

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Request for exemption ) DOCKET NO. 920038-SU  
from Florida Public Service )  
Commission regulation for )  
provision of wastewater ) ORDER NO. PSC-92-0198-FOF-SU  
treatment service in Sumter )  
County by FLORIDA HORSEMAN'S )  
PARK SEWAGE TREATMENT PLANT ) ISSUED: 04/13/92  
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The following Commissioners participated in the disposition of this matter:

THOMAS M. BEARD, Chairman  
SUSAN F. CLARK  
J. TERRY DEASON  
BETTY EASLEY

NOTICE OF PROPOSED AGENCY ACTION

ORDER DENYING EXEMPTION FROM  
FLORIDA PUBLIC SERVICE COMMISSION REGULATION

AND

REQUIRING FILING OF APPLICATION FOR CERTIFICATE

BY THE COMMISSION:

NOTICE IS HEREBY GIVEN by the Florida Public Service Commission that the actions discussed herein are preliminary in nature, and as such, 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.

On January 10, 1992, Custer Development Corporation (Custer) filed an application for an exemption from Florida Public Service Commission regulation pursuant to section 367.021(12), Florida Statutes, as a nonjurisdictional entity, for its wastewater treatment plant, Florida Horseman's Sewage Treatment Plant (Florida Horseman), in Sumter County. Florida Horseman provides wastewater service to a McDonald's Restaurant (McDonald's) and to the Bushnell Flea Market. Water service is provided to these two entities by private wells.

Upon investigation of the application, we discovered that McDonald's pays the electrical costs of the wastewater system and the Bushnell Flea Market pays for the plant maintenance. The

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Bushnell Flea Market is owned by Custer, which owns Florida Horseman. Pursuant to section 367.021(12), Florida Statutes, a utility is any individual "who is providing, or proposes to provide, water or wastewater service to the public for compensation." The payment by McDonald's of the electrical costs of the system is a form of compensation for service. Therefore, Florida Horseman meets the definition of a utility.

Based on the above facts as represented, the request by Custer that Florida Horseman's Sewage Treatment Plant be treated as a nonjurisdictional entity for its wastewater services pursuant to section 367.021(12), Florida Statutes, and that it be exempt from Commission regulation is hereby denied. In addition, Custer is ordered to file an application for an original certificate for Florida Horseman within six months of the date of this Order.

Based on the foregoing, it is, therefore,

ORDERED that the request for an exemption from Commission regulation by Custer Development Corporation for its wastewater system, Florida Horseman's Sewage Treatment Plant, in Sumter County, Florida, is hereby denied. The contact person is Marc Robinson, Jr., P.O. Box 175, Bushnell, FL 33513. It is further

ORDERED that Custer Development Corporation shall file an application for an original certificate for Florida Horseman's Sewage Treatment Plant within six months of the date of this Order. It is further

ORDERED by the Florida Public Service Commission that the provisions of this Order are issued as proposed agency action and shall become final, unless a person whose interests are substantially affected files an appropriate petition in the form provided by Rule 25-22.036, Florida Administrative Code, with the Director, Division of Records and Reporting, at his office at 101 East Gaines Street, Tallahassee, Florida 32399-0870, by the date set forth in the Notice of Further Proceedings or Judicial Review. It is further

ORDERED that this docket shall be closed if no timely protest is received from a substantially affected person.

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By ORDER of the Florida Public Service Commission, this 13th  
day of April, 1992.

  
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STEVE TRIBBLE, Director  
Division of Records and Reporting

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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 May 4, 1992.

In the absence of such a petition, this order shall become effective on the day subsequent to the above date as provided by Rule 25-22.029(6), Florida Administrative Code.

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.

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If this order becomes final and effective on the date described above, 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 wastewater 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.