



Public Service Commission

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TALLAHASSEE, FLORIDA 32399-0850

-M-E-M-O-R-A-N-D-U-M-

DATE: January 12, 2010
TO: Dorothy E. Menasco, Chief Deputy Commission Clerk, Office of Commission Clerk
FROM: Patricia Brady, Regulatory Analyst IV, Division of Economic Regulation *pb*
RE: Docket No. 090459-WS, Application for original certificates for proposed water and wastewater system and request for initial rates and charges in Martin and St. Lucie Counties by Bluefield Utilities, LLC

Please add the attached e-mail letter dated January 7, 2010, from Mike McDaniel on behalf of the Department of Community Affairs (DCA), to Patti Daniel, Commission staff. The attachment is in response to Patti Daniel's November 12, 2009, request for DCA's comments with regard to the above referenced docket. Thank you.

Attachment

cc: Robert Simpson, ECR
Caroline Klancke, GCL

DOCUMENT NUMBER-DATE

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STATE OF FLORIDA

DEPARTMENT OF COMMUNITY AFFAIRS

"Dedicated to making Florida a better place to call home"

CHARLIE CRIST
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Secretary

January 7, 2010

Ms. Patti Daniel
Public Utilities Supervisor
Bureau of Certification, Economics & Tariffs
Public Services Commission
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0850

RE: PSC Docket No. 090459-WS; Application for original certificates for proposed water and wastewater system and request for initial rates and charges in Martin and St. Lucie Counties by Bluefield Utilities, LLC.

Dear Ms. Daniel:

Thank you for the opportunity to review the Bluefield Utilities, LLC application to the Public Service Commission for original certificates for proposed water and wastewater system and request for initial rates and charges in Martin and St. Lucie Counties. The service boundaries of the proposed utility include 2,325 acres in Martin County and 12,132 acres in St. Lucie County for a total of 14,457 acres. The service area is comprised of a scattered, disconnected pattern of sub-phases, ranging from a low of 81 acres for phase 3 in St. Lucie County to a high of 2,952 acres for phase 2 in St. Lucie County. The Future Land Use Map (FLUM) designation for all of the property is Agriculture, with a density of 1 unit per 20 acres in Martin County and 1 unit per 5 acres in St. Lucie County. The application focuses on the design capacity of the treatment plants and indicates that the utility could serve 2,259 single family homes. The Department of Community Affairs reviewed the application based on the need for service and consistency with the Comprehensive Plans of Martin and St. Lucie Counties.

The Department identified lack of need for service as an issue of concern. The proposed application for original certificates for proposed water and wastewater system and supporting information does not justify the need for the water and wastewater treatment facilities. The application packet included two letters, one from the President and one from the Vice President of Evans Properties, Incorporated. Both letters requested that Bluefield Utilities be allowed to provide potable water to properties owned by Evans Properties. In a letter from J. Emmett Evans, Vice President of Evans Properties, LLC included with the application, Mr. Evans identifies three offices, three shops, and a total of 13 employee houses that would benefit from the proposed service. In a letter from Ronald Edwards, President of Evans Properties, LLC is a statement "in addition to existing houses, shops and offices, that have a need for central service,

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the need for higher intensity agricultural uses is evident as well as service for future planned development." No development plan is proposed and no land use changes have been submitted that justifies the need for central water and sewer service.

The Department identified urban sprawl as an issue of concern. Martin and St. Lucie Counties utilize an Urban Service District/Area, which is intended to preserve an efficient and compact land use pattern. While central potable water and sewer systems are needed to serve the higher densities and intensities of use located within an urban service area, these facilities are intended to serve a low density, rural pattern of development that permits 2,259 single family homes on 5 or 20 acre lots. The existing low density land uses do not justify the need for centralized water and sewer facilities and the location of these facilities will encourage premature urbanization of the rural area, thereby undermining the integrity of the urban service area and increasing the potential for sprawl patterns of development. The Bluefield Utilities proposal is therefore an inefficient use of infrastructure that would result in a premature conversion of agricultural land. The pertinent goals, objectives, and policies (GOPs) from each local government's comprehensive plans are discussed below. The GOPs were reviewed to evaluate the Bluefield Utilities application for consistency with the Martin and St. Lucie Counties comprehensive plans.

Martin County

The Martin County Comprehensive Plan Future Land Use Element includes Section 4.4.G to "encourage urban development in urban service area"; Policy 4.4.G.1.c. "to limit development of a use or intensity that requires public services to be permitted only within the Primary Urban Services District"; Policy 4.4.G.1.d. "to discourage individual utilities and to prohibit package treatment plants outside the Primary and Secondary Urban Service Districts"; Policy 4.4.G.1.i. "limits the provision of public services outside the Primary and Secondary Urban Service Districts to improvements that are necessary to remedy an existing deficiency"; Policy 4.4.G.2.h.(6) "prohibits properties lying outside either the Primary or Secondary Urban Service Districts from receiving utility service from a regional wastewater system"; Section 4.5.G. "prohibits areas outside the Primary and Secondary Urban Services Districts from connecting to either a regional utility or an interim water system"; Section 4.4.L "restricts the expansion of urban public facilities and services to the urban service districts designated within the Plan in order to preserve agricultural lands and provide farmers with the maximum protection from urban encroachment"; and Policy 4.6.E.2 "preserves agricultural lands by restricting the expansion of urban services to areas adjacent to urban cores".

