

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Request for Exemption) DOCKET NO. 940013-WS
from Florida Public Service) ORDER NO. PSC-94-0577-FOF-WS
Commission Regulation for) ISSUED: May 17, 1994
Provision of Water and)
Wastewater Service in St. Lucie)
County by ISLANDIA EAST)
ASSOCIATION, INC.)
_____)

ORDER INDICATING THE EXEMPT STATUS OF ISLANDIA
EAST ASSOCIATION, INC. AND CLOSING DOCKET

BY THE COMMISSION:

On October 5, 1992, Islandia Common Facilities Association (ICF) filed a request for recognition of its exempt status, pursuant to Section 367.022(7), Florida Statutes. The request was denied in Order No. PSC-93-1095-FOF-SU, issued on July 27, 1993, because there was questionable language in the "Amendment to the Declaration of Covenants, Restrictions, and Easements of Islandia East Association, Inc." (Islandia, formerly known as ICF) The language allowed Islandia the option to serve a commercial parcel, which is not a part of Islandia. This language contradicts Section 367.022(7), Florida Statutes, which states in part, the applicant must provide service solely to the members who own and control it. The Commission offered Islandia several possibilities to remedy this situation, including rewording the provision so that this commercial parcel would not be served in the future. Islandia East chose this option and reworded the language.

Subsequently, on January 5, 1994, Islandia, filed a request for recognition of its exempt status, pursuant to Section 367.022(7), Florida Statutes. Islandia is located at 9500 South Ocean Drive, Jensen Beach, Florida 34957. Ms. Nancy Vallejo, the utility's president, filed the application on behalf of Islandia. The primary contact person is Ms. Jane L. Cornett, whose mailing address is Post Office Box 66, Stuart, Florida 34995.

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. 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; providing service solely to the members who own and control it; whether it provides water service, wastewater service, or both; who will do the billing; and the

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service territory. Additionally, the applicant must submit its Articles of Incorporation as filed with the Secretary of State and its Bylaws. These documents must show clearly the requirements of membership, the members' voting rights, and the circumstances under which control passes to the nondeveloper members.

In its application, Islandia stated that it is a nonprofit corporation organized pursuant to Chapter 617, Florida Statutes; that it will provide service solely to its members who own and control it; and that it will provide water service for which it will provide its own billing. The service area is specified as Islandia Condominium I and Islandia Condominium II. The Association provided a recorded warranty deed granting it the use of the land upon which the facilities are located. In addition, it provided a copy of a bill of sale verifying that the Association purchased and owns the water plant facilities, thereby establishing proof of ownership of the facilities and continued use of the land where the facilities are located.

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, Ms. Vallejo acknowledged that she is aware of Section 837.06, Florida Statutes, and the penalties for making false statements in the application.

Based upon the facts as represented, we find that Islandia is exempt from Commission regulation pursuant to the provisions of Section 367.022(7), Florida Statutes. However, should there be any change in circumstances or method of operation, a representative of the Association must inform the Commission within thirty days of such change, so that we may reevaluated Islandia's exempt status.

It is, therefore,

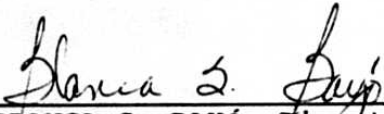
ORDERED by the Florida Public Service Commission that, based upon the facts as represented, Islandia East Association, Inc. 9500 South Ocean Drive, Jensen Beach, Florida 34957, is hereby exempt from Commission regulation pursuant to the provisions of Section 367.022(7), Florida Statutes. It is further

ORDERED that should there be any change in circumstances of or method of operation, a representative of Islandia East Association, Inc. shall inform the Commission within thirty days of such change so that Islandia's exempt status may be reevaluated. It is further

ORDERED that this Docket is hereby closed.

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By ORDER of the Florida Public Service Commission, this 17th
day of May, 1994.



BLANCA S. BAYÓ, Director
Division of Records and Reporting

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