

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Request by ROCK HARBOR LODGE)	DOCKET NO. 890971-SU
for exemption from FPSC regulation)	
for a sewage treatment system in)	ORDER NO. 21682
Monroe County)	
_____)	ISSUED: 8-4-89

ORDER INDICATING THE NONJURISDICTIONAL STATUS OF
ROCK HARBOR LODGE

BY THE COMMISSION:

Rock Harbor Lodge, in Monroe County, is an existing restaurant with ancillary staff housing on its grounds. Sewage treatment and disposal for the restaurant and staff housing is currently handled by on-site septic systems. The restaurant and grounds are being sold, and the Health Department requires sewage facilities to be brought up to current standards when a transfer of property takes place. In order to meet current standards, the new owner of Rock Harbor Lodge must install a secondary treatment and disposal system. Pursuant to Section 367.031, Florida Statutes, before the Department of Environmental Regulation (DER) will issue a construction permit, it requires either a certificate authorizing service or proof that the utility is not subject to the regulation of this Commission. Therefore, by letter and affidavit received July 24, 1989, Rock Harbor Lodge requested recognition of its exempt status.

As a matter of practice, upon request and sufficient proof, the Commission will issue an Order indicating the nonjurisdictional or exempt status of water or sewer facilities, if they qualify under the appropriate section of Chapter 367, Florida Statutes. Rock Harbor Lodge requested recognition of its exempt status under Section 367.022, Florida Statutes.

The affidavit, letter and accompanying DER application show that: Rock Harbor Lodge will provide sewer service; no charges will be made to anyone for sewer service; the costs of sewer service will be treated as an operational expense of Rock Harbor Lodge; and the sewer facility is located on the premises of Rock Harbor Lodge.

DOCUMENT NUMBER-DATE
07901 AUG -4 1989
FPSC-RECORDS/REPORTING

ORDER NO. 21682
DOCKET NO. 890971-SU
PAGE 2

Section 367.021(3), Florida Statutes, defines utility as "every person . . . who is providing or proposes to provide, water or sewer service to the public for compensation" (Emphasis supplied). Since, as represented in Rock Harbor Lodge's affidavit, it will not be providing sewer service for compensation, we find that it is not a utility subject to Commission jurisdiction pursuant to Section 367.021(3), Florida Statutes. However, should there be any change in circumstances or method of operation, the owner of Rock Harbor Lodge, or any successor(s) in interest, must inform the Commission within thirty days of such change, so that we may determine whether nonjurisdictional status is still appropriate.

It is, therefore,

ORDERED by the Florida Public Service Commission that, based upon the facts as represented, Rock Harbor Lodge, located at U.S. Highway No. 1, Mile Marker 97.8, Key Largo, Florida 33037, is not a utility subject to this Commission's jurisdiction pursuant to the terms of Section 367.021(3), Florida Statutes. It is further

ORDERED that should there be any change in circumstances or method of operation of Key Largo Harbor's sewer facility, the present owner, or any successor(s) in interest, shall inform the Commission within thirty days of such change. It is further

ORDERED that this docket be closed.

By ORDER of the Florida Public Service Commission
this 4th day of AUGUST, 1989.



STEVE TRIBBLE, Director
Division of Records and Reporting

(S E A L)

MAB

320
ORDER NO. 21682
DOCKET NO. 890971-SU
PAGE 3

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