

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Request for Exemption) DOCKET NO. 920875-WU
as a Nonjurisdictional Entity) ORDER NO. PSC-92-1271-FOF-WU
From Florida Public Service) ISSUED: 11/04/92
Commission Regulation for)
Provision of Water Service in)
St. Lucie County by Parkway)
Plaza Partnership.)
_____)

ORDER INDICATING NONJURISDICTIONAL STATUS
OF PARKWAY PLAZA PARTNERSHIP AND CLOSING DOCKET

BY THE COMMISSION:

On September 2, 1992, Parkway Plaza Partnership (Parkway Plaza), located in St. Lucie County, filed an application with this Commission for recognition of nonjurisdictional status, pursuant to Section 367.021(12), Florida Statutes. Mr. E. Clifford Norris, General Partner, filed the application on behalf of Parkway Plaza.

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. According to the application, water is provided only to Habit's Grille, there is no charge for providing the service, and all costs of providing service are treated or recovered as operational expenses.

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."

In addition, the application form states that pursuant to Section 837.06, Florida Statutes, anyone knowingly making a false statement in writing with the intent to mislead is guilty of a misdemeanor. By signing the application, Mr. Norris acknowledged that he is aware of Section 837.06, Florida Statutes, and the penalties for making false statements in the application.

The Parkway Plaza leases space to a restaurant called Habit's Grille. Water from a well, located on Parkway Plaza property, is provided at no charge to the restaurant. Since, based on the facts

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as represented, Parkway Plaza will not be providing water service to the public for compensation, we find that it is not a utility pursuant to Section 367.021(12), Florida Statutes. However, should there be any change in circumstances or method of operation, the owners of Parkway Plaza or any successors in interest, must inform the Commission within 30 days of such change so that we may review the matter to determine whether nonjurisdictional status is still appropriate.

It is, therefore,

ORDERED by the Florida Public Service Commission, based upon the facts as represented, Parkway Plaza Partnership, 4853 North A1A, Vero Beach, Florida 32963, 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 should there be any change in circumstances or method of operation, the owners of the Parkway Plaza Partnership or any successors in interest, shall inform this Commission within 30 days of such a change so that we may re-evaluate Parkway Plaza Partnership's nonjurisdictional status. It is further

ORDERED that Docket No. 920875-WU is hereby closed.

By ORDER of the Florida Public Service Commission this 4th day of November, 1992.

STEVE TRIBBLE, Director
Division of Records and Reporting

(S E A L)

ALC

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 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.