

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Request for Exemption) DOCKET NO. 920095-WS
from Florida Public Service) ORDER NO. PSC-92-0679-FOF-WS
Commission Regulation of a) ISSUED: 07/21/92
Water and Wastewater Facility)
in Escambia County by MONSANTO)
CHEMICAL COMPANY)

The following Commissioners participated in the disposition of this matter:

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

ORDER INDICATING THE NONJURISDICTIONAL STATUS OF
MONSANTO CHEMICAL COMPANY

BY THE COMMISSION:

BACKGROUND

On December 3, 1991, the Board of County Commissioners of Escambia County passed a resolution granting this Commission jurisdiction to regulate the water and wastewater utilities of Escambia County. When the resolution was passed granting jurisdiction to this Commission, all privately owned water and wastewater systems in said county were required to make an application for either a grandfather certificate or an exemption from regulation, pursuant to Section 367.031, Florida Statutes. Therefore, in response, on January 31, 1992, Monsanto Chemical Company (Monsanto or company), filed an application for an exemption from our regulation pursuant to Section 367.022(3), Florida Statutes, which provides that manufacturers providing service solely in connection with their operations are exempt from Commission regulation. In addition, Rule 25-30.060(3)(c), Florida Administrative Code, states the requirements for an application are as follows:

For an exemption pursuant to Section 367.022(3), Florida Statutes, a statement from the manufacturer that service is provided solely in connection with its operations; stating whether it provides water service, wastewater service or both; and specifying the service area....

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Monsanto's facility is located in Gonzales, Florida, and employs approximately 3,000. The Monsanto water treatment plant produces 1.5 million gallons of water daily that is used at the Monsanto plant for processing chemicals, cooling equipment, and general plant use. The wastewater treatment plant is designed for 400,000 gallons a day (gpd) and treats 172,800 gpd. This treated wastewater is then reused in Monsanto's boilers and cooling towers.

During our investigation of the application, we learned that Monsanto was serving other facilities located on its property in Gonzales, Florida, and was charging these facilities for service. Therefore, we advised Monsanto because it was not providing water and wastewater service solely in connection with its manufacturing operations that it would not qualify for a manufacturers exemption pursuant to Section 367.022(3), Florida Statutes.

Nonjurisdictional Status

On May 22, 1992, Monsanto filed an amended application for nonjurisdictional status of its water and wastewater systems under Section 367.021(12), Florida Statutes. This section, defines a utility as "every person ... who is providing, or proposes to provide, water or wastewater service to the public for compensation."

The facilities Monsanto charged for service prior to this application include: Fiberweb North America, Inc. (Fiberweb); Advanced Elastomer Systems, L.P. (AES LP); Puritan-Bennett Corporation (Puritan-Bennett); Monsanto Employees Credit Union (MECU), and the Monsanto Employees Golf Association (MEGA). Monsanto provides water and wastewater service to Fiberweb, AES LP, and MECU, and water service to Puritan-Bennett. Prior to this application, Monsanto had agreements with each of these facilities for payment of utility services. MEGA is provided irrigation water for the golf course at no charge. On May 22, 1992, Monsanto submitted letters to these facilities indicating it would no longer be charging these facilities for water or wastewater service.

Under the definition of a utility in Section 367.021(12), Florida Statutes, to be a utility a water or wastewater facility must provide service for compensation. Here no customers are charged for service.

Upon consideration of the foregoing, we find that Monsanto Chemical Company is not a utility as defined in Section 367.021(12), Florida Statutes, because it does not provide water and wastewater service to the public for compensation. We,

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therefore, find that this facility is not subject to the jurisdiction of this Commission. However, should there be any change in circumstances or method of operation, Monsanto Chemical Company, or any successor in interest, shall inform the Commission within thirty days of such change, so that we may review the matter to determine whether nonjurisdictional status is still appropriate.

Based on the foregoing, it is, therefore,

ORDERED by the Florida Public Service Commission that, based on the facts as represented, Monsanto Chemical Company's wastewater and water facility is not a utility within the definition of 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 of this facility, Monsanto Chemical Company, whose mailing address is Post Office Box 12830, Pensacola, Florida 32575-2830, or its successor in interest shall inform this Commission with thirty days of such change. It is further

ORDERED that this docket be closed.

By Order of the Florida Public Service Commission this 21st day of July, 1992.

STEVE TRIBBLE, Director
Division of Records and Reporting

(S E A L)

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by: Kay Helton
Chief, Bureau of Records

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.

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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 Civil Procedure. The notice of appeal must be in the form specified in Rule 9.900 (a), Florida Rules of Appellate Procedure.