

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Request for Exemption) DOCKET NO. 940365-WU
from Florida Public Service) ORDER NO. PSC-95-1261-FOF-WU
Commission Regulation for) ISSUED: October 16, 1995
Provision of Water Service in)
Nassau County by AMERICAN BEACH)
WATER SYSTEM)
_____)

The following Commissioners participated in the disposition of this matter:

SUSAN F. CLARK, Chairman
J. TERRY DEASON
JOE GARCIA
JULIA L. JOHNSON
DIANE K. KIESLING

ORDER DENYING MOTION FOR RECONSIDERATION

AND

ORDER CLARIFYING ORDER NO. PSC-95-0899-FOF-WU AND CLOSING DOCKET

BY THE COMMISSION:

On April 13, 1994, American Beach Water System (American Beach or utility) applied for a small system exemption from Commission regulation pursuant to Section 367.022(6), Florida Statutes. American Beach stated in its application that water service is provided to a small motel of 23 units, which it owns, and 9 individually owned homes. Upon review of the application, it was determined that American Beach did not qualify for an exemption pursuant to Section 367.022(6), Florida Statutes.

By letter dated October 21, 1994, Mr. Bobby Dollison, the utility's owner, requested a re-evaluation of his application for a small system exemption pursuant to Rule 25-30.055, Florida Administrative Code. Mr. Dollison argued that while his well may be able to produce 144,000 gallons per day (gpd), his system can only process approximately 8,000 gpd. On October 31, 1994, Mr. Dollison refiled his small system exemption application. By Order No. PSC-95-0899-FOF-WU, issued July 26, 1995, the Commission granted American Beach an exemption pursuant to Section 367.022(6), Florida Statutes. On August 10, 1995, American Beach timely filed a Motion for Reconsideration of Order No. PSC-95-0899-FOF-WU, requesting that the Commission reconsider a statement made in the body of the Order.

DOCUMENT NUMBER-DATE

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FPSC-RECORDS/REPORTING

In its motion, American Beach professes that the Commission overlooked a fact when it voted at the June 27, 1995, Agenda Conference, granting American Beach its exemption. American Beach asserts that the statement in Order No. PSC-95-0899-FOF-WU, which states that the Department of Environmental Protection (DEP) placed a moratorium on the utility's growth is erroneous. Attached to its motion is a letter dated August 9, 1995, from Ms. Blanca Rodriguez of DEP, stating that if the 8,000 gpd distributed water is not exceeded and no more than 25 permanent residents are served, then new connections would be allowed. Further, American Beach claims that this statement, while not affecting the meaning of the Order, can, as a public record, be used against the utility at any time when future connections are sought.

The purpose of a motion for reconsideration is to point out some matter of law or fact which the Commission failed to consider or overlooked in its prior decision. Diamond Cab Co. of Miami v. King, 146 So.2d 889 (Fla. 1962); Pingree v. Quaintance, 394 So.2d 161 (1st DCA 1981). Page 2 of Order No. PSC-95-0899-FOF-WU states that "DEP has placed American Beach under a moratorium, which means it cannot serve any additional customers."

When we voted to grant American Beach its exemption, we relied on information provided to us at that time. Our staff verified this information with the DEP. The analysis in Issue 1 of the recommendation stated in part, "Ms. Rodriguez also stated that American Beach would not be able to serve any additional customers since they were currently under a moratorium." Further, the letter attached to American Beach's motion is dated August 9, 1995, more than one month after we reached our decision. American Beach made no objections at the Agenda Conference. Therefore, based on the information we had at the time we voted, American Beach was under a moratorium. Based on the foregoing, we conclude that we made no mistake, nor overlooked any fact or law when we noted in our Order that American Beach was under a moratorium from DEP. Therefore, American Beach's Motion for Reconsideration is hereby denied.

However, upon consideration, we find it appropriate, upon our own motion, to clarify our Order to delete the line which stated that DEP placed a moratorium on American Beach. Order No. PSC-95-0899-FOF-WU shall be clarified to reflect that DEP now believes that American Beach can add connections as long as it does not exceed the parameters set forth by DEP's letter. Since no further action is required, this docket shall be closed.

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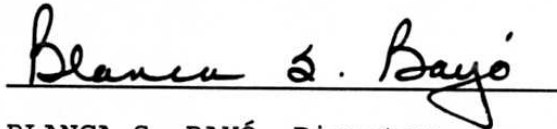
Based on the foregoing, it is, therefore,

ORDERED by the Florida Public Service Commission that American Beach Water System's Motion for Reconsideration is hereby denied. It is further

ORDERED that Order No. PSC-95-0899-FOF-WU shall be clarified to the extent set forth herein. It is further

ORDERED that this docket shall be closed.

By ORDER of the Florida Public Service Commission, this 16th day of October, 1995.

A handwritten signature in cursive script that reads "Blanca S. Bayó". The signature is written in black ink and is positioned above a horizontal line.

BLANCA S. BAYÓ, Director
Division of Records and Reporting

(S E A L)

MSN

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NOTICE OF 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 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 wastewater utility by filing a notice of appeal with the Director, Division of Records and Reporting, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, 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.