

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Request for Exemption) DOCKET NO. 921178-WS
From Florida Public Service) ORDER NO. PSC-93-0219-FOF-WS
Commission Regulation for) ISSUED: 02/10/93
Provision of Water and)
Wastewater Service in St.)
Lucie County, Florida, by)
Zippy Mart FL-507.)
_____)

ORDER INDICATING NONJURISDICTIONAL STATUS
OF ZIPPY MART FL-507 AND CLOSING DOCKET

BY THE COMMISSION:

On November 13, 1992, Zippy Mart FL-507 (Zippy Mart) filed an application with this Commission for recognition of its nonjurisdictional status, pursuant to Section 367.021(12), Florida Statutes. Zippy Mart is a convenience store located at 7323 Indrio Road in Ft. Pierce, Florida. Mr. C. R. McCord, Engineer, Maintenance and Upkeep, Southern Division, Crown Central Petroleum Corporation, filed the application on behalf of Zippy Mart.

On November 30, 1992, the Zippy Mart at 7323 Indrio Road was sold to National Oil & Gas Distributors, Incorporated (National), 7150 20th Street, Suite H, Vero Beach, Florida 32966. By letter dated January 27, 1993, Mr. R. P. Shurtleff, President of National, authorized Mr. McCord to act on behalf of National in the instant application for recognition of Zippy Mart's nonjurisdictional status.

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 convenience store property, there is no charge for providing the service, and all costs of providing service are treated or recovered as operational expenses.

DOCUMENT NUMBER-DATE

01627 FEB 10 93

FPSC-RECORDS/REPORTING

In addition, the application form states that pursuant to Section 837.06, Florida Statutes, anyone knowingly making a false statement in writing with the intent to mislead is guilty of a misdemeanor. By signing the application, Mr. McCord acknowledged that he is aware of Section 837.06, Florida Statutes, and the penalties for making false statements in the application.

Based on the facts as represented, we find that Zippy Mart 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 Zippy Mart or any successors in interest, must inform the Commission within 30 days of such change so that its nonjurisdictional status may be reevaluated.

It is, therefore,

ORDERED by the Florida Public Service Commission that, based upon the facts as represented, Zippy Mart FL-507, 2765 Woodwin Road, Doraville, Georgia 30360, is not a water and 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 Zippy Mart FL-507 or any successors in interest, shall inform this Commission within 30 days of such a change so that we may reevaluate the store's nonjurisdictional status. It is further

ORDERED that this Docket is hereby closed.

By ORDER of the Florida Public Service Commission this 10th day of February, 1993.



STEVE TRIBBLE, Director
Division of Records and Reporting

(S E A L)

ALC

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.