

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Request for Exemption) DOCKET NO. 960270-WS
from Florida Public Service) ORDER NO. PSC-96-1206-FOF-WS
Commission Regulation for) ISSUED: September 23, 1996
Provision of Water and)
Wastewater Service in Palm Beach)
County by Ashley Lake Park)
Limited Partnership d/b/a Ashley)
Lake Park.)
_____)

The following Commissioners participated in the disposition of this matter:

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

ORDER GRANTING EXEMPTION FOR ASHLEY LAKE PARK
LIMITED PARTNERSHIP D/B/A ASHLEY LAKE PARK
AND CLOSING DOCKET

BY THE COMMISSION:

On March 4, 1996, Ashley Lake Park Limited Partnership, d/b/a Ashley Lake Park (Ashley Lake) filed an application with this Commission for recognition of its exempt status, pursuant to Section 367.022(8), Florida Statutes. Ashley Lake is a 300-unit/11 building apartment complex located at 5020 Ashley Lake Drive, Boynton Beach, Florida. Mr. Fred Peirce of Zom Residential Services, Inc. (ZOM) and primary contact person, filed the application on behalf of Ashley Lake. By letter dated January 8, 1996, Mr. Mark Mahoney, Senior Vice President of Ashley Lake, authorized Mr. Peirce to file the application.

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(8), Florida Statutes, and Rule 25-30.060(1), (2) and (3)(h), Florida Administrative Code. Section 367.022(8), Florida Statutes, states, in part, that "[a]ny person who resells water or wastewater service at a rate or charge which does not exceed the actual purchase price thereof," and who

DOCUMENT NUMBER-DATE

10126 SEP 23 96

FPSC-RECORDS/REPORTING

complies with certain reporting requirements, is exempt from Commission regulation.

According to the application, Ashley Lake provides service only to the apartment complex located at 5020 Ashley Lake Drive, Boynton Beach, Florida. Ashley Lake intends to purchase water and wastewater from the City of Boynton Beach and resell the service to its residents at a rate that does not exceed the actual purchase price. No administrative or processing fees or miscellaneous charges will be charged to the residents and no customer deposits will be collected. Ashley Lake will be responsible for charges for service to common areas and vacant apartments.

EnviroCheck has been retained to read the complex's meters on a monthly basis and to bill the residents accordingly on Ashley Lake's behalf. The billing methodology which Ashley Lake has requested to use to design the rates it proposes to charge the residents is different from the methodologies previously approved by the Commission.

The Commission has, in the past, approved rates that were determined by dividing all fixed and variable costs by the number of apartment units, or by dividing fixed costs by the number of apartments and charging for actual usage based on the readings of meters on individual apartments. The Commission has also approved rates based on the ratio of residents to bathrooms per apartment. In the instant docket, individual meters cannot be installed on each apartment because of the way the apartment complex was originally constructed.

The City of Boynton Beach charges a minimum fee of \$8.31 for each apartment for water service and a minimum fee of \$12.66 for each apartment for wastewater service. The minimum fee charged by the City for water includes usage of up to 3,000 gallons. Usage beyond 3,000 gallons is billed on a rising scale, beginning at \$1.98 per 1,000 gallons. The City's charge for all wastewater service is \$1.98 per 1,000 gallons of water service, with a 7,000 gallon maximum charge for each unit.

Ashley Park has 11 master meters, one on each of its eleven buildings, which contain from 24 to 32 apartment units each. Like Boynton Beach, Ashley Lake intends to charge each of the apartments a minimum fee of \$8.31 for water service and a minimum fee of \$12.66 for wastewater service. All buildings except Building No. 7 contain only one type of apartment (e.g., Building No. 1 has 32 one-bedroom apartments; and Building has 24 two-bedroom apartments). The residents in all buildings, except Building No. 7, will be charged a prorated share of the total usage fee assessed

for the building they live in. Building No. 7 contains a mix of one-bedroom (4 units) and two-bedroom (24 units) apartments. Therefore, the residents of Building No. 7 will be charged the minimum fees and usage charges based on the ratio of residents to bedrooms per apartment. Lease statistics for Ashley Lake show that the average number of residents in a one-bedroom apartment is 1.20 persons; the average number of residents in a two-bedroom apartment is 1.88 persons; and the average number of residents in a three-bedroom apartment is 2.0 persons.

