

MEMORANDUM

September 15, 1995

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EPSC RECORDS/REPORTING

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TO: DIVISION OF RECORDS AND REPORTING

FROM: DIVISION OF LEGAL SERVICES (CROBBY)

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, FLORIDA STATUTES - REQUEST FOR EXEMPTION FOR PROVISION OF WATER SERVICE BY ROADHOUSE "41"

1130-FOF

Attached is an Order Indicating Nonjurisdictional Status of Roadhouse "41" and Closing Docket to be issued in the above-referenced Docket. (Number of Pages in Order - 3) (Document No. 941044P.ALC)

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Attachment

cc: Division of Water and Wastewater
(Tomlinson)

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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Resolution of the Board) LOCKET NO. 941044-WS
of County Commissioners of) ORDER NO. PSC-95-1180-FOF-WS
Charlotte County Declaring) ISSUED: September 20, 1995
Charlotte County Subject to the)
Provisions of Chapter 367,)
Florida Statutes - Request For)
Exemption For Provision of Water)
Service By Roadhouse "41")
_____)

ORDER INDICATING NONJURISDICTIONAL STATUS
OF ROADHOUSE "41"

BY THE COMMISSION:

On August 4, 1995, Roadhouse "41" filed an application with this Commission for recognition of its nonjurisdictional status, pursuant to Section 367.021(12), Florida Statutes. Roadhouse "41" is located at 11159 Tamiami Trail, Punta Gorda, Florida. Ms. Bett Griffin, Owner and primary contact person, filed the application on behalf of Roadhouse "41". Ms. Griffin's address is 760 Holiday Drive, Punta Gorda, Florida 33950-8723.

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 the application, water service is provided only to Roadhouse "41" located at 11159 Tamiami Trail, 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

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FPSC REG. CL. REPORTING

ORDER NO. PSC-95-1180-POF-WS
DOCKET NO. 941044-WS
PAGE 2

making a false statement in writing with the intent to mislead is guilty of a misdemeanor. By signing the application, Ms. Griffin acknowledged that she 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 Roadhouse "41" is not a utility pursuant to the provisions of Section 367.021(12), Florida Statutes. Accordingly, Roadhouse "41" is not subject to this Commission's jurisdiction. However, should there be any change in circumstances or method of operation, the owner of Roadhouse "41" 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, Roadhouse "41", 11159 Tamiami Trail, Punta Gorda, Florida 33955, 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 Roadhouse "41" 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 20th day of September, 1995.

BLANCA S. BAYÓ, Director
Division of Records and Reporting

by: Kay Flynn
Chief, Bureau of Records

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ORDER NO. PSC-95-1180-FOF-WS
DOCKET NO. 941044-WS
PAGE 3

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, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, 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.