

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Request For Exemption) DOCKET NO. 950478-WU
From Florida Public Service) ORDER NO. PSC-95-0736-FOF-WU
Commission Regulation For) ISSUED: June 20, 1995
Provision of Water Service in)
Jackson County by Sonny's Real)
Pit Bar-B-Q Restaurant.)
_____)

ORDER INDICATING NONJURISDICTIONAL STATUS
OF SONNY'S REAL PIT BAR-B-Q RESTAURANT AND CLOSING DOCKET

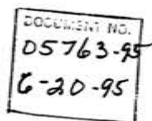
BY THE COMMISSION:

On April 21, 1995, Sonny's Real Pit Bar-B-Q Restaurant (Sonny's) filed an application with this Commission for recognition of its nonjurisdictional status, pursuant to Section 367.021(12), Florida Statutes. Sonny's, when it is constructed, will be located approximately one-half mile north of the intersection of State Road 71 and Interstate 10, Marianna, Florida. Mr. Cecil Terhune, Owner, filed the application on behalf of Sonny's. The primary contacts are Mr. Cecil Terhune, 3705 Longford Drive, Tallahassee, Florida 32308, and Mr. David H. Melvin, Inc. Post Office Box 840, Marianna, Florida 32447.

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.

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."

According to Sonny's application, water service will be provided only to the restaurant which will be located one-half mile north of the intersection of State Road 71 and Interstate 10, Marianna, Florida, there will be no charge for providing the service, and all costs of providing service will be treated or recovered as operational expenses. Sonny's is considering different methods of wastewater disposal until such time as Jackson County constructs a wastewater system in the area and requires



Sonny's to connect. At this time, it is proposed that wastewater service be provided by septic tank.

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. Terhune 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 Sonny's is not a utility pursuant to the provisions of Section 367.021(12), Florida Statutes. Accordingly, Sonny's is not subject to this Commission's jurisdiction. However, should there be any change in circumstances or method of operation, the owner of Sonny's or any successors in interest, must inform the Commission within 30 days of such change so that its nonjurisdictional status may be reevaluated.

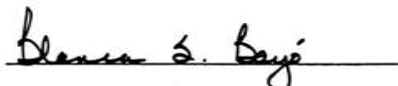
It is, therefore,

ORDERED by the Florida Public Service Commission that, based upon the facts as represented, Sonny's Real Pit Bar-B-Q Restaurant, c/o BLT of NW Florida, Ltd., 3705 Longford Drive, Tallahassee, Florida 32308, is not a water 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 Sonny's Real Pit Bar-B-Q Restaurant or any successors in interest, shall inform this Commission within 30 days of such a change so that 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 20th day of June, 1995.



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 and/or wastewater 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 Appellate Procedure. The notice of appeal must be in the form specified in Rule 9.900 (a), Florida Rules of Appellate Procedure.