

## BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Revocation by Florida )  
 Public Service Commission of ST. )  
 GEORGE ISLAND UTILITIES COMPANY, )  
 LTD.'s Certificate No. 356-S in )  
 Franklin County, pursuant to )  
 Section 367.111(1), Florida )  
 Statutes )

DOCKET NO. 900223-SU

ORDER NO. 24798

ISSUED: 7-11-91

The following Commissioners participated in the disposition of this matter:

THOMAS M. BEARD, Chairman  
 J. TERRY DEASON  
 BETTY EASLEY  
 MICHAEL McK. WILSON

NOTICE OF PROPOSED AGENCY ACTION  
CANCELLING ST. GEORGE ISLAND UTILITY  
COMPANY, LTD.'S CERTIFICATE NO. 356-S

BY THE COMMISSION:

NOTICE IS HEREBY GIVEN by the Florida Public Service Commission that the actions discussed herein are preliminary in nature, and as such, 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.

By Order No. 13651, issued September 4, 1984, the Commission granted Certificate No. 356-S to St. George Island Utilities Co., Ltd. (St. George Island or utility) subject to the condition that it provide final design and cost information to the Commission within one year. St. George Island filed a timely motion for reconsideration of the one-year requirement. The utility argued that the Commission should reconsider the one-year requirement because the language in Section 367.111(1), Florida Statutes, provides that a certificate may be revoked if service has not been provided after five years. By Order No. 14069, issued February 11, 1985, the Commission granted the utility's motion for reconsideration, giving St. George Island five years from the date of the certificate to submit the required final design and cost information. The five-year period expired on September 3, 1989. To date, St. George Island has failed to file any such information.

DOCUMENT NUMBER-DATE

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FSC-RECORDS/REPORTING

ORDER NO. 24798  
DOCKET NO. 900223-SU  
PAGE 2

Further, the utility has never provided wastewater service within its territory, the utility has no customers in the territory at this time, and the utility has never constructed an operating wastewater treatment utility or completed permitting or any request for the approval of one.

Section 367.111, Florida Statutes, states that if utility service has not been provided to any part of the service area which a utility is authorized to serve within five years after the date of authorization, such authorization may be revoked. Pursuant to Section 367.111, Florida Statutes, proceedings to cancel St. George Island's certificate were initiated by this Commission on March 23, 1990. As required by Section 367.045(6), Florida Statutes, notice was published, pursuant to Rule 25-30.030, Florida Administrative Code, on June 21, June 28, and July 5, 1990, in the Apalachicola Times. A timely objection to the notice was filed by St. George Island on July 23, 1990.

We considered, once again, the cancellation of the subject certificate in Order No. 23867, issued December 11, 1990. In that Order, we required the utility to file a detailed time schedule for completion of its proposed wastewater system by December 15, 1990, to file a report on the status of its progress on the proposed wastewater system within three months, and to file design and cost information for the proposed wastewater system within six months (May 10, 1990), so that service rates and charges could be set. To date the utility has failed to file the design and cost information as required by the Order. The utility did comply with the first two requirements of the Order.

In the past, the utility has objected to cancellation of its wastewater certificate by asserting that the land is effectively owned by the utility or its affiliates, that delays were due to governmental agencies, that a permit was sought in a timely manner, that it would not serve the public interest to cancel the certificate and that cancellation of the certificate is not required by the statutes. We are not persuaded by these arguments. The utility's continued unacceptable performance in the water system operation and management casts serious doubt on its ability to function adequately in respect to wastewater collection, treatment and disposal on St. George Island. Furthermore, at the June 25, 1991, Agenda Conference where we considered the utility's failure to file the design and cost data required by Order No. 23867, the utility informed us that it cannot provide cost and design information until after the revised Master Plan for the proposed service area is finalized and the Department of Environmental Regulation and the Department of Community Affairs

ORDER NO. 24798  
DOCKET NO. 900223-SU  
PAGE 3

have made a final decision as to how much of the proposed service area will be required to have wastewater service.

Based upon the foregoing, we find it appropriate to cancel Certificate No. 356-S issued to St. George Island Utility Co., Ltd. in Franklin County, Florida and to require that the Certificate be returned to the Commission within 30 days of the date of this Order.

It is, therefore,

ORDERED by the Florida Public Service Commission that Certificate No. 356-S issued to St. George Utility Company, Ltd, is hereby cancelled . It is further

ORDERED that the cancelled certificate shall be returned to the Commission within thirty (30) days of the date of this order. It is further

ORDERED that all of the provisions of this Order are issued as proposed agency action and 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 his office at 101 East Gaines Street, Tallahassee, Florida 32399-0870, by the date set forth in the Notice of Further Proceedings below. It is further

ORDERED that if no timely protest is filed, this docket may be closed administratively.

By ORDER of the Florida Public Service Commission this 11th day of July, 1991.

  
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STEVE TRIBBLE, Director  
Division of Records and Reporting

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ORDER NO. 24798  
DOCKET NO. 900223-SU  
PAGE 4

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.

The action proposed herein 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 his office at 101 East Gaines Street, Tallahassee, Florida 32399-0870, by the close of business on  
8-1-91

In the absence of such a petition, this order shall become effective on the day 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 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.