

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Request For Exemption) DOCKET NO. 940365-WU
From Florida Public Service) ORDER NO. PSC-94-0662-FOF-WU
Commission Regulation For) ISSUED: June 1, 1994
Provision of Water Service in)
Nassau County by American Beach)
Water System.)
_____)

ORDER INDICATING EXEMPT/NONJURISDICTIONAL STATUS
OF AMERICAN BEACH WATER SYSTEM AND CLOSING DOCKET

BY THE COMMISSION:

On April 13, 1994, American Beach Water System (American Beach) filed an application with this Commission for recognition of its nonjurisdictional status, pursuant to Section 367.021(12), Florida Statutes. American Beach's water system, which consists of a well, is located at 5553 Gregg Street, Florida. Mr. Bobby Dollison, Owner and primary contact person, filed the application on behalf of American Beach.

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 service is provided to a small nine-unit motel and nine homes in the American Beach Subdivision. Based on the facts as represented, there is no charge for providing the water service to the nine homes, nor are any charges collected for the lease of land or rental of the homes. All costs of providing water service for the motel units are treated or recovered as operational expenses. Wastewater service is provided by septic tank.

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Therefore, although American Beach applied for recognition of its nonjurisdictional status, we find that, for its service to the nine-unit motel, American Beach is not nonjurisdictional, but does qualify for exemption from Commission regulation pursuant to Section 367.022(4), Florida Statutes. Section 367.022(4), Florida Statutes, states that public lodging establishments providing service solely in connection with service to their guests are exempt from Commission regulation. The application indicates that American Beach provides service to guests of the motel and there is no separate charge for the service.

For its service to the nine homes, American Beach is nonjurisdictional because no compensation whatsoever is received from those homes for the provision of water service.

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. By signing the application, Mr. Dollison 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 American Beach is exempt from Commission regulation pursuant to Section 367.022(4), Florida Statutes. Also, we find that American Beach's service to the nine homes is nonjurisdictional pursuant to the provisions of Section 367.021(12), Florida Statutes. Accordingly, American Beach is not subject to this Commission's regulation. However, should there be any change in circumstances or method of operation, the owner of American Beach or any successors in interest, must inform the Commission within 30 days of such change so that its exempt/nonjurisdictional status may be reevaluated.

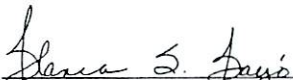
It is, therefore,

ORDERED by the Florida Public Service Commission that, based upon the facts as represented, American Beach Water System, 5553 Gregg Street, American Beach, Amelia Island, Florida 32034, is exempt from Commission regulation pursuant to Section 367.022(4), Florida Statutes, and nonjurisdictional in regard to its provision of water service to nine homes. It is further

ORDERED that should there be any change in circumstances or method of operation, the owner of American Beach Water System or any successors in interest, shall inform this Commission within 30 days of such a change so that we may reevaluate American Beach's exempt/nonjurisdictional status. It is further

ORDERED that this Docket is hereby closed.

By ORDER of the Florida Public Service Commission, this 1st day of June, 1994.



BLANCA S. BAYÓ, 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.