

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Request for Exemption) DOCKET NO. 930038-WU
From Florida Public Service) ORDER NO. PSC-93-0746-FOF-WU
Commission Regulation for) ISSUED: May 17, 1993
Provision of Water Service in)
St. Lucie by PINEAPPLE JOE'S)
GRILL AND RAW BAR.)

ORDER INDICATING EXEMPT STATUS OF PINEAPPLE JOE'S
GRILL AND RAW BAR

BY THE COMMISSION:

On January 7, 1993, Pineapple Joe's Grill & Raw Bar (Pineapple Joe's) filed an application with this Commission for recognition of its exempt status pursuant to Section 367.022(3), Florida Statutes. Pineapple Joe's is a restaurant which provides water service to the business only. The system is located at 6297 North U.S. # 1, Ft. Pierce, Florida, 34946. Mr. Joseph Clemenzi, the owner of the system, filed the application on behalf of Pineapple Joe's. Water service for Pineapple Joe's is provided by a well and wastewater service is provided by a septic tank.

In our review of Pineapple Joe's application we learned that it did not qualify for an exemption pursuant to Section 367.022(3), Florida Statutes. Therefore, on February 1, 1993, Pineapple Joe's filed an amended application for recognition of its exempt status pursuant to Section 367.021(12).

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. 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 proposes to provide water or wastewater service to the public for compensation."

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 service is provided only to the restaurant's property, there is no charge for providing the service, and all costs of providing service are treated or recovered as operational expenses.

DOCUMENT NUMBER-DATE

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PSC-RECORDS/REPORTING

ORDER NO. PSC-93-0746-FOF-WU
DOCKET NO. 930038-WU
PAGE 2

In addition, pursuant to Section 837.06, Florida Statutes, and Rule 25-30.060(2), 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, Mr. Clemenzi, acknowledged that he is aware of Section 837.06, Florida Statutes, and the penalties for making false statements in the application.

Since, based on the facts as represented, Pineapple Joe's will not be providing water service to the public for compensation, we find that it is not a utility pursuant to the provisions of Section 367.021(12), Florida Statutes. However, should there be any change in circumstances or method of operation, the owner of Pineapple Joe's or any successors in interest, shall inform this Commission within 30 days of such change so that its exempt status may be reevaluated.

Based upon the foregoing, it is, therefore,

ORDERED by the Florida Public Service Commission that, based upon the facts as represented, Pineapple Joe's Grill & Raw Bar, located at 6297 North U.S. # 1, Fort Pierce, Florida, 34946, with Joseph Clemenzi, as contact person, is not a 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 owner of Pineapple Joe's Grill & Raw Bar, or any successors in interest, shall inform this Commission within 30 days of such a change so that we may reevaluate Pineapple Joe's nonjurisdictional status. It is further

ORDERED that this Docket is hereby closed.

By ORDER of the Florida Public Service Commission this 17th day of May, 1993.



STEVE TRIBBLE, Director
Division of Records and Reporting

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ORDER NO. PSC-93-0746-FOF-WU
DOCKET NO. 930038-WU
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 Civil Procedure. The notice of appeal must be in the form specified in Rule 9.900 (a), Florida Rules of Appellate Procedure.