

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Jurisdictional resolution)	DOCKET NO. 870060-WS
of the Board of County Commis-)	ORDER NO. 21205
sioners of Sumter County declaring)	ISSUED: 5-8-89
that Sumter County be subject to)	
the provisions of the water and)	
sewer regulatory law, Chapter 367,)	
Florida Statutes)	

FINAL ORDER INDICATING NONJURISDICTIONAL STATUS
OF WAYFARER'S RESTAURANT

BY THE COMMISSION:

On January 13, 1987, the Board of County Commissioners of Sumter County adopted a resolution, pursuant to Section 367.171, Florida Statutes, whereby jurisdiction over the authority, service and rates of water and sewer utilities providing service in Sumter County was transferred to this Commission. By Order No. 17207, issued February 18, 1987, this Commission acknowledged the jurisdictional transfer and directed all persons providing water or sewer service in Sumter County to register with the Commission for review of their regulatory status.

Wayfarer's Restaurant ("Wayfarer's") is a restaurant in Sumter County. The owner of the restaurant owns and operates a sewage treatment facility. A February 28, 1989 affidavit signed by the owner of the restaurant states that Wayfarer's does not charge any customers for sewer service; that sewer service is provided solely to meet the needs of restaurant operation; that all costs of providing sewer service are treated as operational expenses of Wayfarer's; and that the sewer plant is located on the grounds of Wayfarer's.

Pursuant to Section 367.021(3), Florida Statutes, a "utility" is defined as a water and sewer utility and, unless exempted by Section 367.022, Florida Statutes, 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 sewer service to the public for compensation.

Based on the foregoing discussion of the information provided by Wayfarer's, we find that Wayferer's is not a "utility" as defined by Section 367.021(3), Florida Statutes, since it provides sewer service to its employees, customers, and/or members of the public, without compensation. However, in the event of any change in circumstances or method of operation that might affect its non-jurisdictional status, Wayfarer's, or its successor in interest, should be ordered to inform the Commission within thirty days of such change so that the non-jurisdictional status may be reevaluated.

WHEREFORE, in consideration of the foregoing, it is

ORDERED by the Florida Public Service Commission that the above described sewer service provided by Wayfarer's Restaurant is not subject to the jurisdiction of this Commission. It is further

ORDERED that in the event of any change in circumstances or method of operation that might affect its non-jurisdictional

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Wayfarer's Restaurant, or its successor(s) in interest, should inform the Commission within thirty days of such change so that the non-jurisdictional status may be reevaluated.

By ORDER of the Florida Public Service Commission
this 8th day of May, 1989.



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