

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Request for exemption ) DOCKET NO. 950485-WS  
from Florida Public Service ) ORDER NO. PSC-95-0846-FOF-WS  
Commission regulation for ) ISSUED: July 17, 1995  
provision of water and )  
wastewater service in Pinellas )  
County by Clearwater Cascade )  
Homeowners Association, Inc. )  
\_\_\_\_\_ )

ORDER INDICATING THE EXEMPT STATUS OF  
CLEARWATER CASCADE HOMEOWNER'S ASSOCIATION, INC.

BY THE COMMISSION:

On April 25, 1995, this Commission received an application from the Clearwater Cascade Homeowners Association, Inc. (association) for a nonprofit association exemption for its utility facilities, pursuant to Section 367.022(7), Florida Statutes, and Rule 25-30.060, Florida Administrative Code. The utility's physical location and mailing address is 9790 66th Street North, Pinellas Park, Florida, 34666. The application was signed by Mr. John C. Ferraro, President of the association. The primary contact person for Clearwater Cascade is Ms. Janet Otto, who may be contacted at the utility's address.

Clearwater Cascade is a 463-lot mobile home park which currently holds a reseller exemption pursuant to Section 367.022(8). We acknowledged that exemption in Order No. 25015, issued September 5, 1991. At the time of that order, Clearwater Cascade was owned by Merrill Lynch Hubbard Realty Partnership V. That partnership assigned all rights, titles, and interest to the property and improvements located thereon to the homeowners association on July 12, 1994. The association filed this application in order to acknowledge the change in method of operation and billing procedures.

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, and Rules 25-30.060(1), (2), and (3)(g), Florida Administrative Code.

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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; whether it provides service solely to the members who own and control it; whether it provides water service, wastewater service, or both; who will do the billing; and the service territory. Additionally, the applicant must submit its Articles of Incorporation as filed with the Secretary of State and its Bylaws. These documents must clearly show the requirements of membership, the members' voting rights, and the circumstances under which control passes to the non-developer members.

In its application, Clearwater Cascade stated that it is a nonprofit corporation; that it will provide water and wastewater service solely to its members who own and control it; and that it will do its own billing. The City of Clearwater provides bulk water and wastewater service to the mobile home park. The association maintains the lines to the individual residences and the facilities to lift wastewater back to the city's lines. The service area is specified as being the physical address of the utility mentioned above. Clearwater Cascade has attached its Articles of Incorporation as filed with the Secretary of State and the Bylaws, which documents clearly show the requirements for membership, and that the members' voting rights are one vote per unit of ownership. Ownership control has already passed to the non-developer members.

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. Ferraro acknowledged that he is aware of Section 837.06, Florida Statutes, and the penalties for making false statements in the application.

Based upon the facts as represented, we find that Clearwater Cascade Homeowners Association, Inc., is exempt from Commission regulation pursuant to the provisions of Section 367.022(7), Florida Statutes. Clearwater Cascade Homeowners Association is no longer exempt as a reseller. However, should there be any change in circumstances or method of its water or wastewater system, Clearwater Cascade or its successor(s) in interest shall notify the Commission within thirty days of such change so that we may reevaluate its exemption status.

Based on the foregoing, it is, therefore,

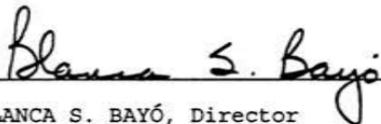
ORDERED by the Florida Public Service Commission that, based upon the facts as represented, Clearwater Cascade Homeowners Association, Inc., 9790 66th Street North, Pinellas Park, Florida, 34666 is hereby exempt from Commission regulation pursuant to the provisions of Section 367.022(7), Florida Statutes. It is further

ORDERED that Clearwater Cascade Homeowners Association, Inc. is no longer exempt from Commission regulation pursuant to the provisions of Section 367.022(8). It is further

ORDERED that should there be any change in circumstances or method of operation of its water or wastewater system, a representative of Clearwater Cascade Homeowners Association, Inc. shall inform the Commission within thirty days of such change so that the utility's exempt status may be reevaluated. It is further

ORDERED that this docket shall be closed.

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



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 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.