

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Request for exemption )	DOCKET NO. 920791-WU
from Florida Public Service )	ORDER NO. PSC-92-0810-FOF-WU
Commission regulation for )	ISSUED: 08/12/92
provision of water service )	
in Bay County by BIG BUCK )	
MART NO. 3. )	
_____ )	

ORDER INDICATING THE NONJURISDICTIONAL STATUS OF  
BIG BUCK FOOD MART NO. 3

BY THE COMMISSION:

Big Buck Food Mart No. 3 (Big Buck) is a convenience store which owns and operates a water system. The physical address of the system is 3035 County Road No. 2321, Panama City, Florida 32409. The water system consists of a well. The well has a maximum permitted capacity of 1,400 gallons of water per day, according to the Northwest Florida Water Management District. Big Buck states that it will utilize the water system solely for the operation of the convenience store, and that it will not be providing water service to the public for compensation. The convenience store utilizes septic tanks.

Pursuant to Section 367.031, Florida Statutes, before the Department of Environmental Regulation (DER) will issue an operating permit, it requires either a certificate of authorization to provide water or wastewater service or proof that the utility is not subject to the regulation of this Commission. Therefore, in order to open its convenience store, Big Buck filed an application for an exemption as a small system pursuant to Section 367.022(6), Florida Statutes, and a nonjurisdictional entity application pursuant to Section 367.021(12), Florida Statutes, on August 6, 1992.

As a matter of practice, upon request and sufficient proof, the Commission will issue an order indicating the nonjurisdictional or exempt status of water or wastewater facilities, if they qualify under the appropriate section of Chapter 367, Florida Statutes. Section 367.021(12), Florida Statutes, defines a utility as "every person...who is providing or proposes to provide water or wastewater to the public for compensation." Based upon the facts presented in Big Buck's applications, we find that because Big Buck will not be providing water service to the public for compensation, it does not meet the definition of a utility as set forth in Section 367.021(12), Florida Statutes. Therefore, we find that Big Buck will not be subject to this Commission's jurisdiction. However, should there be any change in circumstances or method of operation, the owner of Big Buck, or any successor(s) in interest, must inform the Commission within thirty (30) days of such change,

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so that we may determine whether nonjurisdictional status is still appropriate.

Based on the foregoing, it is, therefore,

ORDERED by the Florida Public Service Commission that, based upon the facts as represented by Big Buck Food Mart No. 3, located at 3035 County Road No. 2321, Panama City, Florida 32409, Big Buck Food Mart No. 3 is not a utility subject to this Commission's jurisdiction pursuant to Section 367.021(12), Florida Statutes. It is further

ORDERED that should there be any change in circumstances or method of operation of Big Buck Food Mart No. 3's water system, the present owner or any successor in interest shall inform the Commission within thirty (30) days of such change. It is further

ORDERED that this docket is hereby closed.

By ORDER of the Florida Public Service Commission this 12th day of August, 1992.

  
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STEVE TRIBBLE, Director  
Division of Records and Reporting

( S E A L )

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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 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 or sewer 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 Civil Procedure. The notice of appeal must be in the form specified in Rule 9.900 (a), Florida Rules of Appellate Procedure.