

## BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Request by SOMBRERO RESORT AND ) DOCKET NO. 890007-SU  
 LIGHTHOUSE MARINA for exemption from )  
 FPSC regulation for a sewage treatment ) ORDER NO. 21040  
 facility in Monroe County )  
 ) ISSUED: 4-13-89

ORDER INDICATING THE EXEMPT STATUS OF  
SOMBRERO RESORT AND LIGHTHOUSE MARINA

## BY THE COMMISSION:

Sombrero Resort and Lighthouse Marina (Sombrero) is an existing 95-unit motel, with a restaurant, lounge and marina, which provides its own sewage treatment, in Monroe County. Currently, system overloads on high-occupancy weekends necessitate Sombrero's expansion of the plant, for which it needs a construction permit from the Department of Environmental Regulation (DER). Pursuant to Section 367.031, Florida Statutes, before DER will issue a construction permit, it requires either a certificate authorizing service or proof that the entity is exempt from this Commission's regulation.

By letter dated December 22, 1988, Sombrero requested that it be found exempt from the regulation of this Commission under the public lodging establishment exemption, Section 367.022(4), Florida Statutes. Attached to Sombrero's request was a copy of its DER permit application and an affidavit reciting the facts upon which its asserted status is based.

Pursuant to Section 367.022(4), Florida Statutes, public lodging establishments which provide water and/or wastewater service solely in connection with service to their guests are exempt from the regulation of this Commission. According to Sombrero's affidavit, it provides wastewater service solely in connection with service to its guests. In addition, the affidavit states that there are no specific charges levied for such service and that it will neither solicit nor accept offsite connections.

Based upon the facts as presented herein, we find that Sombrero is exempt from the regulation of this Commission under the public lodging establishment exemption, Section 367.022(4), Florida Statutes. However, should there be any change in circumstances or method of operation, Sombrero, or its successor(s) in interest, shall inform this Commission within thirty days of such change so that we may reevaluate its regulatory status.

It is, accordingly,

ORDERED by the Florida Public Service Commission that Sombrero Resort and Lighthouse Marina is exempt from the regulation of this Commission under Section 367.022(4), Florida Statutes, as a public lodging establishment providing service solely in connection with service to its guests. It is further

ORDERED that, should there be any change in circumstances or method of operation, Sombrero Resort and Lighthouse Marina, or its successor(s) in interest, shall inform this Commission within thirty (30) days of such change so that we may reevaluate its regulatory status. It is further

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ORDERED that Docket No. 890007-SU be and is hereby closed.

By ORDER of the Florida Public Service Commission,  
this 13th day of April, 1989.

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STEVE TRIBBLE, Director  
Division of Records and Reporting

( S E A L )

RJP

by: Kay Flynn  
Chief, Bureau of Records

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