The Martin County Comprehensive Plan Sanitary Sewer Services Element includes Policy 10.4.A.1.j. that "prohibits package treatment plants outside the Primary and Secondary Urban Service Districts". The Martin County Comprehensive Plan Potable Water Element includes Section 11.5.3.a. that "establishes criteria for the extension of public facilities that discourage urban sprawl by limiting the expansion of public utilities to only the areas identified

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in the Future Land Use Element of the Comprehensive Plan” the Martin County Comprehensive Plan Drainage and Natural Groundwater Aquifer Recharge Element includes Section 13.4.6.a. “that establishes criteria for the extension of public facilities that discourage urban sprawl by limiting the expansion of public utilities to only the areas identified in the Future Land Use Element of the Comprehensive Plan”.

St. Lucie County

The St. Lucie County Comprehensive Plan Future Land Use Element includes Objective 1.1.2 that calls for a compatible and coordinated land use pattern which establishes agriculture as the primary use outside of the urban service boundary and promotes retention of agricultural activities; Policies 1.1.2.4 and 1.1.2.5 envision the management of growth within the agricultural land use category “through the orderly delivery of services concurrent with the impacts of development” which will occur in “a rational and orderly manner”; Policy 1.1.4.1 discourages “the conversion of property in the agricultural and suburban areas to higher intensity urban uses”; Objective 1.1.5 discourages “the proliferation of urban sprawl”; while Policy 1.1.7.1 “encourages innovative land use development patterns”; Objective 1.1.12 and Policy 1.1.12.1 restrict higher densities and intensities of development to urban service areas, where public facilities are available; and Policy 1.1.12.3 establishes criteria for the location of public facilities that have not been met. For example, public facilities must maximize the efficiency of services provided, minimize their cost, and minimize their impacts on the natural environment.

The St. Lucie County Comprehensive Potable Water and Sanitary Sewer Sub-Elements are essentially identical. Therefore, unless otherwise noted, the citations in this paragraph refer to both elements. The elements note at Objectives 6A.1.1 and 6D.1.1 that the County shall provide potable water and sanitary sewer facilities that do not promote urban sprawl. Policies 6A.1.1.1 and 6D.1.1.1 emphasize that service areas will be determined on the basis of economy and efficient operation but will not promote leapfrog development; Similarly, Policies 6A.1.1.1b and 6D.1.1.1b indicate that service will be provided to the urban service area in “the most cost effective and efficient” manner. Policies 6A.1.3.2, 6D.1.3.1, and 6D.1.3.2 establish the priority for capital improvements. Finally, Policy 6D.1.4.2 in the Sanitary Sewer Sub-Element establishes limits for the use of on-site wastewater treatment systems, but insufficient information is provided in the application to determine if the criteria are met.

Conclusion

In conclusion, the Bluefield Utilities application would promote urban sprawl. As described below, several observations can be drawn from the above review of the GOPs.

- A land use pattern of one house per either five or twenty acres does not support the need for centralized facilities.

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- Additional urbanization is encouraged by siting urban infrastructure in a rural area, thereby undermining the integrity of the urban service area and increasing the potential for sprawl patterns of development.
- The installation of a central water and wastewater facility outside of the urban service area defeats the intent of policies that emphasize that urban uses are intended to be located within the urban service area, which contains the infrastructure needed to accommodate such development.
- The application is not associated with specific development plans that demonstrate that policies related to the form of development are met to justify centralized water and wastewater facilities.
- Creating an 14,457 acre service area in a rural, agriculture area does not establish an efficient potable water and sanitary sewer system that promotes orderly, compact growth and development. Instead, it will promote an urban sprawl pattern of development and the premature conversion of agricultural land.
- The application does not demonstrate whether it meets the criteria for evaluating and prioritizing capital projects.

Applying the criteria outlined in the above goals, objectives, and policies to the Bluefield Utilities application, the proposed creation of a new service area would contribute to urban sprawl type development pursuant to Rule 9J-5.006(5)(g), F.A.C., because it "promotes, allows or designates for development substantial areas of the jurisdiction to develop...in excess of demonstrated need", would result in the "premature...conversion of rural land to other uses", will result in a "land use pattern or timing which will disproportionately increase the cost in time, money and energy, of providing...law enforcement, education, health care, fire and emergency response, and general government", "fails to provide a clear separation between urban and rural uses", "discourages or inhibits in-fill of existing neighborhoods and communities", and "results in the loss of significant amount of functional open space".

The proposed application for the expansion of the water and wastewater service area for the Bluefield Utilities did not include any data and analysis to demonstrate that the proposed service area expansion was needed to meet approved development. Nor was information provided to indicate that the anticipated development is needed to meet projected growth demands in the area and that existing development opportunities are unavailable to meet that anticipated growth. In the absence of this data and analysis, the new service area will promote inefficient urban sprawl patterns of development.

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We very much appreciate the opportunity to comment on this application. If you have any questions or need additional information, please call Laura Regalado, Community Planner, for assistance, at (850) 922-3762.

Sincerely,



Mike McDaniel, Chief
Office of Comprehensive Planning

MM/lmr

cc: Michael Minton, Dean, Mead, Minton & Zwerner
Michael J. Busha, Executive Director, Treasure Coast Regional Planning Council
Nicki van Vorono, AICP, Growth Management Director, Martin County
Mark Satterlee, AICP, Director, St. Lucie County Growth Management Department