

State of Florida



# Public Service Commission

CAPITAL CIRCLE OFFICE CENTER • 2540 SHUMARD OAK BOULEVARD  
TALLAHASSEE, FLORIDA 32399-0850

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COMMISSION  
CLERK

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

**DATE:** April 7, 2005**TO:** Director, Division of the Commission Clerk & Administrative Services (Bayó)
**FROM:** Division of Economic Regulation (Rieger, Kaproth) *SDA KK JS @ JDS PD*  
Office of the General Counsel (Gervasi) *RES NCT*
**RE:** Docket No. 050167-WU – Notification of Braden River Utilities, Inc. concerning exemption from regulation in Manatee and Sarasota Counties by the Public Service Commission, pursuant to Section 367.022(11), Florida Statutes, and request for cancellation of Certificate No. 569-W.
**AGENDA:** 04/19/05 – Regular Agenda – Interested Persons May Participate**CRITICAL DATES:** None**SPECIAL INSTRUCTIONS:** None**FILE NAME AND LOCATION:** S:\PSC\ECR\WP\050167.RCM.DOC

## Case Background

Braden River Utilities, Inc. (Braden River or utility) is a Class B water utility located in Manatee and Sarasota Counties. The utility was granted Certificate No. 569-W in Order No. PSC-96-0124-FOF-WU, issued on January 24, 1996.<sup>1</sup> It provides non-potable water only for the purpose of irrigation to residential areas within its nearly 28,000 acres service territory. As reported in its 2003 annual report, the utility had operating revenues of \$529,010, with a net utility operating income of \$71,557.

On February 25, 2005, the utility notified the Commission that it appeared to qualify for an exemption from regulation by the PSC pursuant to section 367.022(11), Florida Statutes. This exemption is for utilities that provide irrigation only water service where potable water service is available from another source. As it is no longer a regulated utility, Braden River indicated that

<sup>1</sup> Docket No. 950120-WU, In Re: Application for certificate to provide water service in Manatee and Sarasota Counties by Braden River Utilities.

Docket No. 050167-WU

Date: April 7, 2005

it did not intend to pay further regulatory assessment fees and is ready to surrender its certificate to the Commission. The purpose of this recommendation is to acknowledge Braden River's exemption from regulation by the Commission pursuant to section 367.022(11), Florida Statutes.

### **Discussion of Issues**

**Issue 1:** Should the Commission acknowledge Braden River Utilities Inc.'s exemption from PSC regulation pursuant to section 367.022(11), Florida Statutes, and cancel Certificate No. 569-W effective on the date of the Commission vote?

**Recommendation:** Yes, the Commission should acknowledge Braden River Utilities Inc.'s exemption from PSC regulation pursuant to section 367.022(11), Florida Statutes, and cancel Certificate No. 569-W effective on the date of the Commission vote. (Rieger, Kaproth, Gervasi)

**Staff Analysis:** As stated in the Case Background, on February 25, 2005, the utility notified the Commission that it appeared to qualify for an exemption from regulation by the PSC pursuant to section 367.022(11), Florida Statutes (see Attachment A). This exemption, enacted by the Legislature in 2002, is for utilities that provide irrigation only water service where potable water service is available from another source. Potable water, as well as wastewater service in the utility's service area, is provided by either Manatee County or Sarasota County. Braden River received its certificate prior to the creation of this exemption. It now clearly is exempt from Commission regulation pursuant to section 367.022(11), Florida Statutes. Braden River has filed its 2003 annual report and has paid its 2004 regulatory assessment fees. Because of its exemption status, staff believes that the utility is not required to file the 2004 annual report. The utility has also returned its certificate to the Commission to be cancelled.

Based on the above, staff recommends that the Commission acknowledge Braden River Utilities Inc.'s exemption from PSC regulation pursuant to section 367.022(11), Florida Statutes. Therefore, the Commission should cancel Certificate No. 569-W effective on the date of the Commission vote.

**Issue 2:** Should the docket be closed?

**Recommendation:** Yes, because no further action is necessary, the docket should be closed. (Gervasi)

**Staff Analysis:** Because no further action is necessary, the docket should be closed.

Braden River Utilities Inc.  
6215 Lorraine Road  
Bradenton, Florida 34202

ORIGINAL

RECEIVED-FPSC

February 22, 2005

05 FEB 25 PM 2:48

Blanca S. Bayo, Director  
Division of the Commission Clerk and  
Administrative Services  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, Florida 32399-0850

COMMISSION  
CLERK

Sent: Certified Mail Return Receipt

Re: Braden River Utilities, Inc.: Certificate No. WU-742-03-AR  
Our File No. 15825.01

Dear Ms. Bayo:

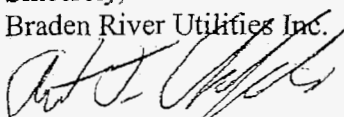
Braden River Utilities, Inc. was certificated by the Florida Public Service Commission several years ago as an irrigation only water company. Upon review of the provisions of Section 367.022(11), Florida Statutes which has been enacted since Braden River Utilities, Inc. received its' certificate, we have determined that Braden River Utilities, Inc. appears to qualify for an exemption from regulation by the PSC. This exemption deals with utilities who provide irrigation only water service where potable water service is available from another source. We believe this provision clearly applies to Braden River Utilities, Inc. as it provides irrigation only water service within certain areas of Manatee and Sarasota Counties areas where each County is providing potable water service.

As a result of this exemption enacted some time ago, we do not believe Braden River Utilities, Inc. is any longer a regulated utility and therefore do not intend to file a year 2004 Annual Report or any future Annual Reports and do not attend to pay further regulatory assessment fees and is ready to surrender our certificate to the Commission.

- CMP \_\_\_\_\_
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- SCR \_\_\_\_\_
- SEC 1
- OTH \_\_\_\_\_

Please have someone with your staff contact me at your earliest convenience at the above address at let us know what further needs to be done in order to finalize this withdraw from regulation by the Commission.

If you have any questions in this regard, please contact me at (941) 755-1637, extension 245.

Sincerely,  
Braden River Utilities Inc.  
  
Anthony J. Chiofalo  
Secretary, Vice President and Treasurer

05 FEB 25 AM 11:09

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DOCUMENT NUMBER-DATE

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