

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Request for exemption ) DOCKET NO. 940841-WU  
from Florida Public Service ) ORDER NO. PSC-94-1298-FOF-WU  
Commission regulation for ) ISSUED: October 19, 1994  
provision of water service in )  
Flagler County by Lou's )  
Texaco/Old Dixie Group, Inc. )  
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ORDER INDICATING NONJURISDICTIONAL STATUS  
OF LOU'S TEXACO/OLD DIXIE GROUP, INC. AND CLOSING DOCKET

BY THE COMMISSION:

On August 12, 1994, Lou's Texaco/Old Dixie Group, Inc. (Lou's) filed an application for recognition of its exempt status, pursuant to Section 367.022(6), Florida Statutes. Lou's is located at 2245 Old Dixie Highway (I-94 and Old Dixie Highway), Ormond Beach, Florida. Ms. Patricia Dabbe, Vice President and primary contact person, filed the application on behalf of Lou's.

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 367.022(6), Florida Statutes, and Rules 25-30.055 and 25-30.060, Florida Administrative Code. Upon review of the application it was determined that Lou's does not qualify for exemption pursuant to Section 367.022(6), Florida Statutes. It does, however, qualify for exemption pursuant to Section 367.021(12), Florida Statutes.

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."

On August 31, 1994, Lou's refiled its application requesting recognition of its exempt status pursuant to with Section 367.021(12), Florida Statutes, and Rules 25-30.060(2) and (3)(j), Florida Administrative Code. According to Lou's application, water service is provided only to its business located at 2245 Old Dixie Highway (I-94 and Old Dixie Highway), Ormond Beach Florida, there is no charge for providing the service, and all costs of providing

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

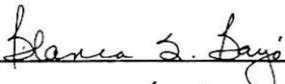
It is, therefore,

ORDERED by the Florida Public Service Commission that, based upon the facts as represented, Lou's Texaco/Old Dixie Group, Inc., H.C.R. Box 54-B, Bunnell, Florida 32110, 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 Lou's Texaco/Old Dixie Group, Inc. or any successors in interest, shall inform this Commission within 30 days of such a change so that we may reevaluate its nonjurisdictional status. It is further

ORDERED that this docket is hereby closed.

By ORDER of the Florida Public Service Commission, this 19th day of October, 1994.

  
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BLANCA S. BAYO, 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.