

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Resolution of the Board) DOCKET NO. 951235-WS
of County Commissioners of) ORDER NO. PSC-97-0148-FOF-WS
Manatee County Declaring Manatee) ISSUED: February 11, 1997
County Subject to the Provisions)
of Section 367, Florida Statutes)
- Request for Exemption from)
Florida Public Service)
Commission Regulation for)
Provision of Water Service by)
Circle K Stores Inc. (Store No.)
7283).)

ORDER INDICATING NONJURISDICTIONAL STATUS
OF CIRCLE K STORES INC. (STORE NO. 7283)

BY THE COMMISSION:

On January 19, 1996, Circle K Stores Inc. (Circle K/Store No. 7283) filed an application with this Commission for recognition of its nonjurisdictional status of its Store No. 7283, pursuant to Section 367.021(12), Florida Statutes. Circle K/Store No. 7283 is located at 9506 U.S. 41 North, Palmetto, Florida. Mr. Bernard A. Jarka, Service Manager and primary contact person, filed the application on behalf of Circle K/Store No. 7283. On December 30, 1996, Circle K/Store No. 7283 refiled the application over the signature of Mr. Joel A. Sterrett, Vice President and Secretary, 3003 North Central, 18th Floor, Phoenix, Arizona 52085.

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.

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."

According to Circle K/Store No. 7283's application, water service is provided only to the store located at 9506 U.S. 41 North, Palmetto, Florida; there is no charge for providing the service; and all costs of providing service are treated or

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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 guilty of a misdemeanor. By signing the application, Mr. Sterrett 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 Circle K/Store No. 7283 is not a utility pursuant to the provisions of Section 367.021(12), Florida Statutes. Accordingly, Circle K/Store No. 7283 is not subject to this Commission's jurisdiction. However, the owner of Circle K or any successors in interest are put on notice that if there is any change in circumstance or method of operation which causes it to no longer qualify for exemption pursuant to Section 367.022, Florida Statutes, it should inform the Commission within 30 days of such change so that its status may be reevaluated.

It is, therefore,

ORDERED by the Florida Public Service Commission that, based upon the facts as represented, Circle K Stores Inc. (Store No. 7283), 9506 U.S. 41 North, Palmetto, Florida 34221, 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 this Docket shall remain open to process additional applications.

By ORDER of the Florida Public Service Commission, this 11th day of February, 1997.

BLANCA S. BAYÓ, Director
Division of Records and Reporting

by: Kary Flynn
Chief, Bureau of Records

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NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), 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, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, 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 and/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 after the issuance 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.