

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Request for Exemption) DOCKET NO. 921324-WU
From Florida Public Service) ORDER NO. PSC-93-0138-FOF-WU
Commission Regulation for) ISSUED: 01/26/93
Provision of Water Service in)
St. Lucie County by RINKER)
MATERIALS/WEST FT. PIERCE.)
_____)

ORDER INDICATING NONJURISDICTIONAL STATUS
OF RINKER MATERIALS/WEST FT. PIERCE
AND CLOSING DOCKET

BY THE COMMISSION:

On December 30, 1992, Rinker Materials/West Ft. Pierce (Rinker) filed an application with this Commission for recognition of its nonjurisdictional status, pursuant to Section 367.021(12), Florida Statutes. The utility is located at 6100 Midway Road, Ft. Pierce, Florida, 34981. Mr. John R. Dutkin filed the application on behalf of Rinker.

Rinker is a concrete and building materials business, which provides water service for the business only. Water service is provided by a well. Wastewater service for Rinker is furnished by a septic tank.

Section 367.021(12), Florida Statutes, states that a "utility means a water or wastewater utility and except as provided in Section 367.022, 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."

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(2) and (3)(j), Florida Administrative Code. According to the application, water and wastewater service is provided only to the Rinker property, there is no charge for providing the service, and all costs for providing such services are treated or recovered as operational expenses.

In addition, pursuant to Section 837.06, Florida Statutes, and Rule 25-30.060(2)(f), Florida Administrative Code, anyone knowingly making a false statement in writing with the intent to mislead is guilty of a misdemeanor.

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By signing the application regarding false statements, Mr. Dutkin acknowledged that he is aware of Section 837.06, Florida Statutes, and the penalties for making false statements in the application.

Since, based on the facts as represented, Rinker will not be providing water service to the public for compensation, we find that it is not a utility pursuant to the provisions of Section 367.021(12), Florida Statutes. However, should there be any change in circumstances or method of operation, the owner of Rinker or any successors in interest, must inform the Commission within 30 days of such change so that Rinker's nonjurisdictional status may be reevaluated.

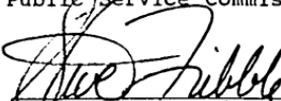
Based on the foregoing, it is, therefore

ORDERED by the Florida Public Service Commission that, based upon the facts as represented, Rinker Materials/West Ft. Pierce, located at 6100 Midway Road, Ft. Pierce, Florida, 34952, with John R. Dutkin as contact person, is not a water or wastewater utility subject to this Commission's jurisdiction, pursuant to the provisions of 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 Rinker Materials/West Ft. Pierce or any successors in interest, shall inform this Commission within 30 days of such a change so that we may reevaluate the utility's nonjurisdictional status. It is further

ORDERED that this Docket is hereby closed.

By ORDER of the Florida Public Service Commission this 26th day of January, 1993.



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.

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.