

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Resolution of the Board) DOCKET NO. 951235-WS
of County Commissioners of) ORDER NO. PSC-96-0118-FOF-WS
Manatee County declaring Manatee) ISSUED: January 23, 1996
County subject to the provisions)
of Chapter 367, F.S. - Request)
for exemption for provision of)
wastewater service by Midway)
Flea Market.)

ORDER INDICATING NONJURISDICTIONAL STATUS OF
MIDWAY FLEA MARKET

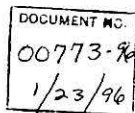
BY THE COMMISSION:

On December 14, 1995, Midway Flea Market (Midway) filed an application with this Commission for recognition of its exempt status pursuant to Section 367.022(5), Florida Statutes. Midway is located at 10816 U.S. 41 North, Palmetto, Florida. William L. Hanekamp, president and primary contact person, filed the application on behalf of Midway.

Upon request and sufficient proof, the Commission will issue an order indicating the nonjurisdictional or exempt status of water and wastewater facilities, if they qualify under the appropriate provision of Chapter 367, Florida Statutes. The application was filed in accordance with Section 367.022(5), Florida Statutes, and Rule 25-30.060(3)(e), Florida Administrative Code.

Upon review of Midway's application, it was determined that Midway does not qualify for exemption pursuant to Section 367.021(5), Florida Statutes. Midway does, however, qualify for exemption pursuant to Section 367.022(12), Florida Statutes, which 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 Midway's application, wastewater service is provided only to the flea market located at 10816 U.S. 41 North, Palmetto, Florida, there is no charge for providing the service, and all costs of providing the service are treated or recovered as operational expenses. Water service is provided by the City of Palmetto.



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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, William L. Hanekamp 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 Midway is not a utility pursuant to the provisions of Section 367.021(12), Florida Statutes. Accordingly, Midway is not subject to this Commission's jurisdiction. However, the owner of Midway or any successors in interest are put on notice that, if there is any change in circumstance or method of operation, it should inform the Commission within 30 days of such change so that non-jurisdictional status may be reevaluated.

It is, therefore,

ORDERED by the Florida Public Service Commission that, based upon the facts as represented, Midway Flea Market, 10816 U.S. 41 North, Palmetto, Florida 34221, 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 this docket shall remain open to process additional applications.

By ORDER of the Florida Public Service Commission, this 23rd day of January, 1996.

BLANCA S. BAYÓ, Director
Division of Records and Reporting

by: Kary DeLeon
Chief, Bureau of Records

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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, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, 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.