

FLORIDA PUBLIC SERVICE COMMISSION
Capital Circle Office Center • 2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0850

M E M O R A N D U M

December 26, 1996

TO: DIRECTOR, DIVISION OF RECORDS AND REPORTING (BAYO)

FROM: DIVISION OF WATER & WASTEWATER (TOMLINSON) *CT*
DIVISION OF LEGAL SERVICES (JAEGER) *LS* *ben grow* *JP*

RE: DOCKET NO. 961268-WU - REQUEST FOR CHANGE IN REGULATORY
STATUS AND CANCELLATION OF CERTIFICATE NO. 219-W IN DUVAL
COUNTY BY COMMERCIAL UTILITIES, DIVISION OF GRACE AND
COMPANY, INC.
COUNTY: DUVAL COUNTY

AGENDA: JANUARY 7, 1997 - REGULAR AGENDA - INTERESTED PERSONS MAY
PARTICIPATE

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: S:\PSC\WAW\WP\961268WU.RCM

DOCUMENT NUMBER-DATE

13692 DEC 24 88

FPSC-RECORDS/REPORTING

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CASE BACKGROUND

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). Therefore, Staff is bringing this request before the Commission in order to make a finding as to whether this utility is exempt, and whether the certificate should be canceled.

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DISCUSSION OF ISSUES

ISSUE 1: Is Commercial Utilities exempt from the Commission's regulation pursuant to Sections 367.022(5) and (8), Florida Statutes, and should Certificate No. 219-W be canceled?

RECOMMENDATION: Yes. Pursuant to Sections 367.022(5) and (8), Florida Statutes, Commercial Utilities is exempt from the Commission's regulation, and Certificate No. 219-W should be canceled. Additionally, the utility should be required to file annual reseller report pursuant to the provisions of Section 367.022(8), Florida Statutes, and Rule 25-30.111, Florida Administrative Code. The utility should 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 should 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. (TOMLINSON, JAEGER)

STAFF ANALYSIS: As discussed in the Case Background, Commercial Utilities filed a letter with the Commission on September 17, 1996, 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). 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 rate which does not exceed the actual purchase price pursuant to Chapter 367.022(8), Florida Statutes. 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. The utility's rates to these remaining customers would not result in revenues which exceed the amount paid to the City for service.

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Therefore, staff recommends that pursuant to Sections 367.022(5) and (8), Florida Statutes, Commercial Utilities is exempt from the Commission's regulation.

Based on the above, Staff recommends that the utility's Water Certificate No. 219-W be canceled. In addition, the utility should 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 should 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 should 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.

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ISSUE 2: Should this docket be closed?

RECOMMENDATION: Yes, this docket should be closed. (JAEGER)

STAFF ANALYSIS: There is no further action to be taken in this docket, and the docket should be closed.