

MEMORANDUM

Feb. 8
January 31, 1995

RECEIVED
FEB - 8 1995
12:15/4:15
FPSC-RECORDS/REPORTING

TO: DIVISION OF RECORDS AND REPORTING

FROM: DIVISION OF LEGAL SERVICES (CROSBY) *JTS*

RE: DOCKET NO. 941044-WS - RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS DECLARING CHARLOTTE COUNTY SUBJECT TO THE PROVISIONS OF CHAPTER 367, FLORIDA STATUTES - REQUEST FOR EXEMPTION FOR PROVISION OF WATER SERVICE BY BABCOCK FLORIDA COMPANY

0190-FOF

Attached is an Order Indicating Nonjurisdictional Status of Babcock Florida Company and Closing Docket to be issued in the above-referenced Docket. (Number of Pages in Order - 3) (Document No. 941044I.ALC)

alc

Attachment

cc: Division of Water and Wastewater
(Coker)

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Resolution of Board of) DOCKET NO. 941044-WS
County Commissioners of) ORDER NO. PSC-95-0190-FOF-WS
Charlotte County Declaring) ISSUED: February 9, 1995
Charlotte County Subject to the)
Provisions of Chapter 367,)
Florida Statutes - Request For)
Exemption For Provision of Water)
Service by Babcock Florida)
Company.)

ORDER INDICATING NONJURISDICTIONAL STATUS
OF BABCOCK FLORIDA COMPANY

BY THE COMMISSION:

On December 28, 1994, Babcock Florida Company (Babcock) filed an application with this Commission for recognition of its nonjurisdictional status, pursuant to Section 367.021(12), Florida Statutes. Babcock is a corporation operating as a wilderness touring attraction, which is located at 8000 State Road 31, Punta Gorda, Florida. Mr. Boyce Dixon, Vice President/General Manager and primary contact person, filed the application on behalf of Babcock.

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 Babcock's application, water service is provided only to 8000 State Road 31, Punta Gorda, 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 making a false statement in writing with the intent to mislead is

DOCUMENT NUMBER-DATE
01514 FEB-98
FPSC-RECORDS/REPORTING

ORDER NO. PSC-95-0190-POP-WS
DOCKET NO. 941044-WS
PAGE 2

guilty of a misdemeanor. By signing the application, Mr. Dixon 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 Babcock is not a utility pursuant to the provisions of Section 367.021(12), Florida Statutes. Accordingly, Babcock is not subject to this Commission's jurisdiction. However, should there be any change in circumstances or method of operation, the owner of Babcock or any successors in interest, must inform the Commission within 30 days of such change so that its nonjurisdictional status may be reevaluated.

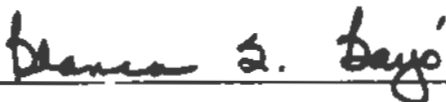
It is, therefore,

ORDERED by the Florida Public Service Commission that, based upon the facts as represented, Babcock Florida Company, 8000 State Road 31, Punta Gorda, Florida 33982, 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 owner of Babcock Florida Company or any successors in interest, shall inform this Commission within 30 days of such a change so that we may reevaluate its nonjurisdictional status. It is further

ORDERED that this docket shall remain open to process additional applications.

By ORDER of the Florida Public Service Commission, this 9th day of February, 1995.



BLANCA S. BAYÓ, Director
Division of Records and Reporting

(S E A L)

ALC

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 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.