

BEFORE THE PUBLIC SERVICE COMMISSION

In re: Application for certificates to provide water and wastewater service in Lake County by Hidden Valley SPE LLC d/b/a Orange Lake.	DOCKET NO. 041141-WS ORDER NO. PSC-04-1270-PAA-WS ISSUED: December 22, 2004
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The following Commissioners participated in the disposition of this matter:

BRAULIO L. BAEZ, Chairman
J. TERRY DEASON
RUDOLPH "RUDY" BRADLEY
CHARLES M. DAVIDSON

ORDER GRANTING ORIGINAL CERTIFICATE NOS. 625-W AND 536-S
TO OPERATE WATER AND WASTEWATER UTILITY
IN LAKE COUNTY TO HIDDEN VALLEY SPE LLC D/B/A ORANGE LAKE

AND

NOTICE OF PROPOSED AGENCY ACTION
ORDER ESTABLISHING INITIAL RATES AND CHARGES

BY THE COMMISSION:

NOTICE is hereby given by the Florida Public Service Commission that the part of the action discussed herein that establishes initial rates and charges is preliminary in nature and will become final unless a person whose interests are substantially affected files a petition for a formal proceeding, pursuant to Rule 25-22.029, Florida Administrative Code.

Introduction

On September 24, 2004, Hidden Valley SPE, LLC d/b/a Orange Lake (Orange Lake or utility) filed its application for original water and wastewater certificates in Lake County. Orange Lake owns and operates the utility and the manufactured housing community that is located at 15840 State Road 50, Clermont, Florida, in Lake County. The utility has been providing water and wastewater service solely to the rental community tenants as a part of the rent, and was therefore exempt from Commission regulation pursuant to Section 367.022(5), Florida Statutes. The proposed area is located in the St. Johns River Water Management District (SJRWMD). Water use restrictions have been imposed district wide to encourage conservation. The water and wastewater systems at Orange Lake have been operated as part of a mobile home community with no separate charge for water service since 1985. In order to promote water conservation, Orange Lake has been required by the SJRWMD to form a private utility capable of charging for water use. Orange Lake decided that this would be an appropriate time to begin

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charging for wastewater service. The utility is currently serving a total of 250 equivalent residential connections (ERCs). Orange Lake is at build out and has no plans for expansion.

The utility's initial application met all of the filing requirements. Therefore, the application date of September 24, 2004, is the official filing date of the application. Pursuant to Section 367.031, Florida Statutes, the Commission shall grant or deny an application for certificates of authorization within 90 days after the official filing date of the completed application. This Order addresses the application for original water and wastewater certificates and initial rates and charges. We have jurisdiction pursuant to Sections 367.031 and 367.045, Florida Statutes.

ORIGINAL WATER AND WASTEWATER CERTIFICATE

Based on the information described below, we find that it is in the public interest to grant Orange Lake Certificate Nos. 625-W and 536-S to serve the territory described in Attachment A to this Order. Orange Lake's application is in compliance with the governing statute, Section 367.045, Florida Statutes, and Rule 25-30.033, Florida Administrative Code, and other administrative rules concerning an application for original certificate and initial rates and charges.

The notice of application for initial certificates of authorization for a water and wastewater certificate was mailed to the customers on September 24, 2004. We received responses from three customers. One could not be followed-up on because it was sent anonymously. However, the writer did not want to pay for water service. The second customer stated that the residents strongly objected to the application since they were informed when they moved in that the land rent included the cost of water and wastewater service. On October 13, 2004, our staff sent a certified letter to the customer asking for a response by November 10, 2004, if the customer objects to the certification. The customer did not respond to our staff's letter. The third customer expressed concern that Orange Lake's rates may be higher than the City of Clermont's. On November 1, 2004, our staff sent a certified letter to the customer asking for a response by December 1, 2004, if the customer objects to the certification. The customer did not respond to our staff's letter and confirmed by phone on November 30, 2004, that she does not object to the proposed certification.

The utility has provided adequate service territory and system maps and an adequate description of the territory requested. A description of the territory is appended to this Order as Attachment A and incorporated by reference herein. The application also includes a recorded warranty deed as evidence that the utility owns the land upon which the utility facilities are located as required by Rule 25-30.033(1)(j), Florida Administrative Code.

