

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Request for exemption from ) DOCKET NO. 910602-WU  
Florida Public Service Commission ) ORDER NO. 25288  
regulation for provision of water ) ISSUED: 11/01/91  
service in Duval County by MITCHELL )  
POINT UTILITIES, INC. )  
\_\_\_\_\_)

The following Commissioners participated in the disposition of this matter:

THOMAS M. BEARD, CHAIRMAN  
SUSAN F. CLARK  
J. TERRY DEASON  
BETTY EASLEY  
MICHAEL MCK. WILSON

ORDER INDICATING THE EXEMPT STATUS OF  
MITCHELL POINT UTILITIES, INC.

BY THE COMMISSION:

Mitchell Point Utilities, Inc. (Mitchell Point or utility) operates a water treatment plant for the White Shell Bay Subdivision (subdivision) in Duval County. The system has been in operation since September 12, 1989. The subdivision consists of 39 residential lots and is bordered on the North, East and South by the St. Johns River. On the West, the subdivision is bordered by a separate development called Hecksher Drive Estates, which receives water through wells.

On May 17, 1991, Mitchell Point applied for an exemption from Commission regulation for the water system pursuant to Section 367.022(6), Florida Statutes, the small system exemption. The application for the small system exemption includes an affidavit submitted by the Vice President of Mitchell Point and states that: the utility will provide only water service; the water system has a capacity to serve 100 or fewer persons; and the service area will be limited to the White Shell Bay Subdivision.

According to Section 367.022(6), Florida Statutes, "[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, Florida Administrative Code, provides that:

a water or wastewater system is exempt from Commission regulation under Section 367.022(6), Florida Statutes:  
if its current or proposed water or sewage treatment facilities and distribution or collection system have and

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will have a capacity, excluding fire flow capacity, of no greater than 10,000 gallons per day (gpd) or if the entire system is designed to serve no greater than 40 equivalent residential connections (ERCs). For purposes of this rule, an ERC equals 250 gallons per day.

The utility told the Commission in a letter dated August 1, 1991, that a 20,000 gpd water plant was installed based upon economic expediency. Due to the phase-out of another small water system, the 20,000 gpd plant became available at a cost savings after refurbishment of approximately \$15,000 or 37%, compared with the price of a new plant as originally designed. The Department of Environmental Regulation (DER) permit, submitted with the utility's application, indicates that the water system is rated at 20,000 gpd and is capable of serving 137 persons.

On July 29, 1991, we inspected the water system and it appears that because the subdivision is bordered on three sides by the St. Johns River, the possibility of the utility ever serving 100 persons is very small. Currently, the system is serving only three (3) residential customers. Even further, the utility contends that no additional customers are expected in the foreseeable future because of the sluggish economy.

Based on the facts as represented, we find that Mitchell Point Utilities, Inc. is exempt from Commission regulation pursuant to Section 367.022(6), Florida Statutes. We further find that Mitchell Point Utilities, Inc. should inform this Commission of any change in circumstances or method of operation within thirty days of such change so that we may review the matter to determine whether exempt status would still be appropriate.

Based on the foregoing, it is, therefore,

ORDERED by the Florida Public Service Commission that based on the facts as represented, the water system of Mitchell Point Utilities, Inc., located at 9170 Milton Road, Jacksonville, Florida 32226, is hereby exempt from Commission regulation pursuant to Section 367.022(6), Florida Statutes. It is further

ORDERED that should there be any change in circumstances or method of operation, Mitchell Point Utilities, Inc. or any successor shall inform this Commission within thirty (30) days of such change. It is further

ORDERED that this docket be closed.

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By ORDER of the Florida Public Service Commission, this 1st  
day of NOVEMBER, 1991.

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STEVE TRIBBLE, Director  
Division of Records and Reporting

(S E A L)

LAJ

by: Key Flynn  
Chief, Bureau of Records

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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.