

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Request for change in ) DOCKET NO. 961146-SU  
regulatory status and ) ORDER NO. PSC-96-1470-FOF-SU  
cancellation of Certificate No. ) ISSUED: December 3, 1996  
451-S in Lake County by Route )  
19A North Joint Venture (Century )  
Realty Funds/Haselton )  
Associates). )  
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The following Commissioners participated in the disposition of this matter:

SUSAN F. CLARK, Chairman  
J. TERRY DEASON  
JOE GARCIA  
JULIA L. JOHNSON  
DIANE K. KIESLING

ORDER GRANTING EXEMPTION AND CANCELLING CERTIFICATE

AND

NOTICE OF PROPOSED AGENCY ACTION  
ORDER DENYING REFUND OF REGULATORY ASSESSMENT  
FEES AND MAKING UTILITY RESPONSIBLE FOR REGULATORY  
ASSESSMENT FEES THROUGH JULY 1996

BY THE COMMISSION:

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

BACKGROUND

Route 19A North Joint Venture (Century Realty Funds/Haselton Associates), hereinafter referred to as North Joint Venture or utility, is a Class C wastewater utility which provides service in Lake County. North Joint Venture was issued Certificate No. 451-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

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FPSC-RECORDS/REPORTING

367.022(8), Florida Statutes (reseller exemption), which letter also requested a refund of the regulatory assessment fees paid for this time period.

EXEMPTION

As stated earlier, North Joint Venture filed its letter 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). 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 resells wastewater service at a rate or charge which does not exceed the actual purchase price thereof.

Section 367.022(8), 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, we find that pursuant to Section 367.022(8), Florida Statutes, North Joint Venture is exempt from our regulation.

Based on the above, the utility's Wastewater Certificate No. 451-S shall be canceled. However, the utility shall 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 shall 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.

REGULATORY ASSESSMENT FEES

North Joint Venture has also requested that it be refunded the regulatory assessment fees it has paid since it interconnected with the City. Upon interconnection with the City in September 1994,

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the utility has passed on the cost of service to the residents at its cost from the City. Therefore, as we have determined above, it is now exempt pursuant to Section 367.022(8), Florida Statutes.

However, 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 as required by Section 367.031, Florida Statutes.

Further, North Joint Venture was actually certificated and under the regulatory powers of this Commission. Therefore, pursuant to Sections 350.113 and 367.145, Florida Statutes, and Rule 25-30.120, Florida Administrative Code, North Joint Venture was required to remit a regulatory assessment fee based upon four and one-half percent of its gross operating revenue for this time period, and a refund of the regulatory assessment fees through 1995 is not appropriate and shall be denied. In addition, the utility shall be put on notice that it will be responsible for outstanding regulatory assessment fees through July, 1996.

Upon expiration of the protest period, if a timely protest is not received from a substantially affected person, no further action is required, and this docket shall be closed.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that, based upon the facts as represented, Route 19A North Joint Venture (Century Realty Funds/Haselton Associates) is hereby exempt from Commission regulation pursuant to the provisions of Section 367.022(8), Florida Statutes, and Certificate No. 451-S shall be canceled. It is further

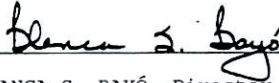
ORDERED that the provisions of this Order issued as proposed agency action shall become final, unless an appropriate petition in the form provided by Rule 25-22.029, Florida Administrative Code, is received by the Director of the Division of Records and Reporting at 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the date set forth in the Notice of Further Proceedings and Judicial Review below. It is further

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ORDERED that Route 19A North Joint Venture (Century Realty Funds/Haselton Associates) shall not receive a refund of the regulatory assessment fees it paid for 1994 and 1995, and that it shall be responsible for regulatory assessment fees through July 1996. It is further

ORDERED that this docket shall be closed if no timely protest is received from a substantially affected person.

By ORDER of the Florida Public Service Commission, this 3rd day of December, 1996.



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BLANCA S. BAYÓ, Director  
Division of Records and Reporting

( S E A L )

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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.

As identified in the body of this order, our action regarding the denial of North Joint Venture's request for a refund of regulatory assessment fees 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 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on December 24, 1996. In the absence of such a petition, this order shall become effective on the date 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 the relevant portion of 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.

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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 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 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.