

MEMORANDUM

February ⁷/₈, 1995

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FPSC-RECORDS/REPORTING

TO: DIVISION OF RECORDS AND REPORTING

FROM: DIVISION OF LEGAL SERVICES (SAGER) *EYS JH*

RE: DOCKET NO. 941044-90 ^{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 and Wastewater Service by El Galeon Utility Co., Inc.

0172-FOP

Attached is an Order Indicating Exempt of El Galeon Utility Co., 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: 1044-ELG.ES

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Resolution of Board of) DOCKET NO. 941044-WS
Commissioners of Charlotte) ORDER NO. PSC-95-0172-POF-WS
County Declaring Charlotte) ISSUED: February 7, 1995
County Subject to Provisions of)
Chapter 367, Florida Statutes -)
Request for Exemption for)
Provision of Wastewater Service)
by El Galeon Utility Co., Inc.)
)

ORDER INDICATING EXEMPT STATUS OF EL GALEON
UTILITY CO., INC.

BY THE COMMISSION:

On November 11, 1994, El Galeon Utility Co., Inc. (El Galeon or utility), applied for a small system exemption for its wastewater facility, pursuant to Section 367.022 (6), Florida Statutes. The utility's physical address is 1770 Gulf Boulevard, Englewood, Florida 34223. The utility is located in Charlotte County. Ms. Johanna De Palma, the president and primary contact person, filed an application on behalf of the utility.

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(6), Florida Statutes, and Rules 25-30.055 and 25-30.060(3)(f), Florida Administrative Code.

Section 367.022(6), Florida Statutes, states that "[s]ystems with the capacity or proposed capacity to serve 100 or fewer persons" are exempt from Commission regulation. In addition, Rule 25-30.055(1), Florida Administrative Code, provides that:

A water or sewer system is exempt under Section 367.022(6), Florida Statutes, if its current or proposed water or sewage treatment facilities and distribution or collection system have and will have a capacity, excluding fire flow capacity, of no greater than 10,000 gallons per day or if the entire system is designed to serve no greater than 40 equivalent residential connections (ERCs). For purposes of this rule only, one ERC equals 250 gallons per day.

DOCUMENT NUMBER-DATE

01368 FEB-78

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According to the application, the utility system has or will have a maximum capacity of 0.0095 million gallons per day (annual average daily flow) and its wastewater treatment system has the capacity to serve one hundred or fewer persons as defined in Rule 25-30.055, Florida Administrative Code; it provides wastewater service only; and its service area is limited to its customers.

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, the utility acknowledged that it 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 the utility is exempt from our regulation pursuant to Section 367.022(6), Florida Statutes. However, should there be any change in circumstances or method of operation, the owner of the utility, or any successors in interest, must inform the Commission within 30 days of such change so that its exempt status may be reevaluated.

Based on the foregoing, it is, therefore,

ORDERED by the Florida Public Service Commission that, based upon the facts as represented, El Galeon Utility Co., Inc., 1770 Gulf Boulevard, Englewood, Florida 34223, is exempt from Commission regulation pursuant to the provisions of Section 367.022(6), Florida Statutes. It is further

ORDERED that should there be any change in circumstances or method of operation, the owner of El Galeon Utility Co., Inc., or any successors in interest, shall inform this Commission within 30 days of such a change so that we may reevaluate El Galeon Utility Co., Inc.'s exempt status. It is further

ORDERED that this docket shall remain open.

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By ORDER of the Florida Public Service Commission, this 7th day of February, 1995.

BLANCA S. BAYO, Director
Division of Records and Reporting

by: Kay Flynn
Chief, Bureau of Records

(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.