

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Request For Exemption) DOCKET NO. 930739-WU
From Florida Public Service) ORDER NO. PSC-93-1206-FOF-WU
Commission Regulation For) ISSUED: August 17, 1993
Provision of Water Service in)
Sumter County by Down To Earth,)
Ltd., d/b/a Webster Westside)
Flea Market.)
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ORDER INDICATING NONJURISDICTIONAL STATUS OF
DOWN TO EARTH, LTD., d/b/a WEBSTER WESTSIDE FLEA
MARKET AND CLOSING DOCKET

BY THE COMMISSION:

On July 22, 1993, Down To Earth, Ltd., d/b/a Webster Westside Flea Market (Webster) filed an application with this Commission for recognition of its nonjurisdictional status, pursuant to Section 367.021(12), Florida Statutes. Webster is located at the corner of County Road 478 and Northwest 3rd Street, Webster, Florida. Mr. Thomas R. Cushman, General Partner and primary contact person, filed the application on behalf of Webster.

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."

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(2) and (3)(j), Florida Administrative Code. According to the application, water service is provided only to the flea market, there is no charge for providing the service, and all costs of providing service are treated or recovered as operational expenses. Wastewater service is provided by septic tank.

In addition, pursuant to Section 837.06, Florida Statutes, and Rule 25-30.060(2)(f), Florida Administrative Code, anyone knowingly making a false statement in writing with the intent to mislead is

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guilty of a misdemeanor. By signing the application, Mr. Cushman 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 Webster is not a utility pursuant to the provisions of Section 367.021(12), Florida Statutes. Accordingly, Webster is not subject to this Commission's jurisdiction. However, should there be any change in circumstances or method of operation, the owner of Webster or any successors in interest, must inform the Commission within 30 days of such change so that its nonjurisdictional status may be reevaluated.


It is, therefore,

ORDERED by the Florida Public Service Commission that, based upon the facts as represented, Down To Earth, Ltd., d/b/a Webster Westside Flea Market, 696 First Avenue North, Suite 201, St. Petersburg, Florida 33701, 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 owner of Down To Earth, Ltd., d/b/a Webster Westside Flea Market or any successors in interest, shall inform this Commission within 30 days of such a change so that we may reevaluate Webster'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 August, 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.