An example of a bill for a one-bedroom apartment and a two-bedroom apartment in Building No. 7 is shown below. The example assumes that 102,000 gallons of water was used by 4 one-bedroom apartments and 24 two-bedroom apartments. Since the apartments are allowed to use 84,000 gallons of water before usage charges commence, 18,000 gallons have been included for water consumption above the minimum level. The full 102,000 gallons are included in the calculation of charges for wastewater service. To divide usage charges among apartments based upon the approximate number of persons per apartment, it is assumed that 50 persons live in Building No. 7 (4 units x 1.2 persons = 4.8 persons; and 24 units x 1.88 persons = 45.12 persons).

One-bedroom Apartment:

Water (minimum fee)	\$ 8.31
Water charges	
((18,000 gallons x 1.98)/50 x 1.2)	.86
Wastewater (minimum fee)	12.66
Wastewater charges	
((102,000 gallons x 1.93)/50 x 1.2)	<u>4.72</u>
Total	\$26.55

Two-bedroom Apartment:

Water (minimum fee)	\$ 8.31
Water charges	
((18,000 gallons x 1.98)/50 x 1.88)	1.34
Wastewater (minimum fee)	12.66
Wastewater charges	
((102,000 gallons x 1.93)/50 x 1.88)	<u>\$ 7.40</u>
Total	\$29.71

Section 367.022(8), Florida Statutes, does not specify the methodology to be used by resellers to determine rates. It simply states that any person who resells water or wastewater service at

a rate or charge that does not exceed the actual purchase price is exempt from Commission regulation. When determining the appropriateness of a methodology proposed by a reseller, the Commission considers whether or not the method is reasonable and fair to the residents and whether or not the reseller will earn more than is charged by the provider for the service.

The reseller industry faces the unique problem of trying to promote water conservation by apartment tenants, where construction of the complex did not contemplate installation of meters on individual apartments. In these situations, it is appropriate to review rate design operations that attempt to simulate metered usage.

Pursuant to Section 367.022(8), as long as a reseller's methodology does not yield revenues which exceed the actual purchase price, a methodology that fairly allocates costs should be considered reasonable. Ashley Lake's methodology/rates will not result in revenues which exceed the amount paid to the City of Boynton Beach for the service. Therefore, we find that Ashley Lake's methodology is reasonable.

Ashley Lake is aware of the requirements of Section 367.122, Florida Statutes, and Rules 25-30.111 and 25-30.262 through 25-30.267, Florida Administrative Code. 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. Peirce 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 Ashley Lake is exempt from our regulation pursuant to Section 367.022(8), Florida Statutes. However, the owner of Ashley Lake 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, Ashley Lake Park Limited Partnership d/b/a Ashley Lake Park, 5020 Ashley Drive, Boynton Beach, Florida 33437, is hereby exempt from Commission regulation pursuant to the provisions of Section 367.022(8), Florida Statutes. It is further

ORDER NO. PSC-96-1206-POF-WS
DOCKET NO. 960270-WS
PAGE 5

ORDERED that Ashley Lake Park Limited Partnership d/b/a Ashley Lake Park shall file annual reports in accordance with the provisions of Section 367.022(8), Florida Statutes, and Rule 25-30.111, Florida Administrative Code. It is further

ORDERED that Docket No. 960270-WS 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

(S E A L)

ALC

ORDER NO. PSC-96-1206-FOF-WS
DOCKET NO. 960270-WS
PAGE 6

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.