

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Request for Exemption)
as a Nonjurisdictional Entity) DOCKET NO. 920948-WU
From Florida Public Service) ORDER NO. PSC-92-1286-FOF-WU
Commission Regulation for) ISSUED: 11/10/92
Provision of Water Service in)
Alachua County by Handy Way)
Food Stores, A Division of)
Miller Enterprises, Inc. for)
Store #1416.)
_____)

ORDER INDICATING NONJURISDICTIONAL STATUS
OF HANDY WAY FOOD STORES FOR STORE #1416 AND CLOSING DOCKET

BY THE COMMISSION:

On September 18, 1992, Handy Way Good Stores, A Division of Miller Enterprises, Inc. (Handy Way), filed an application with this Commission for recognition of nonjurisdictional status of Store #1416, pursuant to Section 367.021(12), Florida Statutes. Miller Enterprises, Inc. (Miller) owns and operates the water system, which is located at 6905 Northeast Highway 301, Orange Heights (Hawthorne), Florida. Mr. David Sanders, Environmental Coordinator of Miller, filed the application on behalf of Handy Way.

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 Handy Way, which is a convenience store, 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 private septic tank.

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

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statement in writing with the intent to mislead is guilty of a misdemeanor. By signing the application, Mr. Sanders acknowledged that he is aware of Section 837.06, Florida Statutes, and the penalties for making false statements in the application.

Since, based on the facts as represented, Handy Way 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 owner of Handy Way 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, that Handy Way Food Store, c/o Miller Enterprises, Inc., 331 Central Avenue, Crescent City, Florida 32112, 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 Handy Way Food Store or any successors in interest, shall inform this Commission within 30 days of such a change so that we may re-evaluate Handy Way Food Store's nonjurisdictional status. It is further

ORDERED that Docket No. 920948-WU is hereby closed.

By ORDER of the Florida Public Service Commission this 10th day of November, 1992.



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 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.