

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Request for exemption) DOCKET NO. 920997-SU
from Florida Public Service) ORDER NO. PSC-93-1095-FOF-SU
Commission regulation for) ISSUED: July 27, 1993
provision of water and)
wastewater service in St. Lucie)
County by Islandia Common)
Facilities Association, Inc.)
_____)

The following Commissioners participated in the disposition of this matter:

J. TERRY DEASON, Chairman
THOMAS M. BEARD
SUSAN F. CLARK
JULIA L. JOHNSON
LUIS J. LAUREDO

NOTICE OF PROPOSED AGENCY ACTION

ORDER DENYING ACKNOWLEDGMENT OF EXEMPTION AND REQUIRING
FILING OF GRANDFATHER CERTIFICATE APPLICATION

BY THE COMMISSION:

NOTICE IS HEREBY GIVEN by the Florida Public Service Commission that the action discussed herein is preliminary in nature and will become final unless a person whose interests are adversely affected files a petition for a formal proceeding, pursuant to Rule 25-22.029, Florida Administrative Code.

On October 5, 1992, Islandia Common Facilities Association Inc. filed its application for an exemption from this Commission's jurisdiction for the provision of water and wastewater service in St. Lucie County. The exemption request was filed pursuant to Section 367.022(7), Florida Statutes, which provides for exemptions for qualifying non-profit entities. The utility provides wastewater service to the Islandia I and Islandia II condominiums.

Both condominiums are located contiguous to each other on Hutchinson Island and are part of the same development. Islandia Common Facilities Association, Inc. and Islandia East Association, Inc. are non-profit corporations which operate facilities which serve both condominiums and share common membership. On January 14, 1993, both corporations merged with Islandia East Association,

DOCUMENT NUMBER-DATE

08051 JUL 27 93

FOR PUBLIC RELATIONS

Inc., (Islandia), which became the surviving corporation. Therefore, the appropriate applicant in this matter is Islandia.

In order to qualify for an exemption pursuant to Section 367.022(7), Florida Statutes, and Rule 25-30.060(2)(g), Florida Administrative Code, a non-profit association must provide service solely to members who own and control it. Therefore, to qualify for an exemption, an association may provide service only to its members.

Presently, only the condominium owners within Islandia I and II are members of Islandia. However, prior to turnover of both associations to the members, the developer in the First Amendment to Islandia Common Facilities Declaration of Covenant, Restrictions and Easements reserved the right to receive wastewater service for the proposed commercial parcel of the development. While this parcel is not presently developed, provision is made for Islandia to provide service for compensation to this area with no provision to make these future customers members of the association. We advised the association's agent of the problem concerning the commercial tract and suggested changes which would result in meeting the requirements for exemption. The applicant did not respond to these suggestions.

Based upon the foregoing, we do not believe that Islandia qualifies for any exemption available under Section 367.022, Florida Statutes. Therefore, we find it appropriate to order Islandia to file an application for a grandfather wastewater certificate within 90 days of the effective date of this Order.

If a protest is not received from a substantially affected person within 21 days of the effective date of this Order, no further action will be required and the docket shall be closed.

Based on the foregoing it is, therefore,

ORDERED by the Florida Public Service Commission that Islandia East Association, Inc.'s application for an exemption from our regulation is hereby denied. It is further

ORDERED that Islandia East Association, Inc., shall file an application for a certificate pursuant to grandfather rights within 90 days of the effective date of this Order. It is further

ORDER NO. PSC-93-1095-FOF-SU
DOCKET NO. 920997-WS
PAGE 3

ORDERED that unless a substantially affected person files a timely protest to this Order, the docket shall be closed.

By ORDER of the Florida Public Service Commission this 27th day of July, 1993.

STEVE TRIBBLE, Director
Division of Records and Reporting

(S E A L)

LK

by: 
Chief, Bureau of Records

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.

The action proposed herein is preliminary in nature and will not become effective or final, except as provided by Rule 25-22.029, Florida Administrative Code. Any person whose substantial interests are affected by the action proposed by this order may file a petition for a formal proceeding, as provided by Rule 25-22.029(4), Florida Administrative Code, in the form provided by Rule 25-22.036(7)(a) and (f), Florida Administrative Code. This petition must be received by the Director, Division of Records and Reporting at his office at 101 East Gaines Street, Tallahassee, Florida 32399-0870, by the close of business on August 17, 1993.

ORDER NO. PSC-93-1095-FOF-SU
DOCKET NO. 920997-WS
PAGE 4

In the absence of such a petition, this order shall become effective on the day subsequent to the above date as provided by Rule 25-22.029(6), Florida Administrative Code.

Any objection or protest filed in this docket before the issuance date of this order is considered abandoned unless it satisfies the foregoing conditions and is renewed within the specified protest period.

If this order becomes final and effective on the date described above, any party adversely affected may request judicial review by the Florida Supreme Court in the case of an electric, gas or telephone utility or by the First District Court of Appeal in the case of a water 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 of the effective date 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.