

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Request for Exemption) DOCKET NO. 960765-WU
from Florida Public Service) ORDER NO. PSC-96-1318-FOF-WU
Commission Regulation for) ISSUED: October 29, 1996
Provision of Water Service in)
Marion County by Interstate)
Auction of Ocala.)
_____)

ORDER INDICATING NONJURISDICTIONAL STATUS
OF INTERSTATE AUCTION OF OCALA AND CLOSING DOCKET

BY THE COMMISSION:

On June 24, 1996, Interstate Auction Unlimited filed an application with this Commission for recognition of its nonjurisdictional status, pursuant to Section 367.021(12), Florida Statutes. Upon review of the application, it was determined that the correct name of the applicant is Interstate Auction of Ocala (Interstate Auction). Interstate Auction is owned by Interstate Auction Unlimited, Inc. Interstate Auction's system serves a car auction and flea market. The system is located at 540 Southwest 38th Avenue, Ocala, Florida. Mr. John E. Fabian, Jr., President of Interstate Auction Unlimited, Inc., and primary contact person, filed the application on behalf of Interstate Auction.

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 367.021(12), Florida Statutes, and Rules 25-30.060(2) and (3)(j), Florida Administrative Code.

Section 367.021(12), Florida Statutes, states that a "utility means a water or wastewater utility and except as provided in Section 367.022, 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 wastewater service to the public for compensation."

According to Interstate Auction's application, water service is provided only to the business located at 540 Southwest 38th Avenue, Ocala, Florida; there is no charge for providing the service; and all costs of providing service are treated or recovered as operational expenses. Wastewater service is provided by septic tank.

In addition, pursuant to Section 837.06, Florida Statutes, and Rule 25-30.060(2)(f), Florida Administrative Code, anyone knowingly

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making a false statement in writing with the intent to mislead is guilty of a misdemeanor. By signing the application, Mr. Fabian 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 Interstate Auction is not a utility pursuant to the provisions of Section 367.021(12), Florida Statutes. Accordingly, Interstate Auction is not subject to this Commission's jurisdiction. However, the owner of Interstate Auction or any successors in interest are put on notice that if there is any change in circumstance or method of operation which causes it to no longer qualify for exemption pursuant to Section 367.022, Florida Statutes, it should inform the Commission within 30 days of such change so that its status may be reevaluated.

It is, therefore,

ORDERED by the Florida Public Service Commission that, based upon the facts as represented, Interstate Auction of Ocala, 540 Southwest 38th Avenue, Ocala, Florida 34471, is not a water utility subject to this Commission's jurisdiction, pursuant to the provisions of Section 367.021(12), Florida Statutes. It is further

ORDERED that this Docket is hereby closed.

By ORDER of the Florida Public Service Commission, this 29th day of October, 1996.

BLANCA S. BAYÓ, Director
Division of Records and Reporting

by: Kay Flynn
Chief, Bureau of Records

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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.