

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Resolution of the Board of County Commissioners of Manatee County declaring Manatee County subject to the provisions of Chapter 367, F.S. - Request for exemption from Florida Public Service Commission Regulation for Provision of Irrigation Water by Seabreeze Mobile Estates.

DOCKET NO. 951235-WS
ORDER NO. PSC-98-0671-FOF-WS
ISSUED: May 15, 1998

ORDER INDICATING EXEMPT STATUS OF SEABREEZE
MOBILE ESTATES, REQUIRING NOTICE OF ANY CHANGE
IN STATUS, AND KEEPING DOCKET OPEN

BY THE COMMISSION:

On December 4, 1995, Seabreeze Mobile Estates (Seabreeze) filed an application with this Commission for recognition of its exempt status, pursuant to Section 367.022(8), Florida Statutes. Seabreeze is located at 3901 71 Street West, Bradenton, Florida. John Smilde, one of the owners and primary contact person, filed the application on behalf of Seabreeze.

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 purportedly in accordance with Section 367.022(8), Florida Statutes.

However, upon examination of the application and further investigation, it has been determined that Seabreeze provides only nonpotable water to the residents of Seabreeze Mobile Estates for irrigation, and that the City of Bradenton provides the potable water to those residents. Section 367.022(11), Florida Statutes, states that anyone providing only nonpotable water for irrigation purposes in a geographic area where potable water service is available from a governmentally or privately owned utility shall be exempt from Commission regulation.

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In addition, pursuant to Section 837.06, Florida Statutes, anyone knowingly making a false statement in writing with the intent to mislead is guilty of a misdemeanor. By signing the application, Mr. Smilde 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 Seabreeze is exempt from our regulation pursuant to Section 367.022(11), Florida Statutes. However, the owner of Seabreeze 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, Seabreeze Mobile Estates, 3901 71st Street West, Bradenton, Florida 34209, is exempt from Commission regulation, pursuant to the provisions of Section 367.022(11), Florida Statutes. It is further

ORDERED that this Docket shall remain open to process additional applications.

By ORDER of the Florida Public Service Commission, this 15th day of May, 1998.

BLANCA S. BAYÓ, Director
Division of Records and Reporting

By: Kay Flynn
Kay Flynn, Chief
Bureau of Records

(S E A L)

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NOTICE FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), 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.