

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Request for exemption) DOCKET NO. 920883-SU
from Florida Public Service) ORDER NO. PSC-92-1283-FOF-SU
Commission regulation for) ISSUED: 11/10/92
provision of wastewater)
service in St. Lucie County by)
WINDJAMMER PROPERTIES, INC.)
_____)

ORDER INDICATING THE NONJURISDICTIONAL STATUS OF
WINDJAMMER PROPERTIES, INC.

BY THE COMMISSION:

On August 27, 1992, Windjammer Properties, Inc. (WJP) filed an application for exemption from Commission regulation pursuant to Section 367.021(12), Florida Statutes, as a non-jurisdictional entity.

WJP supplies wastewater service in the form of two 5,000 gallons per day (GPD) grease traps and two 5,000 GPD septic tank systems to Island Reef Restaurant. WJP leases the property to the restaurant and is a Florida Corporation. The restaurant receives its water service directly from the City of Stuart. The address of WJP is P.O. Box 678, Jensen Beach, Florida 34957.

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 sewer facilities, if they qualify under the appropriate section of Chapter 367, Florida Statutes.

WJP's application shows that: WJP will provide wastewater service only; no charges will be made to anyone for wastewater service; the costs of wastewater service will be treated as an operational expense of WJP; and the wastewater facility is located on the premises of WJP.

Section 367.021(12), Florida Statutes, defines utility as "every person... who is providing or proposes to provide, water or sewer service to the public for compensation." Since WJP will not be providing wastewater service to the public for compensation, it is not a utility subject to Commission regulation. However, should there be any change in circumstances or method of operation, the owner of WJP, or any successor in interest, must inform the Commission within thirty days of such change, so that we may determine whether nonjurisdictional status is still appropriate.

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It is, therefore,

ORDERED by the Florida Public Service Commission that, based upon the facts as represented, Windjammer Properties, Inc., located at P.O. Box 678, Jensen Beach, Florida 34957, is not a utility subject to this Commission's jurisdiction pursuant to the terms of Section 367.021(12), Florida Statutes. It is further

ORDERED that should there be any change in circumstances or method of operation of Windjammer Properties, Inc.'s wastewater facility, the present owner, or any successor in interest, shall inform the Commission within thirty days of such change. It is further

ORDERED that this docket be closed.

By ORDER of the Florida Public Service Commission this 10th day of November, 1992.



STEVE TRIBBLE, Director
Division of Records and Reporting

(S E A L)

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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.

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

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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.