

STATE OF FLORIDA

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DIVISION OF LEGAL SERVICES
NOREEN S. DAVIS
DIRECTOR
(850) 413-6199

Public Service Commission

May 9, 2000

Mr. Gerald T. Buhr
Attorney for Floralino Properties, Inc.
P.O. Box 1657
Lutz, Florida 33548-1657

Ms. Susan W. Fox
Attorney for Ellis & Company, Ltd.
Macfarlane, Ferguson & McMullen
P.O. Box 1531
Tampa, Florida 33601

Re: Docket No. 991486-WU - Investigation into retention of certificated area of
Ellis & Company, Ltd. (Holiday Mall) by Floralino Properties, Inc.

Dear Mr. Buhr and Ms. Fox:

Commission staff has reviewed this docket and the pleadings filed in this matter, and it is staff's opinion that the parties, Floralino Properties, Inc. (Floralino) and Ellis & Company, Ltd. (Holiday Mall or the Mall), have yet to engage in all the procedures necessary for the Commission to determine whether Holiday Mall should remain in Floralino's certificated territory.

Essentially, what has happened between Floralino and the Mall is that an existing customer of the utility has requested that it be deleted from the utility territory because the customer wants a service from the utility that the customer does not believe the utility can provide. It appears that this action by the customer is premature, since there has evidently never been a written request to Floralino for the service at issue. To date, staff is unaware of any written documentation showing that Holiday Mall has requested the utility to provide "adequate" service for fire flow, or complained to the utility regarding inadequate pressure. Staff has contacted the Department of Environmental Protection (DEP). DEP stated that it has not received any pressure complaints and the system is in compliance with its rules.

It is staff's opinion that the process for requesting service as described in Rule 25-30.310 Florida Administrative Code, has not yet been followed by the Holiday Mall. Since the Mall is the customer of record, it should give the utility a written request for service, or a change in service.

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identifying the specific needs required, including private fire protection and water pressure. If the customer/Holiday Mall has a complaint about its current service level provided by the utility, then that should also be addressed in writing. Once the Mall requests the service and the utility responds, then the staff will be better able to consider the Mall's request to be removed from Floralino's certificated area.

Therefore, staff requests that the Holiday Mall make the appropriate written request to the utility in writing within ten days of the receipt of this letter. Further, staff requests that the utility provide the appropriate written response to the Mall indicating whether the requested service can be provided and how that will be accomplished within ten days of receipt of the customer's request. Staff also requests that we receive copies of any such request and responses.

In addition, the staff must address the utility's request for deletion of its Fire Protection service tariff made on October 18, 1999. This request was encompassed in a letter, and no tariff was attached to the letter. Rule 25-9.001(3), Florida Administrative Code, states that "No rules and regulations, or schedules of rates and charges, or modifications or revisions of the same, shall be effective until filed with and approved by the Commission as provided by law." Without a tariff sheet replacing the existing tariff sheet, the request for cancellation of the Fire Protection tariff cannot be acted upon. Even though the utility has the option of filing the required tariff sheet, in light of the pending motions, Floralino may wish to consider withdrawing the cancellation request until a future time.

Please note that the opinions expressed herein are those of the staff, and do not bind the Commission in any way. If you have further questions concerning this letter, please feel free to contact me at (850) 413-6220.

Sincerely,



Patricia A. Christensen
Senior Attorney

PAC/dm

cc: Division of Water and Wastewater (Redemann, Messer)
Division of Records and Reporting