

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Request for exemption from)
Florida Public Service Commission)
regulation for provision of water)
and wastewater service by HIAWATHA)
MANAGEMENT, INC. in Putnam County)

DOCKET NO. 910526-WS

ORDER NO. 25283

ISSUED: 10/31/91

The following Commissioners participated in the disposition of this matter:

THOMAS M. BEARD, Chairman
SUSAN F. CLARK
J. TERRY DEASON
BETTY EASLEY

ORDER INDICATING THE EXEMPT STATUS OF
HIAWATHA MANAGEMENT, INC.

BY THE COMMISSION:

Hiawatha Management, Inc. (Hiawatha) is a condominium association which provides water and wastewater services to fifty-eight existing condominium units from on-site plants. The water and wastewater plants were constructed in 1982 and Hiawatha is in the process of upgrading its wastewater plant. Pursuant to Section 367.031, Florida Statutes, before the Department of Environmental Regulation will issue a construction permit, it requires either a certificate authorizing service or proof that the utility is not subject to the regulation of this Commission. Therefore, by affidavit received on April 26, 1991, and Articles of Incorporation and Declaration of Condominium of the Hiawatha dated September 6, 1991, and Bylaws and Agreement and Release received July 19, 1991, Hiawatha has requested recognition of its exempt status.

Upon request and sufficient proof, the Commission will issue an order indicating the nonjurisdictional or exempt status of water or wastewater facilities, if they qualify under the appropriate section of Chapter 367, Florida Statutes. Hiawatha requested recognition of its exempt status under Section 367.022(7), Florida Statutes. Section 367.022(7), Florida Statutes, states that "[n]onprofit corporations, associations, or cooperatives providing service solely to members who own and control such nonprofit" entities are exempt from Commission regulation.

The aforementioned documents submitted by Hiawatha show that: Hiawatha is an association that is a nonprofit corporation organized to operate, maintain, and manage the condominium;

DOCUMENT NUMBER-DATE

10887 OCT 31 1991

ORDER NO. 25283
DOCKET NO. 910526-WS
PAGE 2

Hiawatha provides water and wastewater services solely to its members; the requirement for membership is ownership of a condominium unit and owners of each unit shall collectively be entitled to one vote; and Hiawatha owns and controls the utilities and the land upon which the utilities' facilities are located.

Based upon the facts as represented, we find that Hiawatha is exempt from our regulation pursuant to Section 367.022(7), Florida Statutes. However, should there be any change in circumstances or method of operation, Hiawatha, or any successor in interest, shall notify this Commission within thirty days of such change so that we may determine whether exempt status is still appropriate.

It is, therefore,

ORDERED by the Florida Public Service Commission that, based upon the facts as represented, Hiawatha Management, Inc. is hereby exempt from Commission regulation pursuant to the terms of Section 367.022(7), Florida Statutes. It is further

ORDERED that should there be any change in circumstances or method of operation of Hiawatha Management, Inc.'s water and wastewater facilities, Hiawatha Management, Inc., or any successor in interest, shall inform this Commission within thirty days of such change. It is further

ORDERED that this docket be closed.

By ORDER of the Florida Public Service Commission, this 31st day of OCTOBER, 1991.

STEVE TRIBBLE, Director
Division of Records and Reporting

(S E A L)

NRF

by: Kay Henson
Chief, Bureau of Records

ORDER NO. 25283
DOCKET NO. 910526-WS
PAGE 3

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