

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Request for exemption) DOCKET NO. 921007-WU
from Florida Public Service) ORDER NO. PSC-92-1371-FOF-WU
Commission regulation for) ISSUED: 11/24/92
provision of water service)
in St. Lucie County by)
QWIK-N-EASY FOOD & FUEL, INC.)

ORDER INDICATING NONJURISDICTIONAL
STATUS OF QWIK-N-EASY FOOD & FUEL, INC.

BY THE COMMISSION:

On October 5, 1992, Qwik-N-Easy Food & Fuel, Inc. (Qwik) filed an application with this Commission for recognition of nonjurisdictional status, pursuant to Section 367.021(12), Florida Statutes. The applicant is a convenience store in St. Lucie County that owns and operates a well for service to the store. There is no service provided to the public. Although the application filed by Qwik indicates that it provides both water and wastewater service, we learned that wastewater service is provided by a septic tank. The contact person is Mr. Gary Evans, President, and the mailing address is 6600 Midway Road, Ft. Pierce, Florida 34986.

Upon request and sufficient proof, the Commission will issue an order indicating the nonjurisdictional or exempt status of water or wastewater systems if they qualify under the appropriate provision of Chapter 367, Florida Statutes. The application was filed in accordance with Section 367.021(12), Florida Statutes, and Rules 25-30.060(1), (2), and (3)(j), Florida Administrative Code. The applicant stated in its application that it provides water service solely to its employees and customers without compensation, and that all costs for providing such service are treated or recovered as operational expenses. Furthermore, it acknowledged Section 837.06, Florida Statutes, regarding false statements.

Section 367.021(12), Florida Statutes, states that a "utility means a water or wastewater utility and except as provided in Section 367.022, Florida Statutes, includes every person, lessee, trustee, or receiver owning, operating, managing or controlling a system, or proposing construction of a system, who is providing or proposes to provide water or wastewater service to the public for compensation."

Based on the facts as represented, we find that Qwik-N-Easy Food & Fuel, Inc. is not a utility pursuant to Section 367.021(12),

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STATE REPORTING

ORDER NO. PSC-92-1371-FOF-WU
DOCKET NO. 921007-WU
PAGE 2

Florida Statutes. However, should there be any change in circumstances or method of operation, the owner of Qwik-N-Easy Food & Fuel, Inc. or any successor in interest shall inform this Commission within 30 days of the change so we may reevaluate its nonjurisdictional status.

It is, therefore,

ORDERED by the Florida Public Service Commission that Qwik-N-Easy Food & Fuel, Inc., 6600 Midway Road, Ft. Pierce, Florida 34986, is not a utility subject to this Commission's jurisdiction, pursuant to Section 367.021(12), Florida Statutes. It is further

ORDERED that should there be any change in circumstances or method of operation, the owner of Qwik-N-Easy Food & Fuel, Inc. or its successor(s) in interest shall inform this Commission of the change within 30 days so we may reevaluate its nonjurisdictional status. It is further

ORDERED that this docket is hereby closed.

By ORDER of the Florida Public Service Commission this 24th day of November, 1992.

STEVE TRIBBLE, Director
Division of Records and Reporting

(S E A L)

KAC

by: Kay Flynn
Chief, Bureau of Records

ORDER NO. PSC-92-1371-FOF-WU
DOCKET NO. 921007-WU
PAGE 3

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 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.