

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application for amendment of Certificate No. 106-W to extend water service to include certain territory in Lake County adjacent to Silver Lakes Estates water system, and for approval of special developer's agreement, by Aqua Utilities Florida, Inc.

DOCKET NO. 070361-WU  
ORDER NO. PSC-07-0963-PAA-WU  
ISSUED: December 4, 2007

The following Commissioners participated in the disposition of this matter:

LISA POLAK EDGAR, Chairman  
MATTHEW M. CARTER II  
KATRINA J. McMURRIAN  
NANCY ARGENZIANO  
NATHAN A. SKOP

FINAL ORDER AMENDING CERTIFICATE NO. 106-W, AND NOTICE OF PROPOSED  
AGENCY ACTION ORDER APPROVING SPECIAL DEVELOPER'S AGREEMENT

BY THE COMMISSION:

Background

NOTICE is hereby given by the Florida Public Service Commission that the approval of the amendment application is final agency action, but the action proposing to approve the special developer's agreement 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 (F.A.C.).

Aqua Utilities Florida, Inc. (Aqua or utility) is a Class A utility providing water and wastewater service in numerous counties in Florida. Rates were last considered in Docket No. 060368-WS, and that rate increase request was withdrawn by the utility. Rates for this system were last approved in Order No. PSC-05-1242-PAA-WS in Docket No. 040951-WS, where we approved the transfer of Silver Lakes Estates to Aqua.

The filing in this docket is for the addition of about 60 acres of undeveloped land to Aqua's service area. This application was filed June 6, 2007, to include the Via Tuscany subdivision, which is anticipated to begin development in late 2007. A special developer's agreement is included in the filing. Special service availability agreements are filed when an agreement for charges for extension of service is not consistent with the utility's service availability policy in its tariff.

DOCUMENT NUMBER-DATE

10662 DEC-4 07

FPSC-COMMISSION CLERK

The service area for Silver Lakes Estates is in the St. Johns River Water Management District. We have jurisdiction pursuant to Section 367.045, Florida Statutes (F.S.).

#### Amendment Application

The utility's amendment application is to serve a development comprised of about 60 acres which will accommodate 91 residential homes. The application is in compliance with the governing statute, Section 367.045, F.S., and other pertinent statutes and administrative rules concerning an application for amendment of certificate. The utility provides water service from its wells at Silver Lakes Estates/Western Shores, two systems that are interconnected. The area requested for amendment sits adjacent to the Silver Lakes Estates system. Central wastewater service is not provided and each home will have a septic tank.

An adequate service territory map and a territory description have been provided as prescribed by Rule 25-30.036(3)(e) and (i), F.A.C. A description of the territory requested by the utility is appended to this Order as Attachment A. The utility has submitted an affidavit consistent with Section 367.045(2)(d), F.S., that it has tariffs and annual reports on file with this Commission. In addition, the application contains proof of compliance with the noticing provisions set forth in Rule 25-30.030, F.A.C. No objections to the application have been received and the time for filing such has expired. The local planning agency was provided notice of the application and did not file a protest to the amendment. The Department of Community Affairs has reviewed the filing and commented that the proposed expansion of territory is consistent with Lake County's Comprehensive Plan. The utility has filed revised tariff sheets incorporating the additional territory into its tariff.

Based upon the above information, Aqua's Certificate No. 106-W shall be amended to allow Aqua to serve the territory described in Attachment A. This Order shall serve as Aqua's amended certificate and the order shall be retained by the utility. Aqua shall charge the customers in the added territory the rates and charges contained in its tariff until authorized to change by this Commission in a subsequent proceeding.

#### Special Developer's Agreement

Along with its amendment application, the utility filed a special developer service availability agreement. The agreement provides that the developer will construct the on-site water system including mains, service lines, curb stop, and meter boxes, and convey those facilities to Aqua for this development. Another provision is that the utility will rebate to the developer \$900 as each new dwelling unit connects to the system within the development for ten years. After ten years, no more rebate payments will be made. Other payments made by the developer to the utility include contributions in aid of construction (CIAC) charges for a meter installation charge, plant capacity charge, tap-in fee, main extension charge, and Allowance for Funds Prudently Invested (AFPI) charges for both the treatment plant and transmission and distribution system. Aqua will install the meters as homeowners close on their homes.

The proposed accounting treatment by Aqua is that the value of the donated lines will be recorded as donated property. As the service availability charges (\$90 meter installation charge,

\$700 plant capacity charge, \$143 tap-in fee, \$446 main extension charge) are paid, the developer will be given a rebate of \$900 per dwelling unit. The utility will offset the rebate against the main extension charge (\$446) first, and offset the remaining balance against the plant capacity charge (\$454).

The guideline for CIAC is for water and wastewater utilities to recover as a maximum not more than 75% of net plant at design capacity and at a minimum to recover at least the value of facilities represented by the transmission and collection system (Rule 25-30.580, F.A.C.). The proposed agreement will meet the guidelines in Rule 25-30.580, F.A.C. because the full value of the donated lines will be recorded as CIAC which meets the minimum criteria.

The provision for a rebate of \$900 to the developer from the utility as each dwelling unit connects to the water system is stated on the third page of the agreement under paragraph 1. The utility believes this rebate to offset the developer's cost to the water system inside the development is warranted because it is an incentive to the developer to add more customers to its water system, and will avoid the proliferation of small systems.

