

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Request by RUBIDEL RECREATION,) DOCKET NO. 890514-WS
INC. for exemption from FPSC regulation)
for water and sewage treatment) ORDER NO. 21711
facilities in Lake County)
_____) ISSUED: 8-10-89

The following Commissioners participated in the disposition of this matter:

MICHAEL MCK. WILSON, Chairman
THOMAS M. BEARD
BETTY EASLEY
GERALD L. GUNTER
JOHN T. HERNDON

NOTICE OF PROPOSED AGENCY ACTION

ORDER DENYING REQUEST FOR EXEMPTION

BY THE COMMISSION:

Notice is hereby given by the Florida Public Service Commission that the actions discussed herein are 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.

Rubidel Recreation, Inc. (Rubidel or utility) is a proposed development in Lake County which will consist of 850 R.V. overnight tenants, 850 park models (6 month), and 300 year round tenants. Pursuant to Section 367.031, Florida Statutes, before the Department of Environmental (DER) will issue a construction permit for the proposed water and wastewater treatment plants, it requires either a certificate authorizing service, or proof that the utility is not subject to the regulation of this Commission. Therefore, by letter and affidavit received April 14, 1989, Rubidel requested the Commission to indicate that the utility is exempt.

As a matter of practice, upon request and sufficient proof, the Commission will issue an order indicating the nonjurisdictional or exempt status of water or wastewater facilities if they qualify under the appropriate section of Chapter 367, Florida Statutes. Rubidel requested recognition

DOCUMENT NUMBER-DATE

08040 AUG 10 1989

FPSC RECORDS/REPORTING

ORDER NO. 21711
DOCKET NO. 890514-WS
PAGE 2

of its exempt status under Section 367.022(4), Florida Statutes, or Section 367.022(5), Florida Statutes. Further inquiry revealed that the development will also consist of year round tenants who will own their land and that a non-profit association will provide water and wastewater service.

Section 367.022(4), Florida Statutes, states that public lodging establishments providing service solely in connection with service to their guests are exempt from Commission regulation. Section 367.022(5), Florida Statutes, states that landlords providing service to their tenants are exempt from Commission regulation. Because there will be property owners in the service area of Rubidel, we find that the utility does not meet the requirements of either statutory exemption requested. Accordingly, we find that Rubidel is subject to this Commission's regulation. Rubidel's request for exemption is thus denied.

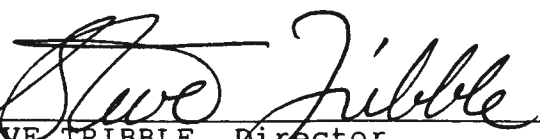
Based on the foregoing, it is, therefore,

ORDERED by the Florida Public Service Commission that Rubidel Recreation, Inc.'s request for exemption from Commission regulation pursuant to Sections 367.022 (4) or (5), Florida Statutes, is hereby denied. It is further

ORDERED that this Order, issued as proposed agency action, shall become final and effective 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, Florida 32399-0870, by the close of business on August 30, 1989. It is further

ORDERED that in the event this Order becomes final, this docket shall be closed.

By ORDER of the Florida Public Service Commission this 10th day of AUGUST, 1989.



STEVE TRIBBLE, Director
Division of Records and Reporting

(S E A L)

DCS

ORDER NO. 21711
DOCKET NO. 890514-WS
PAGE 3

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 August 30, 1989. In the absence of such a petition, this order shall become effective August 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 this order becomes final and effective on August 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 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.