

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Request for exemption from)	DOCKET NO. 900458-SU
regulation by MEEHAN RESTAURANT SEWAGE)	ORDER NO. 23095
TREATMENT AND DISPOSAL SYSTEM.)	ISSUED: 6-20-90
)	
)	

ORDER INDICATING THE NONJURISDICTIONAL STATUS OF
THE MEEHAN RESTAURANT

BY THE COMMISSION:

The Meehan Restaurant is a proposed commercial enterprise to be located in Monroe County, Florida. The restaurant will have an on-site wastewater 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 an order indicating that the utility is not subject to the regulation of this Commission. Therefore, by letter and affidavit received May 10, 1990, Mr. Ed Meehan, the owner of The Meehan Restaurant, requested recognition of the proposed system's nonjurisdictional status under Section 367.021(12), Florida Statutes.

Upon request and sufficient proof, the Commission will issue an order indicating the nonjurisdictional or exempt status of water or wastewater facilities, if they qualify under the appropriate section of Chapter 367, Florida Statutes.

The affidavit and letter of Mr. Meehan show that: The Meehan Restaurant is a proposed commercial enterprise to be located in Monroe County, Florida; the restaurant will have an on-site wastewater treatment and disposal system; the restaurant will provide wastewater service only; no charges will be made to anyone for wastewater service; the costs of wastewater service will be treated as an operational expense of The Meehan Restaurant.

Section 367.021(12), Florida Statutes, defines "utility" as "every person . . . who is providing or proposes to provide, water or wastewater service to the public for compensation." Since The Meehan Restaurant will not be providing wastewater service for compensation, as is indicated in its affidavit, it is not a utility subject to Commission regulation. However, should there be any change in circumstances or method of

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operation, the owner of The Meehan Restaurant, or any successor 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, The Meehan Restaurant, located at 19867 Overseas Highway, Islamorada, Florida 33036, is not a utility subject to this Commission's jurisdiction pursuant to the terms of Section 367.021(12), Florida Statutes. It is further

ORDERED that should there be any change in circumstances or method of operation of The Meehan Restaurant's wastewater facility, the present owner, or any successor 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 20th day of JUNE, 1990.



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