

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Request for Exemption)
as a Nonjurisdictional Entity) DOCKET NO. 920947-WU
From Florida Public Service) ORDER NO. PSC-93-0053-FOF-WU
Commission Regulation for) ISSUED: 01/13/93
Provision of Water Service in)
Bradford County by Handy Way)
Food Stores, A Division of)
Miller Enterprises, Inc. for)
Stores #1427, #2356, and)
#2357.)
_____)

ORDER INDICATING NONJURISDICTIONAL STATUS
OF HANDY WAY FOOD STORES FOR STORES #1427,
#2356, AND #2357 AND CLOSING DOCKET

BY THE COMMISSION:

On September 18, 1992, Handy Way Food Stores, A Division of Miller Enterprises, Inc. (Handy Way), filed an application with this Commission for recognition of its nonjurisdictional status for Stores #1427, #2356, and #2357, pursuant to Section 367.021(12), Florida Statutes. Miller Enterprises, Inc. (Miller) owns and operates the water systems located at each convenience store. Store #1427 is located at State Road 16 and State Road 225 in Raiford, Florida. Store #2356 is located at 1701 South Water Street in Starke, Florida. Store #2357 is located at State Road 16 and County Road 233 in Starke, Florida. Mr. David Sanders, Environmental Coordinator of Miller, filed the application on behalf of Handy Way.

Upon request and sufficient proof, the Commission will issue an order indicating the nonjurisdictional or exempt status of water or wastewater systems if they qualify under the appropriate provision of Chapter 367, Florida Statutes. The application was filed in accordance with Section 367.021(12), Florida Statutes, and Rules 25-30.060(1), (2) and (3)(j), Florida Administrative Code. According to the application, water is provided only to the Handy Way Convenience Stores, there is no charge for providing the

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service, and all costs of providing service are treated or recovered as operational expenses. Wastewater service is provided by private septic tank.

Section 367.021(12), Florida Statutes, 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."

In addition, the application form states that pursuant to Section 837.06, Florida Statutes, anyone knowingly making a false statement in writing with the intent to mislead is guilty of a misdemeanor. By signing the application, Mr. Sanders 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 Handy Way is not a utility pursuant to Section 367.021(12), Florida Statutes. However, should there be any change in circumstances or method of operation, the owner of Handy Way or any successors in interest, must inform the Commission within 30 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, based upon the facts as represented, that Handy Way Food Stores (Stores #1427, #2356, and #2357), c/o Miller Enterprises, Inc., 331 Central Avenue, Crescent City, Florida 32112, is not a water utility subject to this Commission's jurisdiction, pursuant to the provisions of Section 367.021(12), Florida Statutes. It is further

ORDERED that should there be any change in circumstances or method of operation, the owners of Handy Way Food Stores #1427, #2356, and #2357 or any successors in interest, shall inform this Commission within 30 days of such a change so that we may re-evaluate Handy Way Food Stores' nonjurisdictional status. It is further

ORDERED that Docket No. 920947-WU is hereby closed.

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By ORDER of the Florida Public Service Commission this 13th
day of January, 1993.



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