

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Request for exemption from ) DOCKET NO. 900054-SU  
Florida Public Service Commission ) ORDER NO. 22887  
Regulation for a sewage treatment ) ISSUED: 5-3-90  
facility in Monroe County by SOMBRERO )  
COUNTRY CLUB )  
\_\_\_\_\_)

ORDER INDICATING THE NONJURISDICTIONAL STATUS OF  
SOMBRERO COUNTRY CLUB

BY THE COMMISSION:

Sombrero Country Club, Inc. (Sombrero) is an existing private country club in Monroe County. The wastewater needs of Sombrero are currently being met by an on-site septic system.

At present, Sombrero wishes to renovate its clubhouse. Before it will approve the renovations, however, the Monroe County Health Department requires that Sombrero upgrade its wastewater facilities, for which Sombrero needs a construction permit from the Department of Environmental Regulation (DER). Before DER will issue a construction permit, it requires either a certificate of authorization or an order indicating that Sombrero is exempt from our regulation or jurisdiction.

By letter received January 22, 1990, Sombrero requested that it be found exempt from this Commission's jurisdiction. Attached to its request were a copy of its DER permit application and an affidavit reciting the facts upon which its asserted status is based. According to its affidavit, Sombrero is not subject to our jurisdiction because all costs of operating its system will be treated as operational expenses of Sombrero. Sombrero further states that no charge will be levied upon any person for the provision of wastewater service.

Under Section 367.021(12), Florida Statutes, the definition of utility " . . . includes every person . . . who is providing, or proposes to provide, water or wastewater service to the public for compensation." (Emphasis added) Since Sombrero will not receive compensation for the provision of wastewater service, we find that, under the facts as presented herein, Sombrero is not a utility as defined in Section 367.021(12), Florida Statutes. As such, it is not subject to our jurisdiction. 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 jurisdictional status.

DOCUMENT NUMBER-DATE

03868 MAY-3 1990

ORDER NO. 22887  
DOCKET NO. 900054-SU  
PAGE 2

Upon consideration of the foregoing, it is,

ORDERED by the Florida Public Service Commission that Sombrero Country Club, Inc. is not a utility as defined in Section 367.021(12), Florida Statutes, and is, therefore, not subject to this Commission's jurisdiction. It is further

ORDERED that, should there be any change in circumstances or method of operation, Sombrero Country Club, Inc., or its successor(s) in interest, shall inform the Commission within thirty (30) days of such change so that we may reevaluate its jurisdictional status. It is further

ORDERED that Docket No. 900054-SU be and is hereby closed.

By ORDER of the Florida Public Service Commission,  
this 3rd day of MAY, 1990.

  
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STEVE TRIBBLE, Director  
Division of Records and Reporting

( S E A L )

RJP

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.

ORDER NO. 22887  
DOCKET NO. 900054-SU  
PAGE 3

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.