

MEMORANDUM

January 12, 1995

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FPSC-RECORDS/REPORTING

TO: DIVISION OF RECORDS AND REPORTING

FROM: DIVISION OF LEGAL SERVICES (SAGER) *Edo*

RE: DOCKET NO. 941044-WS - Resolution of Board of Commissioners of Charlotte County declaring Charlotte County subject to provisions of Chapter 367, F.S.

0081-FOF

Attached is an Order Indicating the Exempt Status of Sun-N-Shade Campground to be issued in the above-referenced docket. (Number of pages in Order - 3)

ELS/dp

Attachment

cc: Division of Water and Wastewater (Coker)

I: 941044-O.ES

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Resolution of Board of) DOCKET NO. 941044-WS
Commissioners of Charlotte) ORDER NO. PSC-95-0081-FOF-WS
County declaring Charlotte) ISSUED: January 17, 1995
County subject to provisions of)
Chapter 367, F.S. - Request for)
exemption for provision of water)
and wastewater service by Sun-N-)
Shade Campground.)

ORDER INDICATING EXEMPT STATUS OF SUN-N-SHADE CAMPGROUND

BY THE COMMISSION:

On November 18, 1994, Sun-N-Shade Campground (Sun-N-Shade or utility) filed an application for a landlord-tenant exemption for water and wastewater service, pursuant to Section 367.022(5), Florida Statutes. The utility's physical address is 14880 Tamiami Trail, Punta Gorda, Florida 33955. The utility is located in Charlotte County. Mr. Daryl McMichael, its president and primary contact person, filed the application on behalf of the utility.

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 367.022(5), Florida Statutes, and Rule 25-30.060(e), Florida Administrative Code.

Section 367.022(5), Florida Statutes, states that an entity qualifies for exemption from Commission regulation if it provides service solely to its tenants, and there are no specific charges for the utility service. The application indicates that the utility provides water and wastewater service only to its tenants and the service territory is limited to the tenants. Also, the utility's water and wastewater service is included as a non-specific portion of the monthly rent.

In addition, 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, the utility acknowledged that it is aware of Section 837.06, Florida Statutes, and the penalties for making false statements in the application.

DOCUMENT NUMBER-DATE
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Based on the facts as represented, we find that the utility is exempt from our regulation pursuant to Section 367.022(5), Florida Statutes. However, should there be any change in circumstances or method of operation of its water and wastewater system, a representative of the utility, or any successors in interest, must inform the Commission within 30 days of such change so that its exempt status may be reevaluated.

It is, therefore,

ORDERED by the Florida Public Service Commission that, based upon the facts as represented, Sun-N-Shade Campground, 14880 Tamiami Trail, Punta Gorda, Florida 33955, is exempt from the 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 of its water and wastewater system, a representative of Sun-N-Shade Campground, or any successors in interest, shall inform this Commission within 30 days of such change so that we may reevaluate Sun-N-Shade Campground's exempt status. It is further

ORDERED that this docket shall remain open to process other exemption requests for Charlotte County.

By ORDER of the Florida Public Service Commission, this 17th day of JANUARY, 1995.

BLANCA S. BAYÓ, Director
Division of Records and Reporting

by: *Kay Hagan*
Chief, Bureau of Records

(S E A L)

ELS

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