

MEMORANDUM

October 14, 1991

TO: DIVISION OF RECORDS AND REPORTING
FROM: DIVISION OF LEGAL SERVICES (BEDELL) *CB and for use*
RE: DOCKET NO. 910813-WS - PETITION FOR EXEMPTION FROM
FLORIDA PUBLIC SERVICE COMMISSION REGULATION AS A UTILITY
BY CITY OF KISSIMMEE AS RECEIVER FOR KINGS POINT
UTILITIES, INC. IN OSCEOLA COUNTY

25213 ~~_____~~

Attached is an Order Granting Exemption to be issued in the
above-referenced docket. (Consisting of - 3 - pages.)

CB/slc
cc: Division of Water and Wastewater

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FPSC-RECORDS/REPORTING

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for exemption from) DOCKET NO. 910813-WS
Florida Public Service Commission)
regulation as a utility by City of) ORDER NO. 25213
Kissimmee as Receiver for KINGS POINT)
UTILITIES, INC. in Osceola County) ISSUED: 10/14/91
_____)

The following Commissioners participated in the disposition of this matter:

THOMAS M. BEARD, Chairman
SUSAN F. CLARK
J. TERRY DEASON
MICHAEL McK. WILSON

ORDER GRANTING EXEMPTION

BY THE COMMISSION:

On April 1, 1991, the City of Kissimmee (City) was appointed the receiver for King's Point Utilities, Inc. (King's Point or the utility). The receivership was initiated by the Department of Environmental Regulation (DER) and the City after repeated efforts by DER, this Commission and the Circuit Court to force the owners of the utility to bring the systems into compliance with DER standards. One reason the City was appointed receiver was that it had expressed an intent to eventually purchase the utility and to that end, the City, as receiver, has undertaken the difficult and costly task of bringing these systems into compliance with DER standards and providing safe and adequate service to the customers of the King's Point subdivision. By Order No. 24414, issued April 22, 1991, we cancelled the water and wastewater certificates of the utility for failure to comply with DER and Commission directives, as well as a Circuit Court order. On July 30, 1991, the City as receiver for the utility filed a petition requesting exemption from regulation by the Commission pursuant to Section 367.022, Florida Statutes.

In conferring jurisdiction over the regulation of utilities to this Commission, the legislature relied on the police power of the state for the protection of the public health, safety, and welfare. See, Section 367.011, Florida Statutes. In establishing certain exemptions to regulation, the legislature determined that the exercise of the police power was not necessary in certain instances. Section 367.022(2), Florida Statutes, provides such an exemption for systems owned, operated, managed, or controlled by governmental authorities. This exemption is the only exemption provision in Section 367.022, Florida Statutes, which does not

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contemplate ownership of the system as a requirement for exempt status. In this case, the receivership order expressly provides that, as receiver, the City of Kissimmee is required to operate, manage, and control the utility. We find that the exemption provision of Section 367.022(2), Florida Statutes, applies.

Further, the City stated that the operation of the utility is subject to the provisions of Chapter 180, Florida Statutes, and that the public health, safety, and welfare would be adequately protected by the provisions of Chapter 180, Florida Statutes, and the oversight of the receivership by the Circuit Court. We conclude that the public health, safety, and welfare of the utility customers of King's Point are adequately protected under the provisions of Chapter 180, Florida Statutes, and the oversight of the Circuit Court, without the necessity of this Commission asserting jurisdiction.

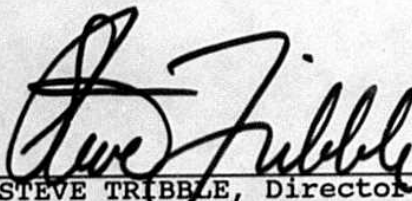
Upon consideration of the foregoing, we find it appropriate to grant the petition for exemption of the City of Kissimmee as receiver for King's Point Utilities, Inc. There being no further action necessary in this docket, we also find it appropriate to close this docket.

It is, therefore,

ORDERED by the Florida Public Service Commission that the Petition for Exemption of the City of Kissimmee as receiver for Kings Point Utilities, Inc. is granted. It is further

ORDERED that this docket is hereby closed.

By ORDER of the Florida Public Service Commission, this 14th
day of OCTOBER, 1991.



STEVE TRIBBLE, Director
Division of Records and Reporting

(S E A L)

CB

Commissioner Deason dissented.

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