

IN THE CIRCUIT/COUNTY COURT OF THE EIGHTH JUDICIAL CIRCUIT  
OF FLORIDA, IN AND FOR ALACHUA COUNTY, FLORIDA  
CIVIL DIVISION, ALACHUA COUNTY COURTHOUSE

201 E. UNIVERSITY AVENUE, P.O. BOX 600  
GAINESVILLE, FLORIDA 32602  
PHONE: (904) 374-3616 • FAX (904) 338-3201

Turkey Creek, Inc., and  
PLAINTIFF  
Family Diner, Inc.,

951098-WS

-VS-  
Florida Public Service Commission,  
DEFENDANT

Case Number: 95-3065-CA  
Division K

FILED  
SEP 14 1995  
CLERK OF CIRCUIT COURT  
ALACHUA COUNTY, FLORIDA

ACK \_\_\_\_\_  
RFA \_\_\_\_\_  
APP \_\_\_\_\_  
CAF \_\_\_\_\_

**SUMMONS**

THE STATE OF FLORIDA

To Each Sheriff of the State:

YOU ARE COMMANDED to serve this summons and a copy of the complaint or petition in this action on defendant  
LEG 1 Florida Public Service Commission c/o Division of Records  
101 East Gaines Street, Fletcher Building & Reporting  
LHM Tallahassee, Florida 32399 4075 Esplanade Way

Each defendant is required to serve written defenses to the complaint or petition on plaintiff's attorney whose name and address is

Michael W. Jones, P.A.  
Post Office Box 90899  
4046 Newberry Road  
Gainesville, Florida 32607

With ~~20~~ 19 days after service of this summons on that defendant, exclusive to the day of service, and to file the original of the defenses with the clerk of this court either before service on plaintiff's attorney or immediately thereafter. If a defendant fails to do so, a default will be entered against that defendant for the relief demanded in the complaint or petition.

WITNESS my hand and the seal of said Court on September 14, 19 95

J.K. "Buddy" Irby  
Clerk Circuit Court

19  
15  
Sept 330  
By: Sandra Statner  
As Deputy Clerk

(Court Seal)

Persons with disabilities requesting reasonable accommodations to participate in this proceeding should contact (904) 374-3639 (Voice & TDD) or via Florida Relay Service at (800) 955-8771.

SEP 19 1995  
951098-WS  
SEP 19 1995  
RECORDS/REPORTING

IN THE CIRCUIT COURT OF FLORIDA, EIGHTH JUDICIAL CIRCUIT  
IN AND FOR ALACHUA COUNTY, FLORIDA  
CIVIL ACTION

TURKEY CREEK, INC., and )  
FAMILY DINER, INC., )  
Plaintiffs, )  
vs. )  
FLORIDA PUBLIC SERVICE COMMISSION, )  
Defendant. )

CASE NO.: 95-3065-CA  
DIVISION: K

COMPLAINT FOR DECLARATORY RELIEF

The plaintiffs, TURKEY CREEK, INC., and FAMILY DINER, INC., sue the defendant, FLORIDA PUBLIC SERVICE COMMISSION, and say:

1. This is an action for declaratory relief, pursuant to Chapter 86, Florida Statutes (1993).

2. The plaintiffs were the former owners and operators of a water and wastewater utility facility, located in Alachua County, Florida. At all material times, the plaintiffs were active Florida corporations headquartered in Alachua County, Florida.

3. The defendant is an agency of the State of Florida which, among other things, regulates certain water and wastewater utilities.

4. On or about June 30, 1992, the defendant assumed jurisdiction over the plaintiffs' utilities operation, and thereafter, issued several orders affecting the plaintiffs' utility.

5. Effective on or about September 23, 1993, the plaintiffs sold said utility to the City of Alachua, which thereafter owned

Turkey Creek, Inc., and Family Diner, Inc.  
vs. Florida Public Service Commission  
Complaint For Declaratory Relief  
page 2

---

and operated it. Since said date, the plaintiffs have neither owned nor operated any utility under the defendant's jurisdiction.

6. On or about December 3, 1993, the defendant issued its Order No.: PSC-93-1769-FOF-WS, which finalized two underlying orders of the Commission. The effect of these orders from the Commission was to direct the plaintiffs to make certain refunds to its former customers, failing which the utility may be subject to various fines and penalties.

7. The plaintiffs have not made the refunds ordered by the Commission, challenging the Commission's jurisdiction and authority over companies which no longer own or operate utilities systems. The plaintiffs believe that, by virtue of their prior sale of the utilities to the City of Alachua, and by virtue of their cessation of utilities operations, they are no longer subject to the defendant's jurisdiction, and therefore, that the order requiring refunds is a nullity and is unenforceable. Also, Family Diner, Inc. did not own or operate the utilities when the order was entered.

8. The defendant disputes the plaintiffs' jurisdictional contentions and asserts its continuing authority over the plaintiffs. In fact, as recently as August 1995, the defendant's staff recommended to the defendant that the plaintiffs be sanctioned and that the highest monetary fine be imposed on the plaintiffs.

Turkey Creek, Inc., and Family Diner, Inc.  
vs. Florida Public Service Commission  
Complaint For Declaratory Relief  
page 3

---

9. There is a genuine dispute between the parties about their respective rights and obligations under the statutes and orders which govern these matters, and about the plaintiffs' obligation to comply with Commission orders. The dispute is real, current, and genuine.

WHEREFORE, the plaintiffs, **TURKEY CREEK, INC., and FAMILY DINER, INC.**, request a judgment of this court declaring the rights and obligations of the parties in this dispute, and taxing costs against the non-prevailing party.

DATED this 17th day of September, 1995.

Respectfully submitted,

  
Michael W. Jones