

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Request for Exemption ) DOCKET NO. 930048-WU  
from Florida Public Service ) ORDER NO. PSC-96-0398-FOF-WU  
Commission regulation for ) ISSUED: March 21, 1996  
provision of water service in )  
Okaloosa County by Seminole )  
Community Center, Inc. )  
\_\_\_\_\_ )

ORDER INDICATING THE EXEMPT STATUS  
OF SEMINOLE COMMUNITY CENTER, INC.

BY THE COMMISSION:

On January 11, 1993, Seminole Community Center, Inc. (Seminole or applicant) filed a request for an exemption pursuant to Section 367.022(7), Florida Statutes, and Rule 25-30.060(3), Florida Administrative Code, as a corporation providing service solely to its members. Seminole provides water service to the Seminole/Dixon Subdivision located in Okaloosa County. Wastewater service to the customers is provided by septic tank. The applicant's primary contact person is Dorothy McLean and its mailing address is Post Office Box 386, Niceville, Florida, 32578.

Upon request and sufficient proof, the Commission will issue an order indicating the exempt status of water or wastewater systems if they qualify under the appropriate provision of Section 367.022, Florida Statutes. Section 367.022(7), Florida Statutes, states that nonprofit corporations, associations, or cooperatives providing service solely to members who own and control such nonprofit corporations, associations, or cooperatives are not subject to regulation by the Commission as a utility, nor subject to the provisions of Chapter 367, Florida Statutes, except as expressly provided.

Seminole initially had difficulty in providing sufficient proof of land ownership pursuant to Rule 25-30.060(3)(g), Florida Administrative Code. At the time of the applicant's filing, that rule required, inter alia, that an applicant provide sufficient proof of ownership of the utility facilities and land associated with those facilities. Seminole could not provide the appropriate warranty deed or other proof of ownership, as it only held a quit-claim deed for the property.

At the time of Seminole's filing, revisions to Rule 25-30.060, Florida Administrative Code, were being considered. We have now amended Rule 25-30.060(3)(g) to remove the requirement of proof of ownership. By Order No. PSC-96-0134-FOF-WS, issued January 30,

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1996, we gave notice of our adoption of the revisions to that rule. We find it appropriate to review Seminole's application pursuant to the revised rule, and find that the applicant has complied with the revised provisions of Section 367.022(7), Statutes, and Rule 25-30.060, Florida Administrative Code. Specifically, the application includes a statement that Seminole will provide water service solely to members who own and control it. Seminole was formed pursuant to Chapter 617, Florida Statutes. Therefore, pursuant to Rule 25-30.060(3)(g)(3), it has provided its articles of incorporation as filed with the Secretary of State, its bylaws, and a description of the voting rights and their location in the articles of incorporation and the bylaws. Each customer of Seminole receives one vote.

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, Edward N. Elliot, Chairman of Seminole Community Center, Inc., acknowledged that he is aware of Section 837.06, Florida Statutes, and the penalties for making false statements in the application.

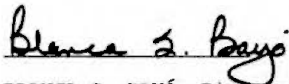
Based on the facts as represented, we find that Seminole is exempt from our regulation pursuant to Section 367.022(7), Florida Statutes. Accordingly, Seminole is not subject to our jurisdiction. However, the owner of Seminole or any successors in interest are hereby put on notice that if there is any change in circumstances or method of operation, it should inform this Commission within 30 days of such change so that its non-jurisdictional status may be reevaluated.

It is, therefore,

ORDERED by the Florida Public Service Commission that, based upon the facts as represented, Seminole Community Center, Inc., Post Office Box 386, Niceville, Florida, 32578, is hereby exempt from Commission regulation pursuant to the provisions of Section 367.022(7), Florida Statutes. It is further

ORDERED that this docket shall be closed.

By ORDER of the Florida Public Service Commission, this 21st  
day of March, 1996.



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, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, 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.