

MEMORANDUM

March 11, 1996

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FPSC-RECORDS/REPORTING

TO: DIVISION OF RECORDS AND REPORTING

FROM: DIVISION OF LEGAL SERVICES (AGARWAL) *JA*

RE: DOCKET NO. 941044-WS - Request for exemption from Florida Public Service Commission regulation for provision of water service in ~~Palm Beach~~ *Charlotte* County by Little Gasparilla Utility, Inc.

0460-FOF

Attached is an ORDER ~~INDICATING THE EXEMPT STATUS OF LITTLE GASPARILLA UTILITY, INC. AND CLOSING DOCKET~~, to be issued in the above-referenced docket. (Number of pages in Order - 3)

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Attachment

cc: Division of Water and Wastewater (Coker)

I: 941044OR.RA

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Resolution of Board of) DOCKET NO. 941044-WS
Commissioners of Charlotte) ORDER NO. PSC-96-0460-POF-WS
County declaring Charlotte) ISSUED: April 2, 1996
County subject to provision of)
Chapter 367, Florida Statutes -)
Request for Exemption for water)
and wastewater service by Little)
Gasparilla Utility, Inc.)
_____)

ORDER INDICATING THE EXEMPT STATUS OF
LITTLE GASPARILLA UTILITY, INC.

BY THE COMMISSION:

On January 17, 1996, Little Gasparilla Utility, Inc., (Little Gasparilla) filed a request for recognition of its exempt status, pursuant to Section 367.022(7), Florida Statutes. Little Gasparilla is located upon Little Gasparilla Island, Charlotte County, Florida. Jack Boyer, president and primary contact person filed the application on behalf of Little Gasparilla.

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(7), 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 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 the following: 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, the circumstances under which control passes to the nondeveloper members, and that the corporation provides service solely to members who own the corporation.

In its application, Little Gasparilla 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. Voting rights are described under Article IV of Little Gasparilla's Articles of Incorporation. The service area is specified as Little Gasparilla Island, Charlotte County, Florida. Wastewater service is provided by septic tank.

DOCUMENT FILED DATE

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ORDER NO. PSC-96-0460-POF-WS
DOCKET NO. 941044-WS
PAGE 2

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, Jack Boyer, president of Little Gasparilla, 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 Little Gasparilla is exempt from our regulation pursuant to Section 367.022(7), Florida Statutes. However, the owner of Little Gasparilla or any successors in interest are put on notice that if there is any change in circumstance or method of operation, it should inform the Commission within 30 days of such change so that its exempt status may be reevaluated.

It is, therefore,

ORDERED by the Florida Public Service Commission that, based upon the facts as represented, Little Gasparilla Utility, Inc., located at Little Gasparilla Island, Charlotte County, Florida, is hereby exempt from Commission regulation pursuant to the provisions of Section 367.022(7), Florida Statutes. It is further

ORDERED that this Docket shall remain open to process additional applications.

By ORDER of the Florida Public Service Commission, this 2nd day of April, 1996.



BLANCA S. BAYÓ, Director
Division of Records and Reporting

(S E A L)

RKA

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.