

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Request for change in) DOCKET NO. 961268-WU
regulatory status and) ORDER NO. PSC-97-0094-FOF-WU
cancellation of Certificate No.) ISSUED: January 27, 1997
219-W in Duval County by)
Commercial Utilities, Division)
of Grace and Company, Inc.)
_____)

The following Commissioners participated in the disposition of this matter:

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

ORDER ACKNOWLEDGING EXEMPT STATUS AND CANCELLING CERTIFICATE

BY THE COMMISSION:

Commercial Utilities, Division of Grace and Company, Inc. (Commercial Utilities or utility) is a Class C water utility which provides service in Duval County. Commercial Utilities was issued Certificate No. 219-W by Order No. 6704, issued June 4, 1975. On September 17, 1996, the Commission received a letter from the utility stating that it believed that as a result of a change in operations, it should now be exempt from the Commission's regulation pursuant to Sections 367.022(5) and (8), Florida Statutes (landlord/tenant and reseller exemption, respectively).

According to Mr. Elroy C. Grace, president of Grace & Company, Inc., effective August 9, 1996, all customers who rent property from Grace & Company, Inc., will receive water from Grace & Company, Inc. (not Commercial Utilities). This service will be provided without specific compensation pursuant to Section 367.022(5), Florida Statutes. The last customer billing at the utility's approved tariff rates was on September 1, 1996 for service rendered through August 8, 1996. Section 367.022(5), Florida Statutes, states that landlords providing service to their tenants without specific compensation for the service are exempt from Commission regulation.

In addition, Grace & Company, Inc. will be supplying the remaining customers with water service which is purchased from the City of Jacksonville (City). This service will be provided at a

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rate which does not exceed the actual purchase price thereof from the City. Section 367.022(8), Florida Statutes, states that any person who resells water or wastewater service at a rate or charge that does not exceed the actual purchase price is exempt from Commission regulation. Therefore, the service to these remaining customers will also be exempt.

Based on the above, pursuant to Sections 367.022(5) and (8), Florida Statutes, Commercial Utilities is exempt from the Commission's regulation. Therefore, the utility's Water Certificate No. 219-W shall be cancelled.

However, the utility shall be required to file an annual reseller report pursuant to the provisions of Section 367.022(8), Florida Statutes, and Rule 25-30.111, Florida Administrative Code, and shall continue to comply with Section 367.122, Florida Statutes, and Rules 25-30.262 through 25-30.267, Florida Administrative Code, regarding the examination and testing of meters. The utility shall also be put on notice that it will be responsible for filing a 1996 annual report and for payment of all outstanding regulatory assessment fees through September, 1996.

Upon cancellation of the certificate, there is no further action to be taken in this docket, and the docket shall be closed.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that Commercial Utilities, Division of Grace and Company, Inc., 865 South Lane Avenue, Jacksonville, Florida 32205, is exempt from Commission regulation pursuant to the provisions of Sections 367.022(5) and (8), Florida Statutes. It is further

ORDERED that Certificate 219-W, now held by Commercial Utilities, Division of Grace and Company, Inc., shall be returned to the Commission for cancellation. It is further

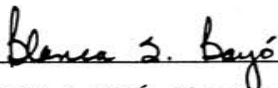
ORDERED that Commercial Utilities, Division of Grace and Company, Inc., shall be required to file an annual reseller report pursuant to the provisions of Section 367.022(8), Florida Statutes, and Rule 25-30.111, Florida Administrative Code. It is further

ORDERED that Commercial Utilities, Division of Grace and Company, Inc., shall continue to comply with Section 367.122, Florida Statutes, and Rules 25-30.262 through 25-30.267, Florida Administrative Code, regarding the examination and testing of meters. It is further

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ORDERED that Commercial Utilities, Division of Grace and Company, Inc., shall be put on notice that it will be responsible for filing a 1996 annual report and for payment of all outstanding regulatory assessment fees through September, 1996.

By ORDER of the Florida Public Service Commission, this 27th day of January, 1997.

A handwritten signature in cursive script, reading "Blanca S. Bayó", is written over a horizontal line.

BLANCA S. BAYÓ, Director
Division of Records and Reporting

(S E A L)

RRJ

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.