As evidence of its financial and technical ability to provide water and wastewater service to the proposed area, Orange Lake has provided a statement from its grandparent corporation, Hometown America which has \$2.8 billion in assets, that it has and will continue to provide the financial stability required to maintain the utility in accordance with Commission standards and environmental regulations. Hometown America has acquired several mobile home parks by way of a merger with Chateau Communities, Inc., which include utilities that are regulated by this

Commission, and are being processed as transfers of majority organizational control in Docket No. 030998-WS, In re: Joint application for approval of transfer of majority organizational control of Chateau Communities, Inc., grandparent of Del Tura Phase I, LLC d/b/a Del Tura Utilities, holder of Certificate No. 298-S in Lee County; CWS Communities LP d/b/a Palm Valley Utilities, holder of Certificate Nos. 277-W and 223-S in Seminole County; and CWS Communities LP, holder of Certificate No. 518-W in Lake County, to Hometown America, L.L.C. With respect to technical ability, Orange Lake indicated that it will make the financial and operating commitment necessary for the utility to be successful in providing water and wastewater service to the residents within its service territory. Orange Lake asserts that it will continue to retain the local management team that has operated the water and wastewater system for approximately 10 years. The utility is staffed with licensed and trained personnel and is committed to providing safe and reliable water and wastewater service to its customers.

The Orange Lake water treatment facility is made up of three wells with aeration and chlorination. One well is a low production well that will be taken off line and abandoned. The Department of Environmental Protection (DEP) reported that the water system is in compliance with DEP regulations.

The Orange Lake wastewater treatment facility is made up of collection lines, a 50,000 gallons per day treatment plant, and effluent disposal. Wastewater effluent is treated with chlorine and percolation ponds are used for disposal. The percolation ponds are two rapid infiltration basins on approximately 0.33 acres. DEP reported that the wastewater facilities are in compliance with DEP's requirements.

INITIAL RATES AND RETURN ON INVESTMENT

Orange Lake's proposed rates are based on its proposed rate base, cost of capital, customer growth, and operating and maintenance expenses. The utility's calculations are consistent with those normally used by the Commission in setting initial rates and charges for a utility in existence but not currently charging for service.

Rate Base

The utility's proposed rate base of \$220,440 for water and \$4,328 for wastewater are shown on Schedule No. 1 in Attachment A to this Order. The rate base schedule is for informational purposes to establish initial rates and is not intended to formally establish rate base. This is consistent with our practice in original certificate applications. As explained below, we approve the utility's proposal in setting initial rates.

Utility Plant in Service (UPIS) and Land

The proposed water UPIS of \$531,087 includes \$4,600 for approximately .92 acre of land and \$526,487 for structures and improvements, power generation equipment, wells and springs, supply mains, pumping equipment, treatment and distribution facilities, services, meters, hydrants, and backflow prevention devices. The utility indicated that the UPIS balances are the

estimated original cost of the assets through December 31, 2004. The facilities are designed to serve the total build out of 250 ERCs.

The proposed wastewater UPIS of \$362,499 includes \$3,750 for approximately .75 acres of land and \$358,749 for structures and improvements, collection sewers, pumping equipment, treatment and disposal equipment, and services to customers. The utility indicated that the UPIS balances reflect the estimated original cost of the assets. The facilities are designed to serve total build out of the manufactured housing community.

We have reviewed the utility's UPIS costs and, based on the supporting documentation provided, the amounts are reasonable. The utility's proposed balances of \$526,487 with \$4,600 for land and \$358,749 with \$3,750 for land for water and wastewater, respectively, shall be included in the UPIS and land accounts.

Accumulated Depreciation

The utility's proposed accumulated depreciation balances are \$255,976 and \$274,715 for water and wastewater, respectively, as of December 31, 2004. The accumulated depreciation balance is calculated using the guidelines for average service lives as set forth in Rule 25-30.140, Florida Administrative Code. We approve the inclusion of the utility's proposed balances of \$255,976 for water and \$274,715 for wastewater in the accumulated depreciation accounts.

Contributions In Aid of Construction (CIAC)

Pursuant to Rule 25-30.570, Florida Administrative Code, if the amount of CIAC has not been recorded on the utility's books and the utility does not submit competent substantial evidence as to the amount of CIAC, the amount of CIAC shall be imputed to be the amount of plant costs charged to the cost of land sales for tax purposes if available, or the portion of the cost of the facilities and plant attributable to the water transmission and distribution system and the sewage collection system. The utility proposed CIAC balances of \$107,789 and \$178,699 for water and wastewater, respectively, based on the cost of the water transmission and distribution system and the wastewater collection system included in UPIS. We approve the inclusion of the CIAC balances of \$107,789 and \$178,699 for water and wastewater, respectively, in rate base.

