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REPLY TO CENTRAL FLORIDA OFFICE

December 28, 2006

ORIGINAL

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06 DEC 29 AM 10:34
COMMISSION
CLERK

Ms. Blanco Bayo
Commission Clerk and Administrative Services Director
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

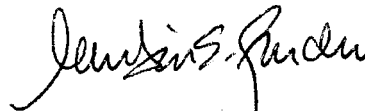
RE: Docket No.: 060726-WS; Application of Silver Lake Utilities, Inc., to Operate a Water Utility in Glades and Highlands Counties, Florida, and a Wastewater Utility in Glades County, Florida
Our File No.: 40001.01

Dear Ms. Bayo:

Enclosed for filing in the above-referenced docket is an original and twelve (12) copies of Silver Lake Utilities, Inc.'s Motion for Rule Variance

Should you have any questions regarding the enclosed, please do not hesitate to give me a call.

Very truly yours,



MARTIN S. FRIEDMAN
For the Firm

CMP _____

COM _____

CTR _____

ECR _____

GCL MSE/mp

OPC Enclosures

RCA cc: Charles P. Lykes, Jr., Executive Vice President (w/enclosures)

SCR _____ Frederick J. Bennett, Vice President & CFO (w/enclosures)

SGA _____ Joe Collins, P.E., Manager of Engineering (w/enclosures)

SEC _____

OTH kump

M:\1 ALTAMONTE\LYKES BROS (40001)\(.01) ORIGINAL CERT (Silver Lake Utilities)\PSC Clerk 06 (Motion Rule Waiver).ltr.wpd

DOCUMENT NUMBER - DATE

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FPSC-COMMISSION CLERK

ORIGINAL

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application of Silver Lake)
Utilities, Inc., to operate a water utility) DOCKET NO.: 060726-WS
in Glades and Highlands Counties,)
Florida, and a wastewater utility in)
Glades County, Florida)
_____)

SILVER LAKE UTILITIES, INC.'S MOTION FOR RULE VARIANCE

SILVER LAKE UTILITIES, INC., by and through its undersigned attorneys and pursuant to Section 120.542, Florida Statutes, moves this Commission for a variance from the strict requirements of Rule 25-30.033 (1) (l), Florida Administrative Code, and in support thereof states:

1. Rule 25-30.033 (1) (l), F.A.C., requires that an application for an original certificate include a description of the territory to be served according to the technical legal description requirements of Rule 25-30.030 (2), F.A.C.

2. Rule 25-30.030 (2), F.A.C., requires the legal description to include reference to townships, ranges, land sections and county, and be in one of two specified formats. The legal description cannot refer to, among other things, recorded instruments.

3. Within the perimeter of the proposed territory of Utility are properties conveyed to the Board of Trustees of the Internal Improvement Trust Fund of the State of Florida in Glades County along Fisheating Creek, and to the South Florida Water Management District in Highlands County along the Kissimmee River.

4. The conveyances to the Board of Trustees are recorded in the Public Records of Glades County, Florida at Official Records Book 200, Page 1, and Book 200, Page 83. The legal description in the first conveyance consists of sixty-six (66) pages of primarily metes and bounds legal descriptions. The legal description in the second conveyance

DOCUMENT NUMBER - DATE

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FPSC-COMMISSION CLERK

consists of sixty-six (66) pages of primarily metes and bounds legal descriptions. Copies of these conveyances are available on the Glades County Clerk of Court's website, and will be provided to the Staff at its request.

5. The conveyances to the Water Management District are recorded in the Public Records of Highlands County, Florida at Official Records Book 1991, Page 1242, Book 1991, Page 1264 and Book 1991, Page 1273. The legal descriptions in these three conveyances total fourteen (14) pages of metes and bounds legal descriptions. Copies of these conveyances are available on the Highlands County Clerk of Court's website and will be provided to the Staff at its request.

6. To comply with the strict requirements of Rule 25-30.033 (1) (l), F.A.C., would require the Final Order issued by this Commission and the Water Tariff of the Utility to include a legal description of one hundred fifty-two (152) pages.

