

MEMORANDUM

January 24, 1995

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TO: DIVISION OF RECORDS AND REPORTING

FROM: DIVISION OF LEGAL SERVICES (CROSBY) *[Signature]*

RE: DOCKET NO. 941044-WS - RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF CHARLOTTE COUNTY DECLARING CHARLOTTE COUNTY SUBJECT TO THE PROVISIONS OF CHAPTER 367, F.S. - REQUEST FOR EXEMPTION FOR PROVISION OF WASTEWATER SERVICE BY MERCURY MARINE

0133-FOF

Attached is an Order Indicating Exempt Status of Mercury Marine to be issued in the above-referenced Docket. (Number of Pages in Order - 3) (Document No. 941044C.ALC)

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Attachment

cc: Division of Water and Wastewater
(Redemann)

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Resolution of the Board) DOCKET NO. 941044-WS
of County Commissioners of) ORDER NO. PSC-95-0133-POF-WS
Charlotte County Declaring) ISSUED: January 26, 1995
Charlotte County Subject to the)
Provisions of Chapter 367, F.S.)
- Request For Exemption For)
Provision of Wastewater Service)
by Mercury Marine.)
)
)
)

ORDER INDICATING NONJURISDICTIONAL STATUS
OF MERCURY MARINE

BY THE COMMISSION:

On November 21, 1994, Mercury Marine filed an application with this Commission for recognition of its nonjurisdictional status, pursuant to Section 367.021(12), Florida Statutes. Mercury Marine, which is an operating division of the Brunswick Corporation, is located on Highway 775 in Placida, Florida. The Brunswick Corporation's address is 1 North Field Court, Lake Forest, Illinois 60045-4811. Mr. David A. Gussert, Plant Manager and primary contact person, filed the application on behalf of Mercury Marine and the Brunswick Corporation.

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 Mercury Marine's application, wastewater service is provided only to Plant No. 37 located on Highway 775 in Placida, Florida, there is no charge for providing the service, and all costs of providing service are treated or recovered as operational expenses. Water service is provided by Gasparilla Island Water Association.

DOCUMENT NUMBER-DATE
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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 guilty of a misdemeanor. By signing the application, Mr. Gussert 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 Mercury Marine is not a utility pursuant to the provisions of Section 367.021(12), Florida Statutes. Accordingly, Mercury Marine is not subject to this Commission's jurisdiction. However, should there be any change in circumstances or method of operation, the owner of Mercury Marine 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, Mercury Marine, Post Office Box 300, Placida, Florida 33946, is not a wastewater 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 Mercury Marine 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 26th day of January, 1995.



BLANCA S. BAYÓ, 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 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.