

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Request for exemption from ) DOCKET NO. 911166-WS  
Florida Public Service Commission )  
regulation for provision of water ) ORDER NO. 25760  
and wastewater services by SIESTA )  
MOBILE HOME PARK in Lee County ) ISSUED: 2/20/92  
)

The following Commissioners participated in the disposition of this matter:

THOMAS M. BEARD, Chairman  
SUSAN F. CLARK  
J. TERRY DEASON  
BETTY EASLEY  
LUIS J. LAUREDO

ORDER INDICATING THE EXEMPT STATUS OF THE  
SIESTA MOBILE HOME PARK

BY THE COMMISSION:

Siesta Mobile Home Park (Siesta) is a seventy lot mobile home park in Fort Myers, Florida. The owner of Siesta, Mr. Buell Whitehead, owns fifty of these lots which are occupied by tenants. In addition to the mobile home operations, Siesta provides water and wastewater service to these tenants on a resale basis. The remaining twenty lots are privately owned. Of the twenty privately owned lots, Mr. Whitehead resells water and wastewater service to twelve lots. The remaining eight have individual wells and are provided wastewater service from Lee County Utilities.

A tenant of one of the twelve privately owned lots serviced by Siesta contacted the Commission with a question regarding the method and amount billed by Siesta for water service. During the investigation regarding that tenant's inquiry, we ascertained that Siesta was not authorized by this Commission to provide utility service, nor had an order been issued granting Siesta exempt status. Siesta requested that it be found exempt immediately after the initial contact with the Commission concerning this matter.

Siesta has two methods of billing for water and wastewater service, one for tenants and another for private owners. For the tenants Siesta includes the first 2,000 gallons of water per month and the base charge as part of the rent paid by the tenant. If the tenant uses more than 8,000 gallons in a four-month period, the

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tenant is assessed an overage charge. The overage charge is equal to the consumption rate charged by Lee County Utilities, the supplier of water and wastewater services to Siesta. For the owners of the private lots, Siesta charges separate base charges for water and wastewater service which are equal to the base charges assessed by Lee County Utilities. The private owners are also charged a consumption rate equal to the rate charged by Lee County Utilities. Both tenants and private owners are billed quarterly.

Upon request and sufficient proof, this Commission will issue an order indicating the nonjurisdictional or exempt status of water or wastewater facilities, if the facilities qualify under the appropriate section of Chapter 367, Florida Statutes. Siesta requested recognition of its exempt status under Chapter 367.022(8), Florida Statutes. Section 367.022(8), Florida Statutes, states that any person who resells water or wastewater service at a rate or charge which does not exceed the actual purchase price thereof and who complies with certain reporting requirements is exempt from Commission regulation.

The information provided by Siesta shows that Siesta resells water and wastewater service to its tenants at the same rate or less than that charged it by Lee County Utilities. Siesta acknowledges the reporting obligation under Rule 25-30.111, Florida Administrative Code, which states that any person who resells water and/or wastewater service and claims the exemption provided for in subsection 367.022(8), Florida Statutes, shall file a report by March 31 of each year following the year for which the exemption is claimed. The report shall contain the following: 1) a schedule listing, by month, the rates charged for and total revenue received from the water and/or wastewater service sold; 2) a schedule listing, by month, the rates charged and total expense incurred for the purchase of the water and/or wastewater service sold; 3) a statement listing the source from which the water and/or wastewater service was purchased. Based upon the facts as represented, we find that Siesta is exempt from our regulation under the terms of Section 367.022(8), Florida Statutes. However, should there be any change in the system's method of operation or billing procedures, the owner of Siesta and this Commission, or any successor in interest, shall inform this Commission within thirty (30) days of such change, so that we may determine whether exempt status is still appropriate.

Based on the foregoing, it is, therefore,

ORDERED by the Florida Public Service Commission that, based upon the facts as represented, Siesta Mobile Home Park, with Buell Whitehead as the system's contact person, located at East/West Buell Drive, Ft. Myers, Florida 33905, whose mailing address is 16500 Slater Road, North Fort Myers, Florida 33917, is hereby exempt from Commission regulation pursuant to the terms of Section 367.022(8), Florida Statutes. It is further

ORDERED that Siesta Mobile Home Park shall comply with the reporting requirements of Rule 25-30.111, Florida Administrative Code. It is further

ORDERED that should there be any change in the method of operation or billing procedure of Siesta Mobile Home Park in the course of its providing water services, the owner of Siesta Mobile Home Park, or any successor in interest, shall inform the Commission within thirty days of such change. It is further

ORDERED that this docket be closed.

BY ORDER of the Florida Public Service Commission, this 20th  
day of FEBRUARY, 1992.

  
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STEVE TRIBBLE, Director  
Division of Records and Reporting

( S E A L )

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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

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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 or sewer 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.