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MEMORANDUM

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FPSC-RECORDS/REPORTING

May 18, 1995

TO: DIVISION OF RECORDS AND REPORTING

FROM: DIVISION OF LEGAL SERVICES (SAGER) *E25 JV*

RE: DOCKET NO. 941044-WS - Resolution of Board of Commissioners of Charlotte County Declaring Charlotte County Subject to Provisions of Chapter 367, Florida Statutes - Request for Exemption for Provision of Water Service by Charlotte Harbor Water Association, Inc.

*0639- F2F*

Attached is an Order Indicating the Exempt Status of Charlotte Harbor Water Association, Inc., to be issued in the above-referenced docket. (Number of pages in Order - 3)

ELS/dp

Attachment

cc: Division of Water and Wastewater (Coker)

I: 941044-C.ES

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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Resolution of Board of ) DOCKET NO. 941044-WS  
Commissioners of Charlotte ) ORDER NO. PSC-95-0639-F07-WS  
County Declaring Charlotte ) ISSUED: May 24, 1995  
County Subject to Provisions of )  
Chapter 367, Florida Statutes - )  
Request for Exemption for )  
Provision of Water Service by )  
Charlotte Harbor Water )  
Association, Inc. )

ORDER INDICATING THE EXEMPT STATUS OF CHARLOTTE HARBOR  
WATER ASSOCIATION, INC., AND CLOSING DOCKET

BY THE COMMISSION:

On November 21, 1994, Charlotte Harbor Water Association, Inc., (Charlotte Harbor or utility) filed a request for recognition of its exempt status for its water system, pursuant to Section 367.022(7), Florida Statutes. Charlotte Harbor is located at 2515 Highlands Road, Harbor Heights, Florida. Mr. Paul Brayton, corporate secretary and primary contact person, filed the application on behalf of Charlotte Harbor.

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

DOCUMENT NUMBER-DATE  
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Charlotte Harbor states that it is a nonprofit corporation organized pursuant to Chapter 617, Florida Statutes; that it provides service solely to its members who own and control it; and that it provides water service for which it does its own billing. Charlotte Harbor's service area is 2515 Highlands Road, Harbor Heights, Florida. The Association has provided two recorded deeds showing that it has purchased the land upon which the facilities are located. In addition, it has provided a copy of a bill of sale verifying that the Association owns the water plant facilities.

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, Charlotte Harbor acknowledged that it 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 Charlotte Harbor is exempt from Commission regulation pursuant to the provisions of Section 367.022(7), Florida Statutes. However, should there be any change in circumstances or method of operation, a representative of the Association must inform the Commission within thirty days of such change, so that we may reevaluate its exempt status.

It is, therefore,

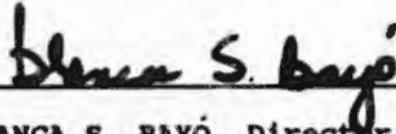
ORDERED by the Florida Public Service Commission that, based upon the facts as represented, Charlotte Harbor Water Association, Inc., 2515 Highlands Heights, Harbor Heights, Florida 33983, is hereby exempt from Commission regulation pursuant to the provisions of Section 367.022(7), Florida Statutes. It is further

ORDERED that should there be any change in circumstances or method of operation, a representative of Charlotte Harbor Water Association, Inc., shall inform the Commission within thirty days of such change so that its exempt status may be reevaluated. It is further

ORDERED that this Docket shall remain open.

ORDER NO. PSC-95-0639-POF-WS  
DOCKET NO. 941044-WS  
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By ORDER of the Florida Public Service Commission, this 24th  
day of May, 1995.



BLANCA S. BAYÓ, Director  
Division of Records and Reporting

( S E A L )

ELS

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.