

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Application for) DOCKET NO. 961253-WU
Grandfather Certificate to) ORDER NO. PSC-97-0367-FOF-WU
Provide Water Service in Polk) ISSUED: April 2, 1997
County by Pinecrest Ranches.)
_____)

The following Commissioners participated in the disposition of this matter:

JULIA L. JOHNSON, Chairman
SUSAN F. CLARK
J. TERRY DEASON
JOE GARCIA
DIANE K. KIESLING

ORDER GRANTING GRANDFATHER CERTIFICATE, REQUIRING
FILING OF WARRANTY DEED IN THE NAME OF THE UTILITY,
REQUIRING REGISTRATION OF THE FICTITIOUS NAME,
SETTING RATES AND CHARGES, AND REQUIRING FILING OF
1996 ANNUAL REPORT AND PAYMENT OF REGULATORY
ASSESSMENT FEES FOR 1996 FROM THE JURISDICTIONAL DATE

BY THE COMMISSION:

Background

On October 17, 1996, Pinecrest Ranches (Pinecrest or utility) filed an application with this Commission for a certificate under grandfather rights, pursuant to Section 367.171, Florida Statutes. The application was filed after the Board of County Commissioners of Polk County adopted a resolution on May 14, 1996, which made the utilities in the County subject to the provisions of Chapter 367, Florida Statutes.

Pinecrest is a Class C utility that has been in existence since mid-1987. Pinecrest currently provides water service to approximately 139 single-family residences in a mobile/manufactured home community.

Application

The application was filed in accordance with Section 367.171, Florida Statutes, and other pertinent statutes and provisions of the Florida Administrative Code. In particular, the application contains a filing fee in the amount of \$200, as required by Rule 25-30.020, Florida Administrative Code.

DOCUMENT NUMBER-DATE

03337 APR-25

FPSC-RECORDS/REPORTING

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Pinecrest provided adequate service territory and system maps and a territory description, as prescribed by Rule 25-30.035(9), (10), and (11), Florida Administrative Code. A description of the territory which Pinecrest has requested to serve is shown on Attachment A of this Order, which by reference is incorporated herein.

The name, Pinecrest Ranches, is a fictitious name, which, pursuant to Section 865.09(3), Florida Statutes, must be registered with the Division of Corporations of the Department of State. That Section states, in part, "A person may not engage in business under a fictitious name unless he first registers the name with the division [of corporations] . . ." According to the Division of Corporations of the Department of State, the name, Pinecrest Ranches, is not registered. Therefore, the utility shall register its name with the Department of State within 30 days of the date of this Order.

Rule 25-30.035(6), Florida Administrative Code, requires a utility to provide proof that it owns the land upon which its facilities are located. The warranty deed submitted with the application was not in the name of the utility. Therefore, Pinecrest shall provide a copy of a recorded warranty deed in the name of the utility within 90 days of the date of this Order. However, because a warranty deed may not be in a fictitious name, the deed should be in the name of the owner d/b/a (doing business as) Pinecrest Ranches.

As stated previously, Pinecrest has been in existence since mid-1987, providing satisfactory service to its customers in Polk County. According to the Department of Environmental Protection (DEP), there are no outstanding notices of violation against the utility.

Based on the foregoing, we find it appropriate to grant Pinecrest Certificate No. 588-W to serve the territory described in Attachment A of this Order.

Rates and Charges

Although Polk County required payment of a franchise fee, Pinecrest's rates and charges, in effect on the date this Commission received jurisdiction, were never reviewed or approved by the Polk County Board of County Commissioners. Pinecrest's rates and charges are set forth below:

Residential Service - Water
Monthly Rates

| | |
|------------------|----------|
| Flat Charge | \$ 12.50 |
| Gallorage Charge | N/A |

Service Availability Charges

Customer Connection Charge

| | |
|-------------------|-------------|
| 5/8" x 3/4" Meter | \$350.00 |
| All Other Sizes | Actual Cost |

Miscellaneous Service Charges

| | |
|------------------------|----------|
| Initial Connection | \$ 15.00 |
| Normal Reconnection | \$ 15.00 |
| Violation Reconnection | \$ 15.00 |
| Premises Visit | \$ 10.00 |
| Late Fee | \$ 2.50 |

Note: Pinecrest does not collect customer deposits.

We find these rates and charges to be reasonable and they are approved. However, we note that the existing water rate is a flat rate. Rule 25-30.255, Florida Administrative Code, states, in part, "each utility shall measure water sold upon the basis of metered volume." Therefore, Pinecrest is hereby put on notice that the Commission may require the installation of meters for all customers as a part of its next rate case proceeding.

