



Public Service Commission

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

DATE: February 5, 1996
TO: Division of Records and Reporting
 Division of Legal Services, Alice Crosby
FROM: Division of Water & Wastewater, J. Travis Coker *JTC BSM gsw*
RE: Docket No. 941044-WS; Resolution of the Board of County Commissioners of Charlotte County declaring Charlotte County subject to the provisions of Chapter 367, F.S. - Request for exemption for water service by Little Gasparilla Utility, Inc.

On September 27, 1994, the Charlotte County Board of County Commissioners adopted Resolution No. 94-195, pursuant to Section 367.171, Florida Statutes, declaring the privately owned water and wastewater utilities in Charlotte County subject to the provisions of Chapter 367, Florida Statutes, effective September 27, 1994. The Florida Public Service Commission received Charlotte County's resolution on September 30, 1994. The effect of the resolution is to invoke Public Service Commission jurisdiction over privately owned water and wastewater systems in Charlotte 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.

The utility had submitted an application for a certificate to Charlotte County on three separate occasions, but was never granted a certificate or had a regulatory assessment fee levied by the county. The county never officially responded to Seaside's requests.

On June 20, 1995, Seaside filed an application with this Commission for a grandfather certificate to provide water service in Charlotte County. Prior to completion of the certification process, the utility underwent a corporate merger and reorganized as a non-profit corporation. The surviving entity is titled Little Gasparilla Utility, Inc. (Little Gasparilla). Little Gasparilla submitted to the Commission as part of its January 17, 1996, application for an exemption for provision of water service from the Florida Public Service Commission under Section 367.022 (7), Florida Statutes, and Rule 25-30.060(3)(g), Florida Administrative Code a non-profit entity. The water system located upon Little Gasparilla Island. The mailing address is P. O. Box 5145, Grove City, Florida 34224. Mr. Jack Boyer, President of the non-profit corporation is the contact person for Commission purposes. Little Gasparilla was established on October 1, 1975 to serve water customers in Charlotte County, Florida. As of the date of application, the utility has capacity to serve 240 Equivalent Residential Connections (ERCs) and currently serves 181 ERCs.

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In its application, Little Gasparilla states it is a non-profit corporation and that it provides water service solely to members who own and control it. Little Gasparilla will do the billing for such service and that the service area is limited to Little Gasparilla Island. The articles of incorporation as filed with the Secretary of State and bylaws which clearly show the requirements for membership, that the members' voting rights are one vote per unit of ownership were attached to the application. The applicant has submitted a statement that control of the corporation has passed to the members of the association. Also attached, was proof of ownership of the utility facilities and the land upon which the facilities will be located. In addition, the applicant acknowledged Section 837.06, Florida Statutes, regarding false statements.

Based upon the facts presented herein, staff believes Little Gasparilla is exempt for water service as defined by Section 367.022 (7), Florida Statutes, and Rule 25-30.060(3)(g), Florida Administrative Code as a non-profit entity. Section 2.08(C)(14) of the Administrative Procedures Manual (APM) gives staff the administrative authority to approve requests for determination of exempt status that are clear-cut and without controversy. Staff recommends that an administrative order be issued within 30 days indicating the exempt status of Little Gasparilla and closing the docket. The order should provide that in the event of any change of circumstances or method of operation, Little Gasparilla Utility, Inc., 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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