

## BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for Declaratory )	DOCKET NO. 910078-WS
Statement relating to jurisdiction )	ORDER NO. 24684
of the Florida Public Service )	ISSUED: 6/20/91
Commission over Jacksonville )	
Suburban Utilities Corporation in )	
Duval, Nassau, and St. Johns )	
Counties. )	
_____ )	

The following Commissioners participated in the disposition of this matter:

THOMAS M. BEARD, Chairman  
 J. TERRY DEASON  
 BETTY EASLEY  
 GERALD L. GUNTER  
 MICHAEL M. WILSON

ORDER DENYING THE BOARD OF COUNTY COMMISSIONERS  
 OF ST. JOHNS COUNTY'S AND THE ST. JOHNS COUNTY  
 WATER AND SEWER AUTHORITY'S  
MOTION FOR RECONSIDERATION

BY THE COMMISSION:

By Motion for Reconsideration filed April 23, 1991, the Board of County Commissioners of St. Johns County and the St. Johns County Water and Sewer Authority (St. Johns) have asked that we reconsider and deny the declaratory statement granted in this docket in Order No. 24335.

In support of its Motion, St. Johns argues that we failed to consider the legislative history of subsection 364.171(7), Florida Statutes, and that such consideration would lead us to distinguish physically interconnected systems from utility systems not physically connected in applying the "transverse county boundaries" standard to utilities such as Jacksonville Suburban Utilities Corporation (Jacksonville Suburban).

St. Johns argues in addition that subsection 367.171(7) is so ambiguous that this Commission must refrain from asserting jurisdiction and that Order No. 24335 is defective for failure to note that St. Johns' intervention was granted.

This Commission already fully considered the issue of legislative history when we granted the Declaratory Statement sought by Jacksonville Suburban.

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As stated in Order 24335, we found that

The efficiencies of system-wide operations and cost savings due to system-wide accounting, data processing and administration are consistent with the purpose of section 367.171(7).

In briefs submitted in this docket and at the agenda conference, the very points asserted by St. Johns in its Motion for Reconsideration were brought to our attention and considered extensively. They included the issues of what is needed for functionally related facilities under subsection 367.021(11), Florida Statutes, and whether physical interconnection of utilities is a sine qua non for Commission jurisdiction under subsection 367.171(7). Clearly, these are not points which this Commission "overlooked or failed to consider when it rendered its order in the first instance." Diamond Cab Company of Miami v. King, 146 So.2d 889, 891 (Fla. 1962). Since a Motion for Reconsideration should not be granted merely to allow reargument of matters already considered, Diamond Cab, supra, these grounds for St. Johns' Motion for Reconsideration should be rejected and the Motion denied.

In addition, we decline the suggestion that subsection 367.171(7) is so ambiguous that we cannot exert jurisdiction thereunder. We did not depart from our own precedent in Order 24335. See, e.g., In re: Petition of General Development Utilities, Inc. for Declaratory Statement Concerning Regulatory Jurisdiction Over Its Water and Sewer System in De Soto Charlotte, and Sarasota Counties, Docket No. 891190-WS, Order No. 22787, Issued: April 9, 1990.

Accordingly, and pending a different holding from the Appellate Court, we were authorized to assert jurisdiction over Jacksonville Suburban's system under subsection 367.171(7). Florida Public Service Commission v. Bryson, 569 So.2d 1253, 1255 (Fla. 1990).

Finally, a clerical error in omitting the fact that St. Johns' intervention was granted is not, in and of itself, properly the object of a Motion for Reconsideration, but should be addressed instead by a motion to alter or amend. St. Johns County has not claimed prejudice because of the omission alleged. Moreover, we waived our rule against oral argument by parties regarding Petitions for Declaratory Statement, Rule 25-22.022(3), Florida Administrative Code, precisely in order to afford St. Johns the fullest opportunity possible to participate as intervenor in this docket. Though we do not grant Reconsideration on this basis, we note that we did vote to grant St. John's Petition to Intervene in

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this docket.

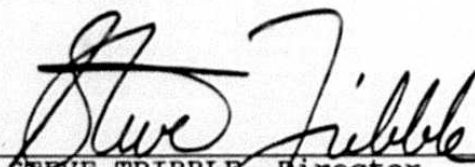
In view of the above, it is

ORDERED by the Florida Public Service Commission that the Motion for Reconsideration by the Board of County Commissioners of St. Johns County and the St. Johns County Water and Sewer Authority is hereby denied. It is further

ORDERED that Order No. 24335 is amended to reflect that St. Johns' Motion to Intervene in this docket was granted.

ORDERED that this docket be closed.

By ORDER of the Florida Public Service Commission this 20th  
day of JUNE, 1991.



STEVE TRIBBLE, Director  
Division of Records and Reporting

( S E A L )

RCB

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NOTICE OF 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 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

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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.