

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Notice of intent to ) DOCKET NO. 930135-SU  
abandon wastewater facilities ) ORDER NO. PSC-93-0824-FOF-SU  
providing service under ) ISSUED: June 2, 1993  
Certificate No. 82-S in Pasco )  
County by SCE Services, Inc. )  
\_\_\_\_\_)

The following Commissioners participated in the disposition of this matter:

J. TERRY DEASON, Chairman  
THOMAS M. BEARD  
SUSAN F. CLARK  
JULIA L. JOHNSON  
LUIS J. LAUREDO

ORDER ACKNOWLEDGING RECEIVER  
AND GRANTING EXEMPT STATUS

BY THE COMMISSION:

Background

SCE Services, Inc. (SCE or utility) is a Class C utility which provides wastewater service to approximately 238 customers in the San Clemente Estates subdivision in Pasco County. The utility has been in existence since 1970. Pursuant to Section 367.165(2), Florida Statutes, SCE served a notice of abandonment by letter dated January 25, 1993.

On March 31, 1993, the Sixth Judicial Circuit Court Judge issued a final order appointing Pasco County receiver for SCE. A copy of this Order is attached as Attachment A. The Order states that SCE had no objection to Pasco County being appointed receiver; Pasco County presently provides wastewater service to a majority of residents in Pasco County; and Pasco County has the ability and capacity to provide service to the area presently being served by SCE. Further, the Order directed the County to remove the wastewater package plant within 6 months.

Receivership and Exemption

Pasco County was appointed receiver by the Circuit Court in accordance with Section 367.165, Florida Statutes, on March 31,

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1993. Therefore, we hereby recognize the appointment of Pasco County as receiver of SCE Services, Inc.

Section 367.022(2), Florida Statutes provides an exemption for "[s]ystems owned, operated, managed, or controlled by governmental authorities." (emphasis added). This exemption is very broad and is the only exemption allowed by the statute which does not contemplate ownership of the system as a requirement for exempt status. In this case, as is expressly provided for in the Court order regarding receivership, the County is operating, managing and controlling the utility. Pursuant to Pasco County's request and in consideration of the fact that Pasco County is already operating this utility, we hereby find it appropriate to grant Pasco County exempt status as receiver. Finding this utility exempt is consistent with the action taken in Docket No. 910813-WS, Order No. 25213, issued October 14 1991, wherein the Commission found the City of Kissimmee exempt as receiver of a utility in Osceola County.

The utility will remain in receivership and be exempt until a permanent transfer of ownership to Pasco County or some other potential buyer occurs or until the system is returned to SCE Services, Inc. If ultimate ownership of the utility is given to some other entity which is under the regulation of this Commission, we shall again assert jurisdiction.

In consideration of the foregoing, we find that it is in the public interest to grant Pasco County exempt status for operating SCE. Accordingly, Certificate No. 82-S, issued to SCE, shall be cancelled and this docket shall be closed.

Based on the foregoing it is, therefore,

ORDERED by the Florida Public Service Commission that the appointment of Pasco County as receiver of SCE Services, Inc., is acknowledged. It is further

ORDERED that Pasco County as receiver of SCE Services, Inc., is exempt pursuant to Section 367.022(2), Florida Statutes. It is further

ORDERED that should there be any change in circumstances or method of operation, the receiver, Pasco County, or any successor(s) in interest, shall inform this Commission within 30

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days of such a change so that we may reevaluate the exempt status.  
It is further

ORDERED that Certificate No. 82-S issued to SCE Services, Inc.  
be cancelled. It is further

ORDERED that this docket be closed.

By ORDER of the Florida Public Service Commission this 2nd day  
of June, 1993.

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STEVE TRIBBLE, Director  
Division of Records and Reporting

( S E A L )

LAJ

by: Kay Flynn  
Chief, Bureau of Records

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.

IN THE CIRCUIT COURT OF THE SIXTH JUDICIAL CIRCUIT  
IN AND FOR PASCO COUNTY, FLORIDA

PASCO COUNTY, a political  
subdivision of the State  
of Florida,

Petitioner,

v.

SCE SERVICES, INC., a  
Florida Corporation,

Defendant.

Case No. 93-790CA  
Division H

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JUDGMENT APPOINTING RECEIVER

THIS CAUSE came on to be heard on Petitioner Pasco County's Petition for the Appointment of a Receiver pursuant to Section 367.165 Florida Statutes. The Court finds that it has jurisdiction over the parties, Defendant having been served on March 18, 1993.

The Court finds that Defendant has no objection to and has consented to the appointment of Pasco County as Receiver for the wastewater treatment facilities and service presently provided by SCE Services, Inc., Defendant herein. The Court finds that Defendant has abandoned such facilities and that a need exists to appoint a Receiver to operate the same in order that services to customers not be interrupted. Petitioner presently provides wastewater treatment facilities and service to a majority of the residents and businesses located in Pasco County and has the ability and capacity to provide such service to the area presently

serviced by Defendant. Petitioner will be removing the package plant on Defendant's real property such act to be done no later than six (6) months following its appointment as Receiver. Petitioner will provide necessary wastewater treatment services using its facilities and Defendants facility.

The Court finds that Petitioner is qualified to operate the private utility as Receiver and that thereby Judgment should be entered appointing Petitioner Pasco County as Receiver to operate the wastewater treatment facility presently owned by Defendant SCE Smith, Inc. which have been abandoned.

It is therefore the Judgment of this Court that Petitioner Pasco County be and it is hereby appointed Receiver of the utility system presently owned by Defendant SCE Services, Inc., which system has been abandoned, to operate such system as Receiver in order that wastewater treatment service is maintained.

DONE AND ORDERED in Chambers at Pasco County, Florida this  
21<sup>st</sup> day of March, 1993.

/s/ W. LOWELL BRAY, JR.

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Circuit Court Judge

Copies to:

Thomas A. Bustin, Esquire  
J. Benjamin Harrill, Esquire