Refunds by a utility are normally conducted as a result of a refundable advance agreement. This arrangement occurs when a developer installs facilities that are oversized in order to make the project feasible, whether those oversized items are lines or plant capacity. Refunds are then made to the developer as additional users connect to the system that was oversized. No facilities are oversized in this docket, and therefore these refunds are distinguished from rebates.

Upon review, we find the special developer's agreement and proposed accounting treatment shall be approved.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that Aqua Utilities Florida, Inc.'s Certificate No. 106-W shall be amended to allow Aqua to serve the territory described in Attachment A. It is further

ORDERED that this Order shall serve as Aqua's amended certificate and shall be retained by the utility. It is further

ORDERED that Aqua shall charge the customers in the added territory the rates and charges contained in its tariff until authorized to change by this Commission in a subsequent proceeding. It is further

ORDERED that the special developer's agreement and proposed accounting treatment shall be approved. It is further

ORDERED that the provision of this Order proposing to approve the special developer's agreement is issued as proposed agency action, and 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 Office of Commission Clerk, 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 if a substantially affected person does not protest the proposed agency action portion of this Order within 21 days, a Consummating Order shall be issued, and the docket shall be closed.

By ORDER of the Florida Public Service Commission this 4th day of December, 2007.



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ANN COLE  
Commission Clerk

( S E A L )

RRJ

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 approving the special developer's agreement 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 Office of Commission Clerk, at 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on December 25, 2007. 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 approving the amendment application may request: (1) reconsideration of the decision by filing a motion for reconsideration with the Office of Commission Clerk, 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 Office of Commission Clerk 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.

AQUA UTILITIES FLORIDA, INC.  
Description of Territory Served  
Water Service Territory  
Lake County

Silver Lakes Estates/Western Shores – Via Tuscan subdivision

In Township 19 South, Range 25 East, Sections 10, 11, 14, and 15:

Commencing at the Northeast corner of said Section 15, same being the Northwest corner of said Section 14; run thence South  $00^{\circ} 05' 20''$  East, along a line dividing said Sections 14 and 15, a distance of 162.64 feet to the Northwest corner of Lot 1, Golfview as shown on the plat thereof recorded in Plat Book 16, Page 49, Public Records of Lake County, Florida, said point being the Point of Beginning.

From said Point of Beginning, continue S.  $00^{\circ}05'20''$  E. along the aforementioned line dividing Sections 14 and 15, a distance of 2,472.56 feet to a point that is N.  $00^{\circ}05'20''$  W. and 30.00 feet from the East 1/4 corner of said Section 15; thence N.  $89^{\circ}53'59''$  W., 654.09 feet; thence N.  $26^{\circ}09'57''$  W., 153.20 feet, thence S.  $89^{\circ}42'35''$  W., 309.34 feet to a point on the East line of Resubdivision of Silver Lake Estates as shown on the plat thereof recorded in Plat Book 10, Page 66, Public Records of Lake County, Florida; thence along said Easterly line the following 4 courses and distances; N.  $01^{\circ}53'01''$  E., 183.50 feet; thence N.  $03^{\circ}40'15''$  W., 321.34 feet; thence N.  $22^{\circ}47'02''$  W., 23.59 feet; thence N.  $22^{\circ}56'41''$  W., 347.06 feet to the South line of Lot 24 Resubdivision of Silver Lakes Estates; thence S.  $69^{\circ}35'45''$  W., along said South line 559.16 feet to the waters edge of Silver Lake; thence N.  $21^{\circ}35'18''$  W., along the waters edge of Silver Lake 466.09 feet to the North line of Lot 20, of said Resubdivision of Silver Lakes Estates; thence N.  $58^{\circ}43'22''$  E., along said North line 528.99 feet; thence N.  $00^{\circ}28'24''$  W., 473.69 feet to the Southeast corner of Lot 17, Greenview as shown on the plat thereof recorded in Plat Book 23, Page 43, Public Records of Lake County, Florida; thence N.  $00^{\circ}01'05''$  E., along said East line 171.79 feet; thence N.  $89^{\circ}51'04''$  E., 170.02 feet to a point of curvature of a curve concave southerly having a radius of 50.00 feet, a central angle of  $35^{\circ}52'07''$  and a chord length of 30.79 feet; thence along the arc of said curve an arc length of 31.30 feet to the West line of Lot 16 of said Greenview; thence S.  $00^{\circ}17'27''$  E., 162.18 feet; thence S.  $00^{\circ}06'35''$  W., 29.81 feet to the South line of said Greenview; thence N.  $89^{\circ}53'41''$  E., 470.21 feet to the Southeast corner of Lot 13 of said Greenview; thence N.  $28^{\circ}00'00''$  W., along the Easterly line of said Lot 13, a distance of 14.05 feet; thence N.  $76^{\circ}47'41''$  E., a distance of 84.94 feet to the Southeasterly line of Lot 12 of said Greenview; thence N.  $26^{\circ}02'45''$  E., along said Southeasterly line 49.95 feet to the East line of said Greenview; thence N.  $00^{\circ}03'57''$  W., along said East line 573.83 feet to the North line of said Greenview; thence S.  $89^