Accumulated Amortization of Contributions In Aid of Construction

The utility's proposed accumulated amortization of CIAC balances are \$53,118 and \$95,243 for water and wastewater, respectively. The accumulated amortization balance is calculated using the guidelines for average service lives as set forth in Rule 25-30.140, Florida Administrative Code. The proposed accumulated amortization balances are reasonable. We approve the inclusion of the accumulated amortization of CIAC of \$53,118 for water and \$95,243 for wastewater in rate base.

Cost of Capital

The proposed capital structure for Orange Lake is shown on Schedule No. 2 in Attachment A to this Order. Orange Lake proposed a cost of capital of 7.38% based on a cost of debt of 5.37%, a cost of equity of 11.40%, and a capital structure consisting of 33.35% equity and 66.65% debt. The cost rate for common equity is based on the current leverage formula authorized in Order No. PSC-04-0587-PAA-WS, issued June 10, 2004, in Docket No. 040006-WS, In re: Water and wastewater industry annual reestablishment of authorized range of return on common equity for water and wastewater utilities pursuant to Section 367.081(4)(f), F.S. The capital structure and debt cost rate are based on the capital structure and debt cost of the parent company, Hometown America Holdings, LLC. We find that the utility's proposed cost of capital of 7.38% is reasonable. We also find that Orange Lake's authorized return on **equity shall be** 11.40% with a range of plus or minus 100 basis points.

Return on Investment

The utility's proposed return on investment is \$16,268 for water and \$319 for wastewater, as shown on Schedule No. 3 in Attachment A to this Order. We find that a return on investment of \$16,268 for water and \$319 for wastewater shall be included in the utility's revenue requirement for setting initial rates.

Revenue Requirement

The utility's proposed revenue requirements of \$56,454 and \$58,252 for water and wastewater, respectively, are based on its proposed rate base, cost of capital, operating and maintenance expenses, and customer base. Based on the analysis below, we find that the proposed revenue requirement is reasonable, and we approve it.

Operating and Maintenance Expense

The utility's proposed operating and maintenance expenses for its water system of \$25,751 are based on current costs for purchased power, chemicals, materials and supplies, bad debt, miscellaneous expenses, and contractual services. We find that the amount is reasonable and we shall include \$25,751 in the revenue requirement for operating and maintenance expense for water.

The utility's proposed operating and maintenance expenses for its wastewater system of \$53,463 are based on current costs for sludge removal, purchased power, chemicals, materials and supplies, bad debt, miscellaneous expenses, and contractual services. We find that the amount is reasonable and we shall include \$53,463 in the revenue requirement for operating and maintenance expense for wastewater.

Net Depreciation and Amortization Expenses

The utility's proposed net depreciation and amortization expenses of \$9,919 for water and \$68 for wastewater are based on the guideline rates reflected in Rule 25-30.140, Florida

Administrative Code. We find that the utility's net proposed depreciation and amortization expenses of \$9,919 and \$68 for water and wastewater, respectively, are reasonable and we shall include it in the revenue requirement.

Taxes Other Than Income and Income Taxes

The utility proposed taxes other than income for Orange Lake's water system of \$4,516 which includes regulatory assessment fees (RAFs) of 4.5% of gross revenues, payroll taxes of \$930, and property taxes of \$1,046. We find that the utility's proposed payroll taxes, property taxes, and RAFs are reasonable. Orange Lake's parent company is a limited partnership. The utility operation does not incur an income tax liability; therefore, no income tax expense was included in the proposed revenue requirement. We shall include taxes other than income for water of \$4,516 in the revenue requirement.

The proposed balance for taxes other than income for Orange Lake's wastewater system is \$4,402, which includes RAFs of 4.5% of gross revenues, payroll taxes of \$912, and property taxes of \$869. We find that the utility's proposed payroll taxes, property taxes, and RAFs are reasonable. Orange Lake's parent company is a limited partnership. The utility operation does not incur an income tax liability; therefore, no income tax expense was included in the proposed revenue requirement. We shall include taxes other than income for wastewater of \$4,402 in the revenue requirement.