7. Section 120.542, F.S., acknowledges that "strict application of uniformly applicable rule requirements can lead to unreasonable, unfair, and unintended results in particular instances." Thus, agencies have been authorized to grant variances to their Rules, and such variances shall be granted when the person subject to the Rule demonstrates that the purpose of the underlying Statute can be achieved by other means and when the application creates a substantial hardship.

8. Rule 25-30.033, F.A.C., implements, as applicable to this Motion, §§ 367.031 and 367.045, Florida Statutes. **Neither section requires a specific methodology to legally describe a service territory.**

9. The purpose of the service area description is so that the regulated utility is aware of the territory to which it has an obligation to provide service, and for a property

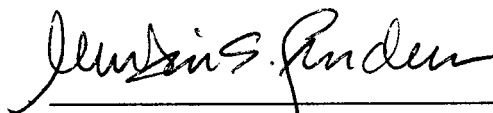
owner to know its entitlement to such service. To meet the requirement to describe the Utility's water service area, the Utility proposes to utilize the description attached hereto as Exhibit "A" (which is the legal description included in the Utility's proposed Water Tariff).

10. In the instant case, the Utility proposes to describe the excluded property by reference to ownership by the Board of Trustees, and Water Management District. The Water Management District acquired property as a part of its Kissimmee River restoration project, and the Board of Trustees acquired property for protection of Fisheating Creek and its watershed. Neither of these governmental projects will involve development to the extent that central water service will be required. Thus, the intent of Rule 25-30.033, F.A.C., and the Statutes it implements is being complied with.

WHEREFORE, Utility requests this Commission grant a variance to the strict legal description requirements of Rule 25-30.033, F.A.C., and allow the water service area to be described as set forth in Exhibit "A" attached hereto.

Respectfully submitted this 28 day of
December, 2006, by:

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MARTIN S. FRIEDMAN
Florida Bar No.: 0199060
For the Firm

(Continued from Sheet No. 3.0)

DESCRIPTION OF TERRITORY SERVED

HIGHLANDS COUNTY, FLORIDA

Township 35 South, Range 31 East

Section 34; All lying south of the center line of Istokpoga Canal

Section 35; All

Section 36; All lying south and east of the center line of Istokpoga Canal

Township 35 South, Range 32 East

Sections 29, 30, 31; All lying south and east of the center line of Istokpoga Canal

Section 32; All

Section 33; All lying west of Kissimmee River

Section 34, 35; All lying south and west of Kissimmee River

Township 36 South, Range 31 East

Section 1, 2, 11, 12, 13, 14, 23, 24, 25, 26, 34, 36; All

Section 33; The NW $\frac{1}{4}$ of the NW $\frac{1}{4}$ and the N $\frac{1}{2}$ of the SW $\frac{1}{4}$ of the NW $\frac{1}{4}$

And all of the Unsurveyed part of Township 36 South, Range 31 East lying east of the waters of Lake Istokpoga

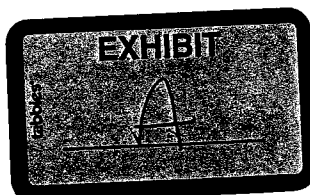
Township 36 South, Range 32 East

Section 1, 2; All lying south and west of Kissimmee River

Section 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35; All

CHARLES P. LYKES, JR.
ISSUING OFFICER

PRESIDENT
TITLE



(Continued from Sheet No. 3.1)

DESCRIPTION OF TERRITORY SERVED (Continued)

Township 36 South, Range 33 East

Section 6; All of the West $\frac{1}{4}$ lying south and west of Canal C-38
Section 7; The SW $\frac{1}{4}$ and the West $\frac{1}{2}$ of the NW $\frac{1}{4}$
Section 17; The SW $\frac{1}{4}$ lying south and west of the CSX R.R. ROW
Section 18; The West $\frac{1}{2}$ and the SE $\frac{1}{4}$ lying south and west of the CSX R.R. ROW
Section 19, 30; All
Section 20; The West $\frac{1}{2}$ of the West $\frac{1}{2}$ lying south and west of the CSX R.R. ROW and the
West $\frac{1}{2}$ of the East $\frac{1}{2}$ of the West $\frac{1}{2}$ lying south and west of the CSX R.R. ROW and the
South $\frac{1}{2}$ of the South $\frac{1}{2}$ of the SE $\frac{1}{4}$ lying south of the Kissimmee River
Section 29; All lying south of the Kissimmee River

