

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Request for exemption) DOCKET NO. 940365-WU
from Florida Public Service) ORDER NO. PSC-94-0958-POF-WU
Commission regulation for) ISSUED: August 9, 1994
provision of water service in)
Nassau County by AMERICAN BEACH)
WATER SYSTEM.)
_____)

The following Commissioners participated in the disposition of this matter:

J. TERRY DEASON, Chairman
SUSAN F. CLARK
JULIA L. JOHNSON
DIANE K. KIESLING

NOTICE OF PROPOSED AGENCY ACTION

ORDER VACATING ORDER NO. PSC-94-0662-POF-WU, DENYING
EXEMPTION REQUEST, REQUIRING AMERICAN BEACH WATER
SYSTEM TO FILE AN APPLICATION FOR AN ORIGINAL CERTIFICATE

BY THE COMMISSION:

NOTICE IS HEREBY GIVEN by the Florida Public Service Commission that the action discussed herein is preliminary in nature and will become final unless a person whose interests are substantially affected files a petition for a formal proceeding, pursuant to Rule 25-22.029, Florida Administrative Code.

On April 13, 1994, American Beach Water System (American Beach) filed an application with this Commission requesting recognition of its exempt status pursuant to Section 367.022(6), Florida Statutes. Upon determining that it does not qualify for exemption pursuant to that Section, American Beach was asked to refile its application pursuant to Section 367.021(12), Florida Statutes.

On April 29, 1994, American Beach refiled its application in accordance with Section 367.021(12), Florida Statutes. Upon review of the application, it was determined that American Beach provides water service to a nine-unit motel and nine individually owned homes. According to the information provided with the application and by Mr. Bobby Dollison, owner of American Beach and the motel, water service is provided to the motel and nine homes at no charge.

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FPSC-RECORDS/REPORTING

Based on the information provided, on June 1, 1994, this Commission issued Order No. PSC-94-0665-FOF-WU granting American Beach exemption from this Commission's regulation pursuant to Sections 367.021(12) and 367.022(4), Florida Statutes. However, subsequent to the issuance of the Order, we found that it was issued based upon incorrect information.

Upon receipt of the Order, Mr. Dollison advised the Commission that the motel has 23 units instead of nine as stated in the Order. He also indicated that it is his intention to charge for service upon receipt of the exemption. Since American Beach intends to charge for service, we find that it does not qualify for exemption. We further find that American Beach is a utility subject to this Commission's jurisdiction.

Therefore, because the Order was issued based on incorrect information, we find it appropriate to vacate Order No. PSC-94-0665-FOF-WU and to deny American Beach's request for exemption. We further find that American Beach shall file an application with this Commission for an original certificate within 60 days of the effective date of this Order.

It is, therefore,

ORDERED by the Florida Public Service Commission that Order No. PSC-94-0665-FOF-WU granting exemption to American Beach Water System, 553 Gregg Street, American Beach, Amelia Island, Florida 32034, is hereby vacated. It is further

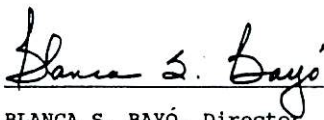
ORDERED that American Beach Water System's request for exemption from Commission regulation is hereby denied. It is further

ORDERED that American Beach Water System shall file an application with this Commission for an original certificate within 60 days from the effective date of this Order. It is further

ORDERED that the provisions of this Order, issued as proposed agency action, shall become final and effective unless an appropriate petition, in the form provided by Rule 25-22.036, Florida Administrative Code, is received by the Director, Division of Records and Reporting, 101 East Gaines Street, Tallahassee, Florida 32399-0870, by the close of business on the date set forth in the "Notice of Further Proceedings or Judicial Review" attached hereto. It is further

ORDERED that, in the event this Order becomes final, this Docket should be closed.

By ORDER of the Florida Public Service Commission, this 9th day of August, 1994.



BLANCA S. BAYÓ, 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.

The action proposed herein is preliminary in nature and will not become effective or final, except as provided by Rule 25-22.029, Florida Administrative Code. Any person whose substantial interests are affected by the action proposed by this order may file a petition for a formal proceeding, as provided by Rule 25-22.029(4), Florida Administrative Code, in the form provided by Rule 25-22.036(7)(a) and (f), Florida Administrative Code. This petition must be received by the Director, Division of Records and Reporting, 101 East Gaines Street, Tallahassee, Florida 32399-0870, by the close of business on August 30, 1994.

In the absence of such a petition, this order shall become effective on the day subsequent to the above date as provided by Rule 25-22.029(6), Florida Administrative Code.

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Any objection or protest filed in this docket before the issuance date of this order is considered abandoned unless it satisfies the foregoing conditions and is renewed within the specified protest period.

If this order becomes final and effective on the date described above, any party adversely affected may request judicial review by the Florida Supreme Court in the case of an electric, gas or telephone utility or by the First District Court of Appeal in the case of a water or wastewater 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 of the effective date 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.