Rates

As explained above, as a part of its consumptive use permit, the SJRWMD required Orange Lake to form a private utility capable of charging for water use. Orange Lake decided that this would be an appropriate time to also begin charging for wastewater service. The utility's proposed residential and general service rates are based on a revenue requirement of \$56,454 for water and \$58,252 for wastewater. The requested rates include a base facility charge and gallonage charge which is considered a conservation rate structure. Since 2002, the utility has been separately metering all water use at each point of connection and providing that information to residents monthly without charging for the water service. We find that the utility's proposed water and wastewater rates for residential and general service customers are reasonable and we approve them. The utility's requested monthly rates, along with a comparison of typical monthly bills, are shown on Schedule 4 in Attachment A to this Order. Orange Lake should charge these rates and charges until authorized to change them by this Commission in a subsequent proceeding. Orange Lake shall provide notice to all customers of the approved rates prior to billing for monthly water and wastewater service. The utility shall also file a proposed customer notice reflecting the approved rates within ten days of the date of the consummating order. The approved rates shall be effective for service rendered on or after the stamped approval date on the tariff sheet, pursuant to Rule 25-30.475(1), Florida Administrative Code. A return on equity of 11.40% plus or minus 100 basis points is reasonable and we approve it.

Miscellaneous Service Charges

The application contains a request for miscellaneous service charges. The utility's proposed miscellaneous service charges are in compliance with Rule 25-30.460, Florida Administrative Code, which defines four categories of miscellaneous service charges. The proposed miscellaneous service charges are reasonable and we approve them.

SERVICE AVAILABILITY CHARGES

We find that the utility's proposed service availability policy and charges are appropriate and we approve them, effective for connections made on or after the stamped approval date on the tariff sheets pursuant to Rule 25-30.475(2), Florida Administrative Code.

Rule 25-30.580(1)(a), Florida Administrative Code, provides that the maximum amount of contributions-in-aid-of-construction (CIAC), net of amortization, should not exceed 75% of the total original cost, net of accumulated depreciation, of the utility's facilities and plant when the facilities and plant are at their designed capacity. Rule 25-30.580(1)(b), Florida Administrative Code, provides that the minimum amount of CIAC should not be less than the percentage of such facilities and plant that is represented by the water transmission and distribution systems or the wastewater treatment and disposal systems.

Orange Lake built all of the plant, distribution system, and disposal facilities within the existing territory. In 2002, the utility installed meters for all of its existing customers. The utility is requesting approval of a meter installation charge of \$200 for a 5/8"x3/4" meter. No other service availability charges were requested because the utility is near build out. The utility's requested meter installation charge of \$200 is approved for new connections made on or after the stamped approval date on the tariff sheets.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that Hidden Valley SPE LLC d/b/a Orange Lake, is granted Certificate No. 625-W and Certificate No. 536-S to provide water and wastewater service in the territory described in Attachment A to this Order. It is further

ORDERED that Attachment A to this Order is incorporated herein. It is further

ORDERED that the utility's initial rates and return on investment are approved as set forth in the body of this Order and in Schedule 4 which is included in Attachment A. It is further

ORDERED that the portions of this Order establishing the utility's initial rates and charges and return on investment shall become final and effective upon the issuance of a Consummating Order unless an appropriate petition, in the form provided by Rule 28-106.201, Florida Administrative Code, is received by the Director, Division of the Commission Clerk and Administrative Services, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on the date set forth in the "Notice of Further Proceedings" attached hereto. It is further


ORDERED that the utility shall file a proposed customer notice reflecting the approved rates and charges within 10 days of issuance of the Consummating Order. It is further

ORDERED that in the event the portion of this Order establishing rates and charges becomes final, this docket shall be closed.

By ORDER of the Florida Public Service Commission this 22nd day of December, 2004.

BLANCA S. BAYÓ, Director
Division of the Commission Clerk
and Administrative Services

By:



Kay Flynn, Chief
Bureau of Records

(SEAL)

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NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), Florida Statutes, to notify parties of any administrative hearing or judicial review of Commission orders that is available under Sections 120.57 or 120.68, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing or judicial review will be granted or result in the relief sought.

As identified in the body of this order, our action establishing initial rates and charges is preliminary in nature. Any person whose substantial interests are affected by the action proposed by this order may file a petition for a formal proceeding, in the form provided by Rule 28-106.201, Florida Administrative Code. This petition must be received by the Director,

Division of the Commission Clerk and Administrative Services, at 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on January 12, 2005. If such a petition is filed, mediation may be available on a case-by-case basis. If mediation is conducted, it does not affect a substantially interested person's right to a hearing. In the absence of such a petition, this order shall become effective and final upon the issuance of a Consummating Order.

Any objection or protest filed in this docket before the issuance date of this order is considered abandoned unless it satisfies the foregoing conditions and is renewed within the specified protest period.

