

FLORIDA PUBLIC SERVICE COMMISSION

Fletcher Building
101 East Gaines Street
Tallahassee, Florida 32399-0850

M E M O R A N D U M

JUNE 18, 1992

TO : DIRECTOR OF RECORDS AND REPORTING

FROM : DIVISION OF WATER AND WASTEWATER (REDEMANN)
DIVISION OF LEGAL SERVICES (GOLDEN)

RE : UTILITY: MONSANTO CHEMICAL COMPANY
DOCKET NO. 920095-WS
COUNTY: ESCAMBIA
CASE: REQUEST FOR EXEMPTION FROM FLORIDA PUBLIC SERVICE
COMMISSION REGULATION OF A WATER AND WASTEWATER FACILITY

AGENDA: JUNE 30, 1992 - CONTROVERSIAL - PARTIES MAY PARTICIPATE

CRITICAL DATES: NONE

DOCUMENT NUMBER-DATE

06435 JUN 18 1992

FPSC-RECORDS/REPORTING

CASE BACKGROUND

On December 3, 1991, the Board of County Commissioners of Escambia County adopted a resolution pursuant to Section 367.171, Florida Statutes (F.S.), declaring the water and wastewater utilities in that County subject to the provisions of the Water and Wastewater Regulatory Law, Chapter 367, F.S. The effect of the resolution is to invoke the Commission's jurisdiction over water and wastewater systems in Escambia County. Pursuant to Section 367.031, F.S., all utilities subject to the Commission's jurisdiction must obtain either a certificate to provide water and wastewater service or an order recognizing the exempt status of the system.

Monsanto Chemical Company (Monsanto), whose mailing address is Post Office Box 12830, Pensacola, Florida 32575-2830, operates water and wastewater facilities in Escambia County. On January 31, 1992, Monsanto applied for an exemption from Commission jurisdiction pursuant to Section 367.022 (3), F.S., under this section manufacturers are exempt from Commission regulation who provide service solely in connection with their operation. During the investigation of the application, staff learned that Monsanto was serving other facilities located on Monsanto's property in Gonzales, Florida, and charging these facilities for service. Therefore, staff advised Monsanto it would not qualify for an exemption under Section 367.022(3), F.S. On May 22, 1992, Monsanto filed an amended application for exemption pursuant to Section 367.021(12). According to the amended application, Monsanto is now providing service to these other entities at no charge.

Staff has authority to administratively approve applications pursuant to Administrative Procedures Manual 2.08 (c) (14), when cases are without controversy. However, staff is bringing this case to the attention of the Commission because of the utility's earlier assertion that it was serving other facilities located on its property and charging these facilities for service.

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DISCUSSION OF ISSUES

ISSUE 1: Is Monsanto Chemical Company non-jurisdictional under Section 367.021 (12) Florida Statutes?

RECOMMENDATION: Yes, Monsanto Chemical Company is non-jurisdictional under Section 367.021 (12), Florida Statutes. (REDEMAN)

STAFF ANALYSIS: As stated earlier, on January 31, 1992 Monsanto applied for an exemption from Commission jurisdiction for a water and wastewater facility pursuant to Section 367.022 (3), F.S., under this section manufacturers providing service solely in connection with their operation are exempt from Commission regulation. According to Mr. Luther Fred Sitten, Senior Environmental Specialist, the Monsanto facility in Gonzales, Florida, employs approximately 3,000 persons. The Monsanto water treatment plant produces 1.5 million gallons of water daily that is used at the Monsanto plant for processing chemicals, cooling equipment, and general plant use. The wastewater treatment plant is designed for 400,000 gallons a day (gpd) and treats 172,800 gpd. This treated wastewater is then reused in Monsanto's boilers and cooling towers.

As indicated earlier, in its investigation, staff learned that Monsanto has been providing water and/or wastewater service to other facilities located within its property. These facilities include: Fiberweb North America, Inc. (Fiberweb); Advanced Elastomer Systems, L.P. (AES LP); Puritan-Bennett Corporation (Puritan-Bennett); Monsanto Employees Credit Union (MECU), and the Monsanto Employees Golf Association (MEGA). Monsanto provides water and wastewater service to Fiberweb, AES LP, and MECU, as well as water service only to Puritan-Bennett. At that time, Monsanto had agreements with each of these facilities for payment for the utility services. MEGA is provided irrigation water for the golf course at no charge. Staff advised Monsanto it would not qualify for an exemption under Section 367.022(3), F.S, since it was serving other customers and charging these customers for service.

On May 22, 1992, Monsanto filed a revised application for an exemption, pursuant to Section 367.021(12), FS, stating it was not a utility. Section 367.021(12), F.S. defines utility as "...every person, lessee, trustee, or receiver owning, operating, managing, or controlling a system, ... who is providing, or proposes to

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provide, water or wastewater service to the public for compensation".

According to its amended application, Monsanto has waived payment for the water and wastewater services provided to Fiberweb, AES LP and MECU and for the water service provided to Puritan-Bennett. The application contains letters dated May 22, 1992 from Monsanto to these facilities advising them they would no longer be charged for service. Monsanto also filed a statement as required by Rule 25-30.060(1)(f), Florida Administrative Code, that it is aware that pursuant to Section 837.06, FS, whoever knowingly makes a false statement in writing with the intent to mislead a public servant in the performance of his official duty shall be guilty of a misdemeanor.

Since Monsanto will not be providing water or wastewater service for compensation, it is not a utility and it is exempt from Commission jurisdiction under Section 367.021 (12), F. S. However, should there be any change in circumstances or method of operation, Monsanto, or any successor in interest, should inform the Commission within thirty days of such change.

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ISSUE 2: Should this docket be closed?

RECOMMENDATION: Yes. (GOLDEN)

STAFF ANALYSIS: No further action is required in this docket and it can be closed.

(920095RE.RPR)