

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Request for Exemption from )	DOCKET NO. 900902-SU
Florida Public Service Commission )	
regulation for provision of wastewater )	ORDER NO. 24083
service by Gate Petroleum Company in )	
Sumter County )	ISSUED: 2/7/91

The following Commissioners participated in the disposition of this matter:

THOMAS M. BEARD, Chairman  
BETTY EASLEY  
FRANK S. MESSERSMITH  
MICHAEL McK. WILSON

ORDER INDICATING NONJURISDICTIONAL  
STATUS OF GATE PETROLEUM COMPANY

BY THE COMMISSION:

Gate Petroleum Company is a corporation which provides wastewater service to three customers in Sumter County: an Econo Lodge, Gate Service Station, and an adjacent Burger King Restaurant. These customers are located at the intersection of I-75 and State Road 44 in Wildwood, Florida. In Order No. 20576, issued January 9, 1989, the Commission directed Gate Petroleum to apply for certification of its wastewater system because it was charging Burger King \$1,000 per year for wastewater service. Thus it was providing wastewater service to the public for compensation and was not entitled to nonjurisdictional status pursuant to Section 367.021(12), Florida Statutes.

On November 1, 1990, Gate Petroleum submitted a letter and affidavit indicating it is no longer charging Burger King or any customer for wastewater service. Section 367.021(12) defines a utility as:

a water or wastewater utility and, except as provided in s. 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. [Emphasis supplied.]

DOCUMENT NUMBER-DATE

01254 FEB -7 1991

FSC-RECORDS/REPORTING

ORDER NO. 24083  
DOCKET NO. 900902-SU  
PAGE 2

Under the above definition, to be a utility a wastewater facility must provide service for compensation. Here no customers are charged for service.

Upon consideration of the foregoing, we find that Gate Petroleum Company is not a utility as defined in Section 367.021(12), Florida Statutes, because it does not provide wastewater service to the public for compensation. We therefore find that this facility is not subject to the jurisdiction of this Commission. We further find that Gate Petroleum Company or its successor in interest should inform this Commission of any change in circumstances or method of operation within thirty days of such change so that we may review the matter to determine whether nonjurisdictional status is still appropriate.

It is therefore

ORDERED by the Florida Public Service Commission that, based on the facts as represented, Gate Petroleum Company's wastewater facility is not a utility within the definition of Section 367.021(12), Florida Statutes, and is therefore not subject to this Commission's jurisdiction. It is further

ORDERED that, should there be any change in circumstances or method of operation of this facility, Gate Petroleum Company or its successor in interest shall inform this Commission within thirty days of such change. It is further

ORDERED that this docket is closed.

By ORDER of the Florida Public Service Commission this 7th  
day of FEBRUARY, 1991.

  
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STEVE TRIBBLE, Director  
Division of Records and Reporting

( S E A L )

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ORDER NO. 24083  
DOCKET NO. 900902-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.