

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application by United
Water Florida Inc. for approval
of tariff sheets for wholesale
water and wastewater service in
St. Johns County.

DOCKET NO. 000315-WS
ORDER NO. PSC-00-1238-FOF-WS
ISSUED: July 10, 2000

The following Commissioners participated in the disposition of
this matter:

JOE GARCIA, Chairman
J. TERRY DEASON
SUSAN F. CLARK
E. LEON JACOBS, JR.
LILA A. JABER

ORDER DECLINING TO RULE UPON APPLICATION FOR APPROVAL OF
TARIFF SHEETS FOR WHOLESALE WATER AND WASTEWATER SERVICE
AND CLOSING DOCKET

BY THE COMMISSION

BACKGROUND

United Water Florida, Inc. (UWF or utility) is a Class A utility which provides water and wastewater service in Duval, Nassau, and St. Johns Counties. UWF is a wholly owned subsidiary of United Waterworks Inc. In 1999, UWF had annual operating revenues of \$29,808,888 and a net operating income of \$5,255,868 for its water and wastewater systems.

St. Joe Utilities Company (St. Joe) is a utility regulated by the St. Johns County Water and Sewer Authority and the Board of County Commissioners of St. Johns County, Florida.

On March 13, 2000, UWF filed an Application for Approval of Tariff Sheets for Wholesale Water and Wastewater Service. By its application, UWF requests that we approve wholesale water and wastewater rates and charges for the St. Joe service area and the corresponding tariff sheets submitted. In its application, UWF states that St. Joe has asked it to provide wholesale water and wastewater services to enable St. Joe to provide retail water and

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wastewater service in St. Joe's service area. As a result of St. Joe's request, UWF requests that we approve a new class of service and its corresponding rates and charges.

In 1999, Section 367.022(12), Florida Statutes, was amended to exempt the sale or resale of wastewater services from Commission regulation as follows:

(12) The sale or resale of bulk supplies of water or the sale or resale of wastewater services to a governmental authority or to a utility regulated pursuant to this chapter either by the commission or the county.

(emphasis added)

As a result of the 1999 amendment to Section 367.022(12), Florida Statutes, the contemplated sale by UWF of wholesale water and wastewater services to St. Joe, to enable St. Joe to provide retail service, is clearly within the purview of Section 367.022(12), Florida Statutes, and is therefore exempt from this Commission's regulation. In this instance, UWF is proposing to sell both wholesale water and wastewater services to St. Joe, a utility regulated by St. Johns County.

"When construing a statute, the plain meaning of the language is the first consideration. Moonlit Waters Apartments, Inc. v. Cauley, 666 So. 2d 898 (Fla. 1996). If the language of a statute is plain and unambiguous and conveys a clear and definite meaning, that plain meaning will control. See Weber v. Dobbins, 616 So. 2d 956, 958 (Fla. 1993)." In re: Application for grandfather certificate to operate a water and wastewater utility in Polk County by Garden Grove Water Company, Inc., Order No. PSC-97-0615-FOF-WS, issued May 29, 1997, in Docket No. 961299-WS. "Only when a statute is doubtful in meaning should matters extrinsic to the statute be considered in construing the language employed by the legislature." Capers v. State, 678 So. 2d 330, 332 (Fla. 1996). Therefore, the plain language of the statute clearly exempts this transaction from our regulation.

For future ratemaking considerations, the utility's cost of providing wholesale water and wastewater services to St. Joe shall not be subsidized by its jurisdictional customers. Also, the revenues generated from the wholesale water and wastewater service provided to St. Joe shall not be considered in any proceedings involving the utility before this Commission. However, we note

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that UWF remains subject to this Commission's jurisdiction and regulation.

For the foregoing reasons, we decline to rule upon UWF's Application for Approval of Tariff Sheets for Wholesale Water and Wastewater Service, and this docket shall be closed.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that United Water Florida Inc.'s Application for Approval of Tariff Sheets for Wholesale Water and Wastewater Service shall not be ruled upon because the transaction between United Water Florida Inc. and St. Joe Utilities Company for the sale of wholesale water and wastewater services is exempt from our regulation pursuant to Section 367.022(12), Florida Statutes (1999). It is further

ORDERED that this docket shall be closed.

By ORDER of the Florida Public Service Commission this 10th day of July, 2000.

BLANCA S. BAYÓ, Director
Division of Records and Reporting

By: _____

Kay Flynn
Kay Flynn, Chief
Bureau of Records

(S E A L)

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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.