater 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.