

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Request by GUIDANCE CLINIC OF) DOCKET NO. 890441-SU
 THE MIDDLE KEYS for exemption from) ORDER NO. 21064
 FPSC regulation for a sewage treatment) ISSUED: 4-18-89
 facility in Monroe County.)

ORDER ACKNOWLEDGING NON-JURISDICTIONAL STATUS

By letter and affidavit received March 23, 1989, the owner of Guidance Clinic of the Middle Keys (Guidance Clinic) has requested recognition of the non-jurisdictional status of its proposed sewer utility.

The affidavit, letter, and accompanying Department of Environmental Regulation (DER) permit application show that: Guidance Clinic is a nonprofit corporation formed to operate a proposed mental health inpatient facility for the treatment of substance abuse patients; Guidance Clinic proposes to build a sewage treatment plant on the site of its mental health facility in Marathon, Monroe County, Florida; the plant will provide service only to the mental health facility; no charges will be made to anyone for sewage service; the costs of sewage service will be treated as an operational expense of the mental health facility; and the plant is designed to serve less than 100 persons, having a maximum capacity of 7,500 gallons per day.

Pursuant to Section 367.031, Florida Statutes (1987), before DER will issue a construction permit, it requires either a certificate authorizing service or an order indicating that the utility is not subject to the regulation of this Commission.

As a matter of practice, upon request and sufficient proof, the Commission will issue an order indicating the non-jurisdictional or exempt status of water and sewer facilities, if they so qualify under the appropriate statute. The owner requested recognition of the non-jurisdictional status of Guidance Clinic under Section 367.021(3), Florida Statutes, or alternatively, an exemption under Section 367.022(6) or 367.022(7), Florida Statutes (1987).

Section 367.021(3), Florida Statutes (1987) defines utility as "every person... who is providing or proposes to provide, water or sewer service to the public for compensation." (Emphasis supplied). Since Guidance Clinic will not be providing sewer service for compensation, it is not a utility subject to Commission regulation. As such, consideration of exemption provisions is unnecessary. However, should there be any change circumstances or method of operation, the owner of Guidance Clinic, or his successor(s) in interest, must inform the Commission within thirty days of such change, so that we may determine whether such non-jurisdictional status is still appropriate.

It is, therefore,

ORDERED by the Florida Public Service Commission that on the facts as represented, the sewer utility for Guidance Clinic of the Middle Keys is not a utility subject to this Commission's jurisdiction pursuant to the terms of Section 367.021(3), Florida Statutes (1987). It is further

ORDERED that should there be any change in circumstances or

DOCUMENT NUMBER-DATE

03864 APR 18 1989

FPSC-RECORDS/REPORTING.

ORDER NO. 21064
DOCKET NO. 890441-SU
PAGE 2

method of operation of Guidance Clinic of the Middle Keys sewer utility, the present owner or any successor(s) in interest shall inform the Commission within thirty days of such change. It is further

ORDERED that this docket be closed.

By ORDER of the Florida Public Service Commission,
this 18th day of APRIL, 1989.



STEVE TRIBBLE, Director
Division of Records and Reporting

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