

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Request for exemption from ) DOCKET NO. 921019-WS  
Florida Public Service Commission ) ORDER NO. PSC-93-0080-FOF-WS  
regulation for provision of water ) ISSUED: 01/15/93  
and wastewater services in St. Lucie )  
County by RICK STARR LINCOLN MERCURY )  
\_\_\_\_\_)

ORDER INDICATING NONJURISDICTIONAL STATUS  
OF RICK STARR LINCOLN MERCURY AND CLOSING DOCKET

BY THE COMMISSION:

On October 6, 1992, David Catalano, owner of the facility utilized by Rick Starr Lincoln Mercury, (Rick Starr or applicant) filed an application with this Commission for recognition of its nonjurisdictional status, pursuant to Section 367.021(12), Florida Statutes. Rick Starr's system is located at 5400 South U.S. Highway No. 1, Fort Pierce, Florida 34982. The contact person for the applicant is Rick Starr, of the same address.

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."

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(1), (2), and (3)(j), Florida Administrative Code. According to the application, the service territory includes only the car dealership, there is no charge for providing the service, and all costs of providing service are treated or recovered as operational expenses. It should be noted, however, that Rick Starr is leasing the property, which includes the water facility, from David Catalano. The lease provides for payment of rent without specifying a charge for the water service. Rick Starr is responsible for maintaining the facility, as stated in its lease, but it does not collect any compensation for providing the service to the dealership's customers or employees.

In addition, the application form states that pursuant to Section 837.06, Florida Statutes, anyone knowingly making a false statement in writing with the intent to mislead is guilty of a misdemeanor. By signing the application, Mr. Catalano acknowledged that he is aware of Section

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837.06, Florida Statutes, and the penalties for making false statements in the application.

Based on the facts as represented, Rick Starr is not a utility pursuant to the provisions of Section 367.021(12), Florida Statutes. However, should there be any change in circumstances or method of operation, Rick Starr, or its successors in interest, must inform the Commission within 30 days of such change so that we may review the matter to determine whether nonjurisdictional status is still appropriate.

It is, therefore,

ORDERED by the Florida Public Service Commission that, based upon the facts as represented, Rick Starr Lincoln Mercury, 5400 South U.S. Highway 1, Fort Pierce, Florida 34982, with Rick Starr as contact person, and David Catalano as owner, is not a water and 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, David Catalano, the owner of the facility located at Rick Starr Lincoln Mercury, or any successors in interest, shall inform this Commission within 30 days of such change so that we may reevaluate the applicant's nonjurisdictional status. It is further

ORDERED that Docket No. 921019-WS is hereby closed.

By ORDER of the Florida Public Service Commission this 15th day of January, 1993.



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