Any party adversely affected by the Commission's final action in this matter may request:

- (1) reconsideration of the decision by filing a motion for reconsideration with the Director, Division of the Commission Clerk and Administrative Services within fifteen (15) days of the issuance of this order in the form prescribed by Rule 25-22.060, Florida Administrative Code; or
- (2) judicial review by the Florida Supreme Court in the case of an electric, gas or telephone utility or the First District Court of Appeal in the case of a water or wastewater utility by filing a notice of appeal with the Director, Division of the Commission Clerk and Administrative Services and filing a copy of the notice of appeal and the filing fee with the appropriate court. This filing must be completed within thirty (30) days after the issuance of this order, pursuant to Rule 9.110, Florida Rules of Appellate Procedure. The notice of appeal must be in the form specified in Rule 9.900(a), Florida Rules of Appellate Procedure.

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ATTACHMENT A

Hidden Valley SPE LLC d/b/a Orange Lake
Water and Wastewater Territory Description
Lake County

The Southeast 1/4 of the Northeast 1/4 of Section 27, Township 22 South, Range 26 East, Lake County, Florida, less the right of way for State Road 50.

Hidden Valley SPE LLC d/b/a Orange Lake
 Schedule of Water Rate Base

Schedule No. 1A

<u>DESCRIPTION</u>		PROPOSED BY UTILITY AND COMMISSION APPROVED	
Utility Plant in Service and Land		\$531,087	
Accumulated Depreciation		(255,976)	
CIAC		(107,789)	
Accumulated Amortization of CIAC		<u>53,118</u>	
RATE BASE		\$220,440	

Hidden Valley SPE LLC d/b/a Orange Lake
 Schedule of Wastewater Rate Base

Schedule No. 1B

<u>DESCRIPTION</u>		PROPOSED BY UTILITY AND COMMISSION APPROVED	
Utility Plant in Service		\$362,499	
Accumulated Depreciation		(274,715)	
CIAC		(178,699)	
Accumulated Amortization of CIAC		<u>95,243</u>	
RATE BASE		\$ 4,328	

Hidden Valley SPE LLC d/b/a Orange Lake
Capital Structure for Hometown America, LLC
Schedule of Cost of Capital

Schedule No. 2

<u>DESCRIPTION</u>	<u>BALANCE PER UTILITY</u>	<u>WEIGHT</u>	<u>COST RATE</u>	<u>WEIGHTED COST</u>
Common Equity	\$ 74,960	33.35%	11.40%	3.80%
Long - Term Debt	149,808	66.65%	5.37%	3.58%
Customer Deposits	0	0.0%	8.00%	0.00%
	\$224,768	100.0%		7.38%
Range of Reasonableness	High	Low		
Common Equity	12.40%	10.40%		

Hidden Valley SPE LLC d/b/a Orange Lake
 Schedule of Water and Wastewater Rate Base

Schedule No. 3

<u>DESCRIPTION</u>	<u>UTILITY REQUESTED AND COMMISSION APPROVED WATER</u>	<u>UTILITY REQUESTED AND COMMISSION APPROVED WASTEWATER</u>
Operating Revenues	\$56,454	\$ 58,252
Operating and Maintenance	25,751	53,463
Depreciation/Amortization Expense	9,919	68
Taxes Other Than Income	4,516	4,402
Income Taxes	0	0
Total Operating Expense	40,186	57,933
Return on Net Investment	\$16,268	\$319
Rate Base	\$220,440	\$4,328
Rate of Return	7.38%	7.38%

Hidden Valley SPE LLC d/b/a Orange Lake
 Schedule of Monthly Rates and Charges

Schedule No. 4

Monthly Service Rates

Residential & General Service

	WATER	
<u>Base Facility Charge</u> 5/8" x 3/4"		\$ 8.62
Charge per 1,000 gallons		\$1.29
	WASTEWATER	
<u>Base Facility Charge</u> 5/8" x 3/4"		\$7.99
Charge per 1,000 gallons		\$1.51
Residential cap of 8,000 gallons		

Typical Residential Bills

<u>5/8" x 3/4" meter</u>	Water	Wastewater
3,000 gallons	\$ 12.49	\$12.52
5,000 gallons	\$ 15.07	15.54
10,000 gallons	\$ 21.52	23.09

MISCELLANEOUS SERVICE CHARGES

	Water	Wastewater
Initial Connection	\$ 15.00	\$ 15.00
Normal Reconnection	15.00	15.00
Violation Reconnection	15.00	Actual
Premises Visit (in lieu of disconnection)	10.00	10.00