

MEMORANDUM

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FPSC-RECORDS/REPORTING

TO: DIVISION OF RECORDS AND REPORTING  
FROM: DIVISION OF LEGAL SERVICES (PELLEGRINI) *CP JET*  
RE: DOCKET NO. 941044-WS - RESOLUTION OF BOARD OF  
COMMISSIONERS OF CHARLOTTE COUNTY DECLARING CHARLOTTE  
COUNTY SUBJECT TO PROVISIONS OF CHAPTER 367, F.S. -  
REQUEST FOR EXEMPTION FOR WATER AND WASTEWATER SERVICE BY  
KNIGHT ISLAND UTILITIES, INC.

*0039-FOR*

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Attached is an ORDER INDICATING THE EXEMPT STATUS OF KNIGHT ISLAND UTILITIES, INC., to be issued in the above-referenced docket. (Number of pages in Order - 3)

CJP/mw

Attachment

cc: Division of Water and Wastewater (Redemann)

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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Resolution of Board of ) DOCKET NO. 941044-WS  
Commissioners of Charlotte ) ORDER NO. PSC-96-0039-FOF-WS  
County Declaring Charlotte ) ISSUED: January 10, 1996  
County Subject to Provisions of )  
Chapter 367, F.S. - Request for )  
exemption for provision of water )  
and wastewater service by )  
Knight Island Utilities, Inc. )  
\_\_\_\_\_ )

ORDER INDICATING THE EXEMPT STATUS  
OF KNIGHT ISLAND UTILITIES, INC.

BY THE COMMISSION:

On September 27, 1994, the Charlotte County Board of County Commissioners adopted Resolution No. 94-195, pursuant to Section 367.171, Florida Statutes, declaring the privately owned water and wastewater utilities in Charlotte County subject to the provisions of Chapter 367, Florida Statutes, effective September 27, 1994. The Florida Public Service Commission received Charlotte County's resolution on September 30, 1994. The effect of the resolution is to invoke Public Service Commission jurisdiction over privately owned water and wastewater systems in Charlotte County. Pursuant to Section 367.031, Florida Statutes, all utilities subject to the Commission's jurisdiction must obtain either a certificate to provide water and wastewater service or an order recognizing the exempt status of the system.

Upon request and sufficient proof, the Commission will issue an order indicating the exempt status of water or wastewater systems if they qualify under the appropriate provision of Section 367.022, Florida Statutes. Section 367.022(7), Florida Statutes, states that nonprofit corporations, associations, or cooperatives providing service solely to members who own and control such nonprofit corporations, associations, or cooperatives are not subject to regulation by the Commission as a utility, nor subject to the provisions of Chapter 367, Florida Statutes, except as expressly provided.

On March 16, 1995, Knight Island Utilities, Inc. (Knight Island) applied for an exemption from our regulation pursuant to Section 367.022 (7), Florida Statutes, and Rule 25-30.060(3)(g), Florida Administrative Code. Before an exemption of this nature may be granted, the applicant requesting the exemption must file with the Commission a statement specifying the following: that the corporation is nonprofit; that it is providing service solely to

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its members who own and control it; whether it provides water service, wastewater service, or both; who will do the billing; and what the service territory is. Additionally, the applicant must submit its articles of incorporation as filed with the Secretary of State, as well as its bylaws. These documents must show clearly the requirements of membership, the members' voting rights, and the circumstances under which control passes to the non-developer members.

Knight Island stated that it is a not-for-profit corporation; that it provides both water and wastewater services; that service will be provided solely to members of the corporation who own and control it; that Knight Island will do the billing for such services; and that the service area is located at 7092 Placida Road, Cape Haze, Florida 33946, which is also the utility's mailing address. Articles of incorporation were filed with the Secretary of State on November 30, 1981. The bylaws show clearly the requirements for membership and that the members' voting rights are based on one vote per unit of ownership. Control of the corporation has passed to non-developer members. The utility has provided assurance of its right to continued use of the land upon which its facilities are sited in the form of a lease of sufficient duration.

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, Dean L. Beckstead, President, Knight Island Utilities, Inc., 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 Knight Island Utilities, Inc. is exempt from our regulation pursuant to Section 367.022(7), Florida Statutes. However, the utility is hereby put on notice that if there is any change in circumstances or method of operation, it should inform the Commission within 30 days of such change so that its exempt status may be re-evaluated.

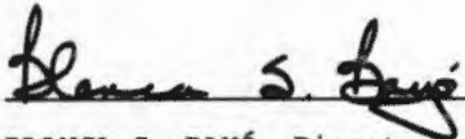
It is, therefore,

ORDERED by the Florida Public Service Commission that, based upon the facts as represented, Knight Island Utilities, Inc., 7092 Placida Road, Cape Haze, Florida 33946, is hereby exempt from Commission regulation pursuant to the provisions of Section 367.022(7), Florida Statutes. It is further

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ORDERED that this docket shall remain open.

By ORDER of the Florida Public Service Commission, this 10th  
day of January, 1996.



BLANCA S. BAYÓ, Director  
Division of Records and Reporting

( S E A L )

CJP

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.