

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Jurisdictional resolution of the) DOCKET NO. 870060-WS
BOARD OF COUNTY COMMISSIONERS OF SUMTER) ORDER NO. 21203-A
COUNTY declaring that SUMTER COUNTY be) ISSUED: 5-31-89
subject to the provisions of the water)
and sewer regulatory law, Chapter 367,)
F.S.)
_____)

AMENDATORY ORDER

BY THE COMMISSION:

On May 8, 1989, this Commission issued Proposed Agency Action Order No. 21203, attached as Exhibit 1, and by reference incorporated herein, determining the jurisdictional status of Florilow, Inc., in Sumter County. The second ordering paragraph on page 2 states that the provisions of Order 21203 shall become final unless an appropriate petition is received by the close of business on May 30, 1989. The third ordering paragraph on page 2 states that after May 30, 1989, the Commission shall either issue a notice of further proceedings or an order acknowledging that the provisions of Order 21203 have become final. The "Notice of Further Proceedings or Judicial Review" on page 3 also states that a petition must be received by the close of business on May 30, 1989 and that, absent such provision, Order No. 21203 shall become effective May 31, 1989 and that any notice of appeal must be completed within 30 days of the Order's effective date.

Inadvertently, Order No. 21203 was not mailed to Florilow, Inc., when it was issued. Thus, the times for filing protest and appeal require revision. Therefore, we find it appropriate to amend Order No. 21203 so that: the second ordering paragraph on page 2 states that the provisions of Order 21203 shall become final unless an appropriate petition is received by the close of business on June 20, 1989; the third ordering paragraph on page 2 states that after June 20, 1989, the Commission shall either issue a notice of further proceedings or an order acknowledging that the provisions of Order 21203 have become final; and the "Notice of Further Proceedings or Judicial Review" on page 3 also states that a petition must be received by the close of business on June 20, 1989 and that, absent such provision, Order No. 21203 shall become effective June 21, 1989 and that any notice of appeal must be completed within 30 days of the Order's effective date. All other provisions of Order No. 21203 remain unaffected by this Order.

It is therefore,

ORDERED by the Florida Public Service Commission that Order No. 21203, issued May 8, 1989, is amended as herein described. It is further

ORDERED that Order No. 21203 is hereby affirmed in all other respects.

DOCUMENT NUMBER-DATE
05449 MAY 31 1989
FPSC-RECORDS/REPORTING

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By ORDER of the Florida Public Service Commission
this 31st day of MAY, 1989.

STEVE TRIBBLE, Director
Division of Records and Reporting

(S E A L)

DS

by: Kay Flynn
Chief, Bureau of Records

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Jurisdictional resolution)
of the Board of County Commis-) DOCKET NO. 870060-WS
sioners of Sumter County declaring) ORDER NO. 21203
that Sumter County be subject to) ISSUED: 5-8-89
the provisions of the water and)
sewer regulatory law, Chapter 367,)
Florida Statutes)
_____)
_____)

The following Commissioners participated in the disposition of this matter:

GERALD L. GUNTER
JOHN T. HERNDON
THOMAS M. BEARD
BETTY EASLEY

NOTICE OF PROPOSED AGENCY ACTION
AND
ORDER INDICATING JURISDICTIONAL
STATUS OF FLORILOW, INC., IN SUMTER COUNTY

BY THE COMMISSION:

NOTICE is hereby given by the Florida Public Service Commission of its intent to determine the jurisdictional status of Florilow, Inc., in Sumter County. This action is preliminary in nature and will become final unless a person whose interests are substantially affected files a petition for a formal proceeding pursuant to Rule 25-22.029, Florida Administrative Code.

BACKGROUND

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.

Florilow, Inc., ("Florilow"), is a Florida corporation which owns and operates a mobile home and recreational vehicle park in Sumter County and provides water and sewer service to approximately 126 lots within the park. Through oral and written communications with Commission staff, Florilow requested that it be found exempt from this Commission's jurisdiction pursuant to either the exemption for small systems set forth in Section 367.022(6), Florida Statutes, or the exemption for landlords set forth in Section 367.022(5), Florida Statutes.

All except approximately 37 lots are rented on a daily, weekly or monthly basis at varying fees which do not specifically include charges for water or sewer service. The remaining 37 lots are rented by long-term 99-year leases. The lease agreement provides for a maintenance fee separate and apart from any lot rental amounts. According to the lease

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agreement, this maintenance fee will be collected as the lessee's proportionate share of the "costs of maintenance of the park's sewage plant, water system, roads, taxes, and garbage service...". The current maintenance fee is \$300 per year.

Chapter 367.022(5), Florida Statutes, provides an exemption from regulation by this Commission for landlords providing service to their tenants without specific compensation for the service. We find that this system is subject to our jurisdiction and regulation. The 99-year lease agreement does specifically identify compensation for water and sewer service within the maintenance fee.

Florilow, Inc. has also requested exemption pursuant to Section 367.022(6), Florida Statutes, which exempts utilities that serve 100 or fewer persons from regulation by this Commission. Section 25-30.055, Florida Administrative Code, provides that the Section 367.022(6) exemption applies to systems with capacity, excluding fire flow capacity of no greater than 10,000 gallons per day. The capacity of the Florilow system exceeds this amount. Therefore, we find that the utility does not qualify for this exemption.

For the above reasons, we find that Florilow, Inc. is subject to this Commission's jurisdiction and regulation. Therefore, we find it appropriate to require the utility to apply for a water and sewer certificate within 120 days of the effective date of this Order.

WHEREFORE, in consideration of the foregoing, it is

ORDERED by the Florida Public Service Commission that Florilow, Inc., is subject to our jurisdiction and regulation and shall file a complete application for an original water and sewer certificates with this Commission within 120 days of the effective date of this Order. It is further

ORDERED that the provisions of this Order shall become final unless an appropriate petition in the form provided by Rule 25-22.036, Florida Administrative Code, is received by the Director of Records and Reporting at his office at 101 East Gaines Street, Tallahassee, FL 32399-0870, by the close of business on May 30, 1989. It is further

ORDERED that after May 30, 1989, this Commission shall either issue a notice of further proceedings or an order acknowledging that the provisions of this order have become final. It is further

ORDERED that in the event no protest is filed, Docket No.

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870060-WS shall be closed.

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)

DS (7314L)

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.

The action proposed herein is preliminary in nature and will not become effective or final, except as provided by Rule 25-22.029, Florida Administrative Code. Any person whose substantial interests are affected by the action proposed by this order may file a petition for a formal proceeding, as provided by Rule 25-22.029(4), Florida Administrative Code, in the form provided by Rule 25-22.036(7)(a) and (f), Florida Administrative Code. This petition must be received by the Director, Division of Records and Reporting at his office at 101 East Gaines Street, Tallahassee, Florida 32399-0870, by the close of business on May 30, 1989. In the absence of such a petition, this order shall become effective May 31, 1989 as provided by Rule 25-22.029(6), Florida Administrative Code, and as reflected in a subsequent order.

Any objection or protest filed in this docket before the issuance date of this order is considered abandoned unless it satisfies the foregoing conditions and is renewed within the specified protest period.

If the provisions of this order become final and effective on May 31, 1989, any party adversely affected may request judicial review by the Florida Supreme Court in the case of an electric, gas or telephone utility or by 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

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and the filing fee with the appropriate court. This filing must be completed within thirty (30) days of the effective date 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.