

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Jurisdictional Resolution of)	DOCKET NO. 870060-WS
the Board of County Commissioners of)	
Sumter County be Subject to the Provi-)	ORDER NO. 20576
sions of the Water and Sewer Regula-)	
tory Law, Chapter 367, F.S.)	ISSUED: 1-9-89

The following Commissioners participated in the disposition of this matter:

KATIE NICHOLS, Chairman
 THOMAS M. BEARD
 GERALD L. GUNTER
 JOHN T. HERNDON
 MICHAEL MCK. WILSON

ORDER INDICATING JURISDICTIONAL STATUS
 OF VARIOUS WATER & SEWER SYSTEMS IN SUMTER COUNTY

AND

NOTICE OF PROPOSED AGENCY ACTION

BY THE COMMISSION:

Notice is hereby given by the Florida Public Service Commission that the action discussed herein is preliminary in nature and 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.

CASE BACKGROUND

On January 13, 1987, the Board of County Commissioners of Sumter County adopted a resolution, pursuant to Section 367.171, Florida Statutes, whereby jurisdiction over the authority, services, and rates of water and sewer utilities providing service in Sumter County was transferred to the Florida Public Service Commission. By Order No. 17207, issued on February 18, 1987, this Commission acknowledged the jurisdictional transfer and directed all persons providing water and/or sewer service in Sumter County to register with the Commission for review of their regulatory status.

Pursuant to Section 367.021(3), Florida Statutes, a "utility" is defined as a water or sewer utility and, except as provided in Section 367.022, which lists eight categories of exemptions, includes every person, lessee, trustee, or receiver owning, operating, managing, or controlling a system, or proposing construction of a system, who is providing, or proposes to provide, water or sewer service to the public for compensation.

Gate Petrol

The Gate Petrol owns and operates a water and sewer system in Sumter County. The water system serves Econo Lodge and Gate Service Station. The sewer system serves Econo Lodge, Gate Service Station, and Burger King. Water and sewer service is provided to Econo Lodge and Gate Service Station without charge. Gate Petrol charges Burger King \$1000 per year for sewer service.

The sewer service to Burger King is service to the public for compensation within the meaning of Section 367.021(3),

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Florida Statutes. The jurisdictional boundary is marked by the separateness of the supplier and the customer, and not by the number of customers involved. The service to Burger King is thus subject to this Commission's jurisdiction. P.W. Ventures v. Nichols and Florida Public Service Commission, Florida Supreme Court Order No. 71,462, October 27, 1988, and Petition of Hammock Land and Development Corporation for Emergency hearing to prevent discontinuance of Service by Aquarina Developments, Inc., and Service Management Systems, Inc. in Brevard County, Florida Public Service Commission Order No. 18475, issued November 24, 1987.

Although not a large system, Gate Petrol's system capacity is not small enough for it to qualify for exemption for "systems with the capacity or proposed capacity to serve 100 or fewer persons," set forth in Section 367.022(6), Florida Statutes. Section 25-30.055, Florida Administrative Code, provides that a sewer system:

is exempt under Section 367.022(6), Florida Statutes, if its ... treatment facilities and collection system have or will have a capacity...of no greater than 10,000 gallons per day...

The capacity of the Gate Petrol sewage treatment plant is 25,000 gallons per day (gpd) and thus exceeds the 10,000 minimum specified by Rule 25-30.055, Florida Administrative Code. The system at issue does not meet this exemption requirement. Accordingly, Gate Petrol must file an application for certification of its sewer system.

Heritage Wood 'N Lake

Heritage Wood 'N Lake Estates is a mobile home park that provides water and sewer service to approximately seventy lots in Sumter County. The utility system is owned by Freedom Savings and Loan Association in Tampa, Florida, and managed for the bank by Steiner & Associates in Tampa. The design capacity of the water treatment plant is 190,000 gpd and that of the sewage treatment plant is 25,000 gpd. The customers of this system own their lots and pay a \$65 monthly maintenance fee that includes water and sewer, garbage collection, and common area maintenance services. The sewer service to the lot owners is service to the public for compensation within the meaning of Section 367.021(3), Florida Statutes. That service does not meet the requirements for exemption set forth in Section 367.022, Florida Statutes. Accordingly, Heritage Wood 'N Lake must file an application for certification of its water and sewer systems.

WHEREFORE, in consideration of the foregoing, it is

ORDERED by the Florida Public Service Commission that the above described sewer service provided by Gate Petrol and water and sewer service provided by Freedom Savings & Loan Association is subject to the jurisdiction of this Commission pursuant to Chapter 367, Florida Statutes. It is further

ORDERED that the provisions of this Order, issued as proposed agency action, shall become final unless an appropriate petition in the form provided by Rule 25-22.036, Florida Administrative Code, is received by the Director, Division of Records and Reporting at his office at 101 East

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Gaines Street, Tallahassee, Florida 32399-0870, by the close of business on January 30, 1989. It is further

ORDERED that in the event this Order becomes final, Gate Petrol and Freedom Savings & Loan Association each shall submit complete application(s) for original certificate(s) to operate a utility in Sumter County within 120 days of the date of this Order become final.

By ORDER of the Florida Public Service Commission,
this 9th day of JANUARY, 1989.



STEVE TRIBBLE, 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.

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 January 30, 1989. In the absence of such a petition, this order shall become effective January 31, 1989 as provided by Rule 25-22.029(6), Florida Administrative Code, and as reflected in a subsequent order.

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 January 31, 1989, 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 sewer utility by filing a notice of appeal with the Director, Division of Records and Reporting and

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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.