Pinecrest shall charge the rates and charges approved herein until authorized to change by this Commission in a subsequent proceeding. Pinecrest has filed a tariff reflecting these rates and charges. The tariff shall be effective for service rendered or connections made on or after the stamped approval date on the tariff sheets.

1996 Regulatory Assessment Fees and Annual Report

Pursuant to Rule 25-30.120(2), Florida Administrative Code, "any utility which is subject to this Commission's jurisdiction on or before December 31 of that year or for any part of that year, whether or not the utility has actually applied for or been issued a certificate" is required to pay regulatory assessment fees. Additionally, Rule 25-30.110(3), Florida Administrative Code, states that "[t]he obligation to file an annual report for any year

shall apply to any utility which is subject to this Commission's jurisdiction as of December 31 of that year, whether or not the utility has actually applied for or been issued a certificate." Therefore, Pinecrest shall remit regulatory assessment fees for 1996 and file a 1996 annual report from the jurisdictional date, May 14, 1996, by March 31, 1997.

It is, therefore,

ORDERED by the Florida Public Service Commission that Pinecrest Ranches, Post Office Box 192, Winter Haven, Florida 33882-0192, is hereby granted Certificate No. 588-W to provide water service to the territory described in Attachment A of this Order. It is further

ORDERED that Pinecrest Ranches shall register its fictitious name with the Division of Corporation of the Department of State within 30 days of the date of this Order. It is further

ORDERED that Pinecrest Ranches shall provide a copy of a recorded warranty deed in the name of the utility, as set forth herein, as proof that it owns the land upon which its facilities are located, within 90 days of the date of this Order. It is further

ORDERED that the rates and charges set forth in the body of this Order are hereby approved. Pinecrest Ranches shall charge these rates and charges until authorized to change by the Commission in a subsequent proceeding. Pinecrest Ranches' tariff, which reflects the rates and charges approved herein, shall be effective for service rendered or connections made on or after the stamped approval date on the tariff sheets. It is further

ORDERED that Pinecrest Ranches shall file a 1996 annual report from the jurisdictional date, May 14, 1996, by March 31, 1997. It is further

ORDERED that Pinecrest Ranches shall pay regulatory assessment fees for 1996 from the jurisdictional date, May 14, 1996, by March 31, 1997. It is further

ORDERED that this docket shall remain open pending receipt of the warranty deed in the name of the utility and proof that Pinecrest Ranches has registered its fictitious name with the Division of Corporations of the Department of State. Upon receipt of the deed and proof of registration, the docket shall be closed administratively.

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By ORDER of the Florida Public Service Commission, this 2nd
day of April, 1997.

BLANCA S. BAYÓ, Director
Division of Records and Reporting

by: Kay Flynn
Chief, Bureau of Records

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NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), 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.

ATTACHMENT A

PINECREST RANCHES

Territory Description

Located within Section 6, Township 30 South, Range 26 East in Polk County, Florida.

More particularly described as follows: Begin at the Northwest corner of the Northeast 1/4 of Section 6 and run North 89° 28'10" East, along the Northern Boundary of Section 6, 1145.33 feet; thence South 20° 03'30" East, 383.78 feet; thence North 69° 56'30" East, 57.71 feet to the East Boundary of the W 1/2 of the Northeast 1/4; thence South 00° 22'30" East, along said East Boundary, 1,394.42 feet to the Northeast corner of the Southwest 1/4 of the Northeast 1/4 of Section 6; thence North 89° 21'48" West, along the North Boundary of the Southwest 1/4 of the Northeast 1/4, 1,328.39 feet to the West Boundary of the Northeast 1/4; thence North 00° 24'01" West, along said West Boundary, 1,709.77 feet to the Point of Beginning.

Also two parcels more particularly described as follows:

Located within Section 31, Township 29 South, Range 26 East in Polk County, Florida.

Beginning at the Southeast corner of Section 31, run Westerly 2,771.38 feet to the Point of Beginning, thence run West 224.50 feet; thence North 120 feet; thence East 224.50 feet; thence South 120 feet to the Point of Beginning;

and, beginning at the Southeast corner of Section 31, run Westerly 2,591.38 feet to the Point of Beginning, continue West 60.00 feet; thence North 105 feet; thence East 60 feet; thence South 105 feet to the Point of Beginning.