

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Request For Exemption) DOCKET NO. 960277-WS
From Florida Public Service) ORDER NO. PSC-96-0847-FOF-WS
Commission Regulation For) ISSUED: July 2, 1996
Provision of Water and)
Wastewater Service in Lee County)
by River Bend Apartments.)
_____)

ORDER INDICATING EXEMPT STATUS
OF RIVER BEND APARTMENTS AND
CLOSING DOCKET

BY THE COMMISSION:

On March 5, 1996, EPNG Building, Ltd. d/b/a River Bend Apartments (River Bend) filed an application with this Commission for recognition of its exempt status, pursuant to Section 367.022(8), Florida Statutes. River Bend is a 240-unit apartment complex, which is owned by EPNG Building, Ltd. (EPNG). The apartment complex is located at 2825 Winkler Avenue, Fort Myers, Florida. Mr. Norton Herrick, President of G-PRB Building, Inc. (General Partner of EPNG), filed the application on behalf of River Bend. The primary contact person is Mr. Frank Manno, Conservation Billing Services, Inc. (CBSI).

Upon request and sufficient proof, the Commission will issue an order indicating the nonjurisdictional or exempt status of water or wastewater systems if they qualify under the appropriate provision of Chapter 367, Florida Statutes. The application was filed in accordance with Section 367.022(8), Florida Statutes, and Rule 25-30.060(1), (2) and (3)(h), Florida Administrative Code. Section 367.022(8), Florida Statutes, states, in part, that "[a]ny person who resells water or wastewater service at a rate or charge which does not exceed the actual purchase price thereof," and who complies with certain reporting requirements, is exempt from Commission regulation.

According to River Bend's application, service is provided only to the apartment complex located at 2825 Winkler Avenue, Fort Myers, Florida. River Bend intends to purchase water and wastewater from the City of Fort Myers and resell it to its

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residents at a rate that does not exceed the actual purchase price. Meters will be installed on each apartment so that the residents will be charged for the actual amount of water used. In addition, each resident will be charged a prorated share of the base rate charged by the provider. CBSI has been retained to read the meters on a monthly basis and bill the residents accordingly on behalf of River Bend. River Bend will collect a \$20.00 customer deposit. The cost of service to common areas will be determined by taking a three month property average for water and wastewater and multiplying it by twelve percent. The resulting amount will be divided evenly by the total number of units in the complex, so that the residents will pay an equal share of the cost. River Bend will be responsible for any vacant apartment's prorated share of the provider's base charge for service. No administrative or processing fees or miscellaneous charges will be charged to the residents.

River Bend is aware of the requirements of Section 367.122, Florida Statutes, and Rules 25-30.111 and 25-30.262 through 25-30.267, Florida Administrative Code. In addition, pursuant to Section 837.06, Florida Statutes, and Rule 25-30.060(2)(f), Florida Administrative Code, anyone knowingly making a false statement in writing with the intent to mislead is guilty of a misdemeanor. By signing the application, Mr. Herrick acknowledged that he is aware of Section 837.06, Florida Statutes, and the penalties for making false statements in the application.

Based on the facts as represented, we find that River Bend is exempt from our regulation pursuant to Section 367.022(8), Florida Statutes. However, the owner of River Bend or any successors in interest are put on notice that if there is any change in circumstance or method of operation, it should inform the Commission within 30 days of such change so that its exempt status may be reevaluated.

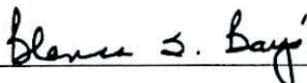
It is, therefore,

ORDERED by the Florida Public Service Commission that, based upon the facts as represented, EPNG Building Ltd., d/b/a River Bend Apartments, c/o Conservation Billing Services, Inc., 90 South Newtown Street Road, Suite #3, Newtown Square, Pennsylvania 19073-4035, is hereby exempt from Commission regulation pursuant to the provisions of Section 367.022(8), Florida Statutes. It is further

ORDERED that Docket No. 960277-WS is hereby closed.

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By ORDER of the Florida Public Service Commission, this 2nd
day of July, 1996.

Handwritten signature of Blanca S. Bayó in cursive script, written over a horizontal line.

BLANCA S. BAYÓ, Director
Division of Records and Reporting

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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.

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, 2540 Shumard.Oak Boulevard, Tallahassee, Florida 32399-0850, 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 and/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.