Township 37 South, Range 31 East

Section 5; The South $\frac{1}{2}$
Section 8; All
Section 25; The East $\frac{1}{2}$
Section 36; The East $\frac{1}{2}$

Township 37 South, Range 32 East

Section 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23,
24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36; All

Township 37 South, Range 33 East

Section 19; All
Section 30; The North $\frac{1}{4}$

Township 38 South, Range 31 East

Section 25, 26; All lying south and west of the C-40 Canal ROW, less and except
the West 138' thereof.
Less and except those lands owned by the South Florida Water Management
District.

CHARLES P. LYKES, JR.
ISSUING OFFICER

PRESIDENT
TITLE

(Continued to Sheet No. 3.3)
SILVER LAKE UTILITIES, INC.
WATER TARIFF

ORIGINAL SHEET NO. 3.3

(Continued from Sheet No. 3.2)

DESCRIPTION OF TERRITORY SERVED (Continued)

GLADES COUNTY, FLORIDA

Township 38 South, Range 32 East

Section 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36; All

Township 39 South, Range 31 East

Section 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36; All

Township 39 South, Range 32 East

Section 4, 5, 6, 7, 8, 9, 17, 18, 19, 20, 21, 28, 29, 30, 31, 32, 33; All

Township 40 South, Range 28 East

Section 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36; All

Township 40 South, Range 29 East

Section 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 31, 32, 33, 34, 35, 36; All

Section 29; All less and except the North $\frac{3}{4}$ of the West $\frac{1}{4}$

Section 30; All less and except the NW $\frac{1}{4}$ of the NW $\frac{1}{4}$

Township 40 South, Range 30 East

Section 1, 2, 3, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36; All

Section 4; The East $\frac{1}{2}$ of the East $\frac{1}{2}$ of the NE $\frac{1}{4}$ and the South $\frac{1}{2}$ less and except the North $\frac{1}{4}$ of the NW $\frac{1}{4}$ of the SE $\frac{1}{4}$

Section 5; The South $\frac{3}{4}$ lying east of US Hwy. 27 less and except the East $\frac{3}{4}$ of the North $\frac{1}{2}$ of the South $\frac{1}{2}$ of the NE $\frac{1}{4}$

(Continued to Sheet No. 3.4)

CHARLES P. LYKES, JR.
ISSUING OFFICER

PRESIDENT
TITLE

(Continued from Sheet No. 3.3)

DESCRIPTION OF TERRITORY SERVED (Continued)

Township 40 South, Range 31 East

Section 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36; All

Township 40 South, Range 32 East

Section 5, 6, 7, 8, 17, 18, 19; All

Section 16; The South $\frac{1}{2}$ and the South 189.42' of the North $\frac{1}{2}$

Section 20; All less and except the SE $\frac{1}{4}$ of the SE $\frac{1}{4}$ of the SE $\frac{1}{4}$ and less the South $\frac{3}{4}$ of the SW $\frac{1}{4}$ of the SE $\frac{1}{4}$

Section 21; The North $\frac{3}{4}$ of the NE $\frac{1}{4}$ of the SW $\frac{1}{4}$ and the North $\frac{1}{2}$ less and except the SW $\frac{1}{4}$ of the SE $\frac{1}{4}$ of the NE $\frac{1}{4}$ and less the South $\frac{1}{2}$ of the SW $\frac{1}{4}$ of the SE $\frac{1}{4}$ lying SE $\frac{1}{4}$ of the east ROW line of the Red Barn Rd.

Section 29; Begin at the NW corner of said Section and run thence N $89^{\circ} 32' 28''$ E 810.47', thence run S $02^{\circ} 34' 55''$ W 2119.61', thence run N $78^{\circ} 29' 58''$ W 750' MOL to the West line of said Section, thence run Nty along said West line to the point of Beginning.

