

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Request For Exemption) DOCKET NO. 931032-WU
From Florida Public Service) ORDER NO. PSC-93-1742-FOF-WU
Commission Regulation For) ISSUED: December 3, 1993
Provision of Water Service in)
Collier County by Fraternal)
Order of Eagles, Aerie #4028.)
_____)

ORDER INDICATING NONJURISDICTIONAL STATUS OF FRATERNAL
ORDER OF EAGLES, AERIE #4028 AND CLOSING DOCKET

BY THE COMMISSION:

On October 25, 1993, the Fraternal Order of Eagles, Aerie #4028 (Aerie #4028) filed an application with this Commission for recognition of its nonjurisdictional status, pursuant to Section 367.021(12), Florida Statutes. Aerie #4028 is a private organization whose water system is currently under construction. Aerie #4028's system will be located at 4111 Green Boulevard, Naples, Florida. Mr. Steve Ritter, President and primary contact person, filed the application on behalf of Aerie #4028.

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 will be provided only to Aerie #4028's building at 4111 Green Boulevard, Naples, Florida, there is no charge for providing the service, and all costs of providing service are treated or recovered as operational expenses. Wastewater service will be 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. Ritter 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 Aerie #4028 is not a utility pursuant to the provisions of Section 367.021(12), Florida Statutes. Accordingly, Aerie #4028 is not subject to this Commission's jurisdiction. However, should there be any change in circumstances or method of operation, a representative of Aerie #4028 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, Fraternal Order of Eagles, Aerie #4028, 2241 40th Terrace Southwest, Naples, Florida 33999, 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, a representative of the Fraternal Order of Eagles, Aerie #4028 or any successors in interest, shall inform this Commission within 30 days of such a change so that we may reevaluate Aerie #4028's nonjurisdictional status. It is further

ORDERED that this Docket is hereby closed.

By ORDER of the Florida Public Service Commission, this 3rd day of December, 1993.

STEVE TRIBBLE, Director
Division of Records and Reporting

(S E A L)

ALC

by: Kay Hester
Chief, Bureau of Records

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NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.59(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.