



Public Service Commission

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RECORDS AND REPORTING

DATE: JUNE 8, 2000

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

FROM: DIVISION OF LEGAL SERVICES (VAN LEUVEN) *DV MS*
DIVISION OF ECONOMIC REGULATION (BINFORD) *CB*

RE: DOCKET NO. 000315-WS - APPLICATION BY UNITED WATER FLORIDA INC. FOR APPROVAL OF TARIFF SHEETS FOR WHOLESALE WATER AND WASTEWATER SERVICE IN ST. JOHNS COUNTY. *m RNT 7/98*

AGENDA: 06/20/2000 - REGULAR AGENDA - INTERESTED PERSONS MAY PARTICIPATE

CRITICAL DATES: STATUTORY 60 DAY DEADLINE WAIVED UNTIL JUNE 20, 2000.

SPECIAL INSTRUCTIONS: NONE

FILE NAME AND LOCATION: S:\PSC\LEG\WP\000315.RCM

CASE 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 St. Johns County Water and Sewer Authority and the Board of County Commissioners of St. Johns County, Florida. St. Joe is authorized to provide water and wastewater service in St. Johns County.

On March 13, 2000, UWF filed an Application for Approval of Tariff Sheets for Wholesale Water and Wastewater Service. UWF has asked the Commission to approve wholesale water and wastewater rates and charges for the St. Joe service area and to approve the

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submitted tariff sheets. The stated reason for UWF's application is that "St. Joe has requested United Water to provide St. Joe with wholesale water and wastewater service to enable St. Joe to provide retail water and wastewater service in the service area authorized for St. Joe [by St. Johns County]."

The purpose of this recommendation is to address the utility's tariff filing and whether the contemplated transaction between UWF and St. Joe is exempt from the Commission's regulation pursuant to Section 367.022(12), Florida Statutes (1999).

DISCUSSION OF ISSUES

ISSUE 1: Should UWF's Application for Approval of Tariff Sheets for Wholesale Water and Wastewater be approved?

RECOMMENDATION: UWF's Application should not be ruled upon because the contemplated transaction between UWF and St. Joe and the resulting new class of service is exempt from the Commission's regulation pursuant to Section 367.022(12), Florida Statutes. For future ratemaking considerations, staff recommends that the utility's cost of providing wholesale water and wastewater service to St. Joe should not be subsidized by the jurisdictional customers. Also, staff recommends that the revenues generated from the wholesale water and wastewater service should not be considered in any proceedings involving the utility before the Commission. (VAN LEUVEN)

STAFF ANALYSIS: In its application, UWF states that St. Joe has asked it to provide wholesale water and wastewater service to enable St. Joe to provide retail water and wastewater service in St. Joe's service area. As a result of St. Joe's request, UWF has petitioned the Commission to 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, it is staff's recommendation that 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 the 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, staff believes that the plain language of the statute clearly exempts this transaction from the Commission's regulation.

For future ratemaking considerations, staff recommends that the utility's cost of providing wholesale water and wastewater service to St. Joe should not be subsidized by the jurisdictional customers. Also, staff recommends that the revenues generated from the wholesale water and wastewater service should not be considered in any proceedings involving the utility before the Commission.

Therefore, it is staff's recommendation that UWF's Application should not be ruled upon because the transaction between UWF and St. Joe for the sale of wholesale water and wastewater service to enable St. Joe to provide retail service to its service area is exempt from the Commission's regulation.

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ISSUE 2: Should the docket be closed?

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

STAFF ANALYSIS: This docket should be closed because the transaction between UWF and St. Joe is exempt from the Commission's regulation pursuant to Section 367.022(12), Florida Statutes (1999).