Section 30; All lying north of the south line of the L-50 Tie Back Levee

Township 41 South, Range 28 East

Section 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36; All

Township 41 South, Range 29 East

Section 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36; All

Township 41 South, Range 30 East

Section 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36; All

(Continued to Sheet No. 3.5)

CHARLES P. LYKES, JR.
ISSUING OFFICER

PRESIDENT
TITLE

(Continued from Sheet No. 3.4)

DESCRIPTION OF TERRITORY SERVED (Continued)

Township 41 South, Range 31 East

Section 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 28, 29, 30, 31, 32, 33; All

Section 25, 26; All lying north of the north line of the SCFE R.R. ROW

Section 27; All less and except the South $\frac{1}{4}$ lying east of the west ROW line of US Hwy. 27

Township 41 South, Range 32 East

Section 4, 9, 16, 21, 28; All lying West of the 1918 Merriam Meander Line of Lake Okeechobee

Section 5, 6, 7, 8, 17, 18, 19, 20, 29; All

Section 30, 31, 32, 33; All lying north of the north line of the SCFE R.R. ROW

Township 42 South, Range 29 East

Section 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 29, 30; All

Section 23; All less the East 292' of the NE $\frac{1}{4}$ of the NE $\frac{1}{4}$

Section 24; The S $\frac{3}{4}$ of the West $\frac{1}{2}$ of the West $\frac{1}{2}$

Section 26; The North $\frac{1}{2}$ less and except the SE $\frac{1}{4}$ of the NE $\frac{1}{4}$

Section 27; All less and except the South $\frac{1}{2}$ of the SW $\frac{1}{4}$ and less the South $\frac{1}{2}$ of the SE $\frac{1}{4}$

Section 28; All less and except the South $\frac{1}{2}$ of the SE $\frac{1}{4}$

Township 42 South, Range 30 East

Section 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 17, 18; All

Section 13; All lying north of the SR 78 ROW less and except the SW $\frac{1}{4}$ of the NW $\frac{1}{4}$

Section 14; The North $\frac{1}{2}$

Section 15; All lying north of the SR 78 ROW less and except the East $\frac{1}{2}$ of the East $\frac{1}{2}$ of the NE $\frac{1}{4}$ of the SE $\frac{1}{4}$ and less the West 170' of the SW $\frac{1}{4}$ of the SW $\frac{1}{4}$

Section 16; The West $\frac{1}{2}$ of the NE $\frac{1}{4}$ of the SW $\frac{1}{4}$ of the SE $\frac{1}{4}$ and the North $\frac{3}{4}$ less and except the NE $\frac{1}{4}$ of the SW $\frac{1}{4}$ and less the East $\frac{1}{2}$ of the NW $\frac{1}{4}$ of the SW $\frac{1}{4}$

(Continued to Sheet No. 3.6)

CHARLES P. LYKES, JR.
ISSUING OFFICER

PRESIDENT
TITLE

(Continued from Sheet No. 3.5)

DESCRIPTION OF TERRITORY SERVED (Continued)

Township 42 South, Range 31 East

Section 4; The North $\frac{1}{2}$

Section 5; The North $\frac{1}{2}$ and the North $\frac{3}{4}$ of the West $\frac{1}{2}$ of the NE $\frac{1}{4}$ of the SW $\frac{1}{4}$ and the North $\frac{3}{4}$ of the NW $\frac{1}{4}$ of the SW $\frac{1}{4}$ and the South $\frac{1}{2}$ of the SW $\frac{1}{4}$ of the NW $\frac{1}{4}$ of the SW $\frac{1}{4}$ and the NW $\frac{1}{4}$ of the SW $\frac{1}{4}$ of the SW $\frac{1}{4}$

Section 6; All

Section 7; The North $\frac{1}{2}$ of the NW $\frac{1}{4}$

Township 42 South, Range 32 East

Section 4; All lying north of the north line of the SCFE R.R. ROW

Less and except those lands owned by the Board of Trustees of The Internal Improvement Trust Fund of The State of Florida.

CHARLES P. LYKES, JR.
ISSUING OFFICER

PRESIDENT
TITLE