

BEFORE THE FLORIDA PUBLIC SERVICE COMMISS

In Re: Request for Exemption) DOCKET NO. 930105-WU
from Florida Public Service) ORDER NO. PSC-93-1379-FOF-WU
Commission Regulation for) ISSUED: September 20, 1993
Provision of Water Service in)
Osceola County by HAMMOCK POINTE)
UTILITY ASSOCIATION, INC.)
_____)

The following Commissioners participated in the disposition of this matter:

J. TERRY DEASON, Chairman
SUSAN F. CLARK
JULIA L. JOHNSON
LUIS J. LAUREDO

ORDER INDICATING THE EXEMPT STATUS OF
HAMMOCK POINTE UTILITY ASSOCIATION, INC.

BY THE COMMISSION:

On January 26, 1993, Hammock Pointe Utility Association, Inc. (Hammock Pointe or utility) filed its request for exemption from Commission regulation pursuant to Section 367.022(7), Florida Statutes. Hammock Pointe is located in Osceola County. The corporation's contact person is F. Kent Smith, President, whose mailing address is P. O. Box 700355, St. Cloud, Florida 34770-0355. Mr. Smith filed the application on behalf of the applicant.

Hammock Pointe requested that it be found exempt pursuant to Section 367.022(7), Florida Statutes. In addition, Hammock Pointe filed its application in accordance with Rule 25-30.060(3)(g), Florida Administrative Code. In order to comport with the statute and rule, Hammock Pointe amended its By-Laws to reflect that members' voting rights are one vote per unit of ownership.

In its application Hammock Pointe states that it is a nonprofit corporation, that it will provide water service solely to its members who own and control it, and that it will provide its own billing. The utility's service area will be limited to the Hammock Pointe Subdivision in Osceola County.

DOCUMENT NUMBER-DATE

10117 SEP 20 93

PROCESSED BY: [illegible]

Hammock Pointe is unable to provide a recorded Warranty Deed showing ownership of the land upon which the utility facilities are located until the County approves the platting. Because the platting can not be approved until the Department of Environmental Protection (DEP) issues the permit to construct and because DEP will not issue its permit until the utility receives an exemption from the Commission, we are granting this exemption with the proviso that the utility provide a recorded warranty deed within 60 days.

In addition, the application form states that 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, F. Kent Smith acknowledged that he is aware of Section 837.06, Florida Statutes, and the penalties for making false statements in the application.

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. Based upon the facts as represented, we find that Hammock Pointe is exempt from our regulation under the terms of Section 367.022(7), Florida Statutes. However, should there be any change in circumstances of the utility, a representative of the applicant must inform the Commission within thirty days of such change, so that we may determine whether exempt status is still appropriate.

It is, therefore,

ORDERED by the Florida Public Service Commission that, based upon the facts as represented, Hammock Pointe Utility Association, Inc., located at c/o Mr. F. Kent Smith, P. O. Box 700355, St. Cloud, Florida 34770-0355 is hereby exempt from Commission regulation pursuant to the terms of Section 367.022(7), Florida Statutes. It is further

ORDERED by the Florida Public Service Commission that Hammock Pointe Utility Association, Inc., provide us with a copy of the recorded warranty deed reflecting ownership of the land upon which the utility facilities are located within 60 days of the date of this Order.

ORDERED that should there be any change in circumstances of

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Hammock Pointe, a representative of the applicant shall inform the Commission within thirty days of such change so that we may reevaluate the applicant's exempt status. It is further

ORDERED that this docket remain open. Once the warranty deed has been filed, it may be closed administratively.

By ORDER of the Florida Public Service Commission this 20th day of September, 1993.

STEVE TRIBBLE, Director
Division of Records and Reporting

(S E A L)

SLE

by: Kay Flynn
Chief, Bureau of Records

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 or sewer

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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 Civil Procedure. The notice of appeal must be in the form specified in Rule 9.900 (a), Florida Rules of Appellate Procedure.