

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Initiation of show cause) DOCKET NO. 940254-WU
proceedings against AIR BASE) ORDER NO. PSC-94-0611-FOF-WU
MOTOR COURT for operating a) ISSUED: May 23, 1994
water system in Duval County)
without a certificate.)
_____)

The following Commissioners participated in the disposition of this matter:

J. TERRY DEASON, Chairman
SUSAN F. CLARK
JULIA L. JOHNSON
DIANE K. KIESLING
LUIS J. LAUREDO

ORDER GRANTING UTILITY SIX MONTHS TO OBTAIN SIGNED LEASE

BY THE COMMISSION:

BACKGROUND

Air Base Motor Court (ABMC) is a utility in Duval County which owns and operates a well that provides water service to its strip shopping center and Azalea Mobile Home Park (Azalea). ABMC charges the strip center tenants for water service through their monthly rent, and it charges Azalea a flat monthly charge that includes water service to Azalea's residents. We first learned about ABMC when Azalea complained about a rate increase that it had received from ABMC. Without prior notice to Azalea, ABMC increased its rates for water service from \$280 to \$650 per month.

Upon learning about ABMC, our staff informed ABMC that it either had to file an application for a certificate or an exemption from our jurisdiction. However, ABMC has not complied with our request for either an application for a certificate or an exemption. In response to inquiries from our staff, ABMC states that the \$650 rate is not a rate for utility service; instead, the \$650 represents a lease charge. According to ABMC, it leases the well, the pump, the pump house, all of the lines, and the land where the lines are located to Azalea, and Azalea has to maintain the well and the adjoining facilities. Our staff contacted the Department of Health and Rehabilitative Services (HRS) and learned that there is no operating permit for the well because of Azalea's small size. However, Azalea has a trailer park permit from HRS which allows it to operate the mobile home park. Part of this

DOCUMENT NUMBER-DATE
04995 MAY 23 1994
FPSC-RECORDS/REPORTING

permit includes utility service. If any problem arises with the well, Azalea is the party to contact, and it is responsible for ensuring that the well complies with any regulations mandated by HRS.

Our staff is currently evaluating the jurisdictional status of Azalea. ABMC states that it has operated in this manner since 1984, but it does not have a written lease. According to several documents that ABMC has submitted, on July 1, 1978, ABMC entered into a written lease with Azalea, formerly known as Mobile Living, Inc. That written lease expired on June 30, 1981, but ABMC has asserted many times that the parties operate under the terms and conditions of the 1978 lease. Pursuant to the terms and conditions of that lease, the lessee has to maintain and operate the facilities in the same condition that it had previously been maintained by the lessor. Further, the lessee agrees to continue to supply water to lessor's facilities in the vicinity.

In a November 13, 1993 letter, Azalea states that when it purchased the mobile home park in 1984 that it entered into an agreement whereby ABMC would provide water service to it, conditional on Azalea making monthly payments of \$280 to ABMC. However, Azalea has not furnished us with a written lease. ABMC and Azalea have given our staff contradictory statements about the terms and conditions of the lease. The only term on which the parties agree is that in 1984 the monthly payment was \$280. ABMC asserts that the \$280 involves only the use of its facilities, while Azalea asserts that the \$280 involves water service to its mobile home park.

On several occasions, our staff has told ABMC either to file an application for a certificate or an exemption, which it has not done. ABMC believes that it qualifies as a landlord who provides water service without specific compensation since it leases the facilities, and therefore, it meets the statutory requirements of Section 367.022(5), Florida Statutes. ABMC also states that the City of Jacksonville plans to provide water service to those individuals within that area in the next few months. Our staff contacted the City of Jacksonville and learned that while it plans to provide water service in the near future, Jacksonville could not give us a specific date.

Pursuant to the above information, we have determined that ABMC should be given six months in which either to obtain a signed lease by Azalea indicating the lease of ABMC facilities, obtain water service from the City of Jacksonville, or if neither of those options is available, apply for a certificate to provide water service. Therefore, this docket shall remain open for six months

ORDER NO. PSC-94-0611-FOF-WU
DOCKET NO. 940254-WU
PAGE 3

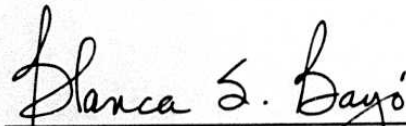
to give ABMC an opportunity either to obtain a signed lease by Azalea, obtain water service from Jacksonville, or apply for a certificate to provide water service.

Based on the foregoing, it is, therefore,

ORDERED by the Florida Public Service Commission that Air Base Motor Court in Duval County shall be given six months in which either to obtain a signed lease with Azalea, water service from the City of Jacksonville, or if neither of those options is available, apply for a certificate to provide water service. It is further

ORDERED that this docket shall remain open in order for Commission Staff to determine whether ABMC has complied with the provisions of this Order.

By ORDER of the Florida Public Service Commission, this 23rd day of May, 1994.



BLANCA S. BAYÓ, Director
Division of Records and Reporting

(S E A L)

ELS

ORDER NO. PSC-94-0611-FOF-WU
DOCKET NO. 940254-WU
PAGE 4

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 Section 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.