

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Investigation into) DOCKET NO. 951367-WS
exempt status of the Country) ORDER NO. PSC-96-1210-FOF-WS
Club of Mount Dora in Lake) ISSUED: September 23, 1996
County.)
_____)

ORDER INDICATING THE EXEMPT STATUS OF
COUNTRY CLUB OF MOUNT DORA AND CLOSING DOCKET

BY THE COMMISSION:

On August 3, 1992, the Florida Public Service Commission (Commission or FPSC) issued Order No. PSC-92-0745-FOF-WS granting the Country Club of Mount Dora (CCMD) an exemption from FPSC regulation, as a nonprofit corporation, pursuant to Section 367.022(7), Florida Statutes. Phase one of the CCMD receives bulk water and wastewater service from JJ's Mobile Homes, Inc. (JJ's). The Commission, while addressing JJ's application for an amendment in Docket 921237-WS, became aware that there was a possibility CCMD no longer met the criteria for exemption pursuant to Section 367.022(7), Florida Statutes. Therefore, the Commission instructed staff to open the instant docket to investigate the exempt status of CCMD.

The CCMD is located at 1885 Country Club Boulevard, Mount Dora, Florida. Mr. John B. Debitetto, president and primary contact person, filed a new application for exemption on behalf of the CCMD.

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(7), 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 entities are exempt from Commission regulation. Before an exemption of this nature may be granted, the applicant requesting the exemption must file with the Commission a statement specifying the following: that the corporation is nonprofit; providing service solely to the members who own and control it; and, whether it provides water service, wastewater service, or both. Additionally, the applicant

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must submit its Articles of Incorporation as filed with the Secretary of State and its Bylaws. These documents must show clearly the requirements of membership, the members' voting rights, and the circumstances under which control passes to the nondeveloper members.

CCMD provided documentation 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 control it; and, voting rights are one vote per unit of ownership. In addition, the CCMD established a separate voting class so that only those members who are customers of the utility may vote on utility related matters. CCMD also provided written confirmation that turnover of control to the nondeveloper members occurred on June 17, 1996.

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, Mr. Debitetto 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 CCMD is exempt from our regulation pursuant to Section 367.022(7), Florida Statutes. However, the CCMD or any successors in interest are put on notice that if there is any change in circumstance or method of operation which causes it to no longer qualify for exemption pursuant to Section 367.022, Florida Statutes, it should inform the Commission within 30 days of such change so that its status may be reevaluated.

It is, therefore,

ORDERED by the Florida Public Service Commission that, based upon the facts as represented, Country Club of Mount Dora, 1885 Country Club Blvd, Mount Dora, Florida, 32757, is hereby exempt from Commission regulation pursuant to the provisions of Section 367.022(7), Florida Statutes. It is further

ORDERED that this Docket is hereby closed.

By ORDER of the Florida Public Service Commission, this 23rd
day of September, 1996.

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 120.59(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.