



Public Service Commission

-M-E-M-O-R-A-N-D-U-M-

DATE: February 2, 1996
TO: Division of Records and Reporting
Division of Legal Services, Alice Crosby
FROM: Division of Water & Wastewater, J. Travis Coker *JTC BSM JDN*
RE: DOCKET NO. 951235-WS; Resolution of the Board of County Commissioners of Manatee County subject to the provision of Chapter 367, F.S. - exemption request for water service by Linger Lodge, Inc.

On October 10, 1995, the Manatee County Board of County Commissioners adopted Resolution No. R-95-109, pursuant to Section 367.171, Florida Statutes, declaring the privately owned water and wastewater utilities in Manatee County subject to the provisions of Chapter 367, Florida Statutes, effective October 10, 1995. The Florida Public Service Commission received Manatee County's resolution on October 17, 1995. The effect of the resolution is to invoke Public Service Commission jurisdiction over privately owned water and wastewater systems in Manatee County. Pursuant to Section 367.031, Florida Statutes, all utilities subject to the Commission's jurisdiction must obtain either a certificate to provide water and wastewater service or an order recognizing the exempt status of the system.

On December 4, 1995, Mr. F. David Gamsky filed an application on behalf of Linger Lodge, Inc. (Linger Lodge) for an exemption as a water service provider from the Florida Public Service Commission under Section 367.022 (4), Florida Statutes, and Rule 25-30.060(3)(d), Florida Administrative Code as an exempt public lodging entity and under Section 367.022 (5), F.S., Rule 25-30.060(3)(e), F.A.C. as an exempt entity under the premise of operating as a landlord and finally under Section 367.021 (12), F.S., Rule 25-30.060(3)(j), F.A.C. as a non-jurisdictional entity. Linger Lodge is a recreational park with a restaurant, public lodging and rental sites for recreational vehicles operating as a corporation. The location of the water system is 720 Linger Lodge Road, Bradenton, Florida, 34202. The mailing address is the same as the above address. The water system serves the restaurant and rental lots for recreational vehicles. Mr. Gamsky, owner of Linger Lodge, will remain as the contact person for Commission purposes. Water service is provided by a well. Wastewater service is provided by the Manatee County sewer system.

In its applications, Linger Lodge states it provides water service solely for the use of its tenants and there is no specific charge for providing utility service. Additionally, all costs of providing service are treated or recovered as operational expenses. The applicant provided a sample lease which demonstrates that water utility service is included in lot rental.

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Linger Lodge is recognized as qualifying for a public lodging exemption and a landlord-tenant exemption due to long term and short term rentals. The restaurant requires a non-jurisdictional exemption due to the fact that an unspecified portion of the water service is utilized by the restaurant for its operations only. The applicant acknowledged Section 837.06, Florida Statutes, regarding false statements.

Based upon the facts presented herein, staff believes Linger Lodge is exempt from Commission regulation as a water service provider as defined by the previously mentioned sections of the Florida Statutes. Section 2.08(C)(14) of the Administrative Procedures Manual (APM) gives staff the administrative authority to approve requests for exempt status when the application is clear-cut and without controversy.

Staff recommends that an administrative order be issued within 30 days indicating the exempt status of Linger Lodge. The order should provide that in the event of any change of circumstances or method of operation, Linger Lodge, or its successor(s) in interest should notify the Commission within thirty days of such change so that its exempt status may be reevaluated.

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