

State of Florida



Public Service Commission

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

-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)
Office of the General Counsel (Gervasi)

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, 1996.¹ 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

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

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.