

FLORIDA PUBLIC SERVICE COMMISSION
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M E M O R A N D U M

October 31, 1996

TO: DIRECTOR, DIVISION OF RECORDS AND REPORTING (BAYO)

FROM: DIVISION OF WATER & WASTEWATER (TOMLINSON) *BT*
DIVISION OF LEGAL SERVICES (JAEGER) *BM gm bl*

RE: DOCKET NO. 961146-SU - ROUTE 19A NORTH JOINT VENTURE
(CENTURY REALTY FUNDS/HASELTON ASSOCIATES) - REQUEST FOR
CHANGE IN REGULATORY STATUS AND CANCELLATION OF
CERTIFICATE NO. 451-S IN LAKE COUNTY BY ROUTE 19A NORTH
JOINT VENTURE (CENTURY REALTY FUNDS/HASELTON ASSOCIATES).

COUNTY: LAKE COUNTY

AGENDA: NOVEMBER 12, 1996 - REGULAR AGENDA - PROPOSED AGENCY
ACTION FOR ISSUE 2 - INTERESTED PERSONS MAY PARTICIPATE

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: S:\PSC\WAW\WP\961146SU.RCM

DOCUMENT NUMBER-DATE

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FPSC-RECORDS/REPORTING

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CASE BACKGROUND

Route 19A North Joint Venture (Century Realty Funds/Haselton Associates or North Joint Venture or utility) is a Class C wastewater utility which provides service in Lake County. North Joint Venture was issued Certificate No. 541-S by Order No. 21342, issued June 6, 1989. On July 25, 1996, the Commission received a letter from the utility stating that it believed that as a result of a change in operations, it should now be exempt from the Commission's regulation pursuant to Section 367.022(8), Florida Statutes (reseller exemption) and requested a refund of the regulatory assessment fees paid for this time period. Therefore, Staff is bringing this request before the Commission in order to make a finding as to whether this utility is exempt, whether the certificate should be cancelled and whether the regulatory assessment fees for a portion of 1994 and all of 1995 should be refunded.

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DISCUSSION OF ISSUES

ISSUE 1: Is North Joint Venture exempt from the Commission's regulation pursuant to Section 367.022(8), Florida Statutes and should Certificate No. 451-S be canceled?

RECOMMENDATION: Yes. Pursuant to Section 367.022(8), Florida Statutes, North Joint Venture is exempt from the Commission's regulation, and Certificate No. 451-S should be canceled. Additionally, the utility should be required to file an annual report pursuant to the provisions of Section 367.022(8), Florida Statutes and Rule 25-30.111, Florida Administrative Code. The utility should continue to comply with Section 367.122, Florida Statutes, and Rules 25-30.262 through 25-30.267, Florida Administrative Code, regarding the examination and testing of meters. (TOMLINSON)

STAFF ANALYSIS: As discussed in the Case Background, North Joint Venture filed a letter with the Commission on July 25, 1996, stating that it believed that as a result of a change in operations, it should now be exempt from the Commission's regulation pursuant to Section 367.022(8), Florida Statutes (reseller exemption) and requested a refund of the regulatory assessment fees paid. According to North Joint Venture, the utility was forced by the Department of Environmental Protection (DEP) mandate to connect to the City of Eustis (the City). In September 1994, North Joint Venture was interconnected with the City. However, the utility retained possession of the collection lines within the mobile home park. In accordance with the Agreement, the utility charges the residents the City's wastewater rates and remits what is collected from the residents to the City. As a result, the utility does not make a profit.

Section 367.022, Florida Statutes, states that any person who resells water or wastewater service at a rate or charge that does not exceed the actual purchase price is exempt from Commission regulation. North Joint Venture's rates would not result in revenues which exceed the amount paid to the City for service. Therefore, staff recommends that pursuant to Section 367.022(8), Florida Statutes, North Joint Venture is exempt from the Commission's regulation.

Based on the above, Staff recommends that the utility's Wastewater Certificate No. 541-S be canceled. In addition, the utility should be required to file an annual report pursuant to the provisions of Section 367.022(8), Florida Statutes, and Rule 25-30.111, Florida Administrative Code and should continue to comply

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with Section 367.122, Florida Statutes, and Rule 25-30.262 through 25-30.267, Florida Administrative Code, regarding the examination and testing of meters.

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ISSUE 2: Should the regulatory assessment fees paid for a portion of 1994 and all of 1995 be refunded?

RECOMMENDATION: No. Until now, North Joint Venture was still a regulated utility and had neither applied for cancellation of its certificate or an exemption as was required by Section 367.031, Florida Statutes (1995). The utility should also be put on notice that it will be responsible for all outstanding regulatory assessment fees through July, 1996. (TOMLINSON, JAEGER)

STAFF ANALYSIS: As stated in the Case Background, North Joint Venture has requested a refund of the regulatory assessment fees it has paid since it interconnected with the City. Upon interconnection with the City in September 1994, the utility has been passing on the cost of service to the residents at its cost from the City. Therefore, it may have been entitled to an exemption pursuant to Section 367.022(8), Florida Statutes.

However, Section 367.031, Florida Statutes, was in effect at that time and it required a utility to obtain an exemption order from the Commission. It was not until July 25, 1996, that North Joint Venture applied for an exemption. Therefore, through all of 1995, North Joint Venture had no order granting it exempt status.

Further, North Joint Venture was actually certificated and under the regulatory powers of this Commission. Pursuant to Sections 350.113 and 367.145, Florida Statutes, and Rule 25-30.120, Florida Administrative Code, each regulated utility shall remit a regulatory assessment fee based upon four and one-half percent of its gross operating revenue. Since North Joint Venture had not been found to be exempt through all of 1994 and 1995, it was responsible for payment of regulatory assessment fees throughout that time. It was only on July 1, 1996, that Section 367.031, Florida Statutes, was modified such that an exemption order was no longer required. Therefore, staff believes that a refund of the regulatory assessment fees through 1995 is not appropriate and should be denied. In addition, the utility should be put on notice that it will be responsible for outstanding regulatory assessment fees through July, 1996.

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ISSUE 3: Should this docket be closed?

RECOMMENDATION: Yes, upon expiration of the protest period for Issue 2, if a timely protest is not received from a substantially affected person, this docket should be closed. (JAEGER)

STAFF ANALYSIS: Upon expiration of the protest period for Issue 2, if a timely protest is not received from a substantially affected person, there is no further action to be taken in this docket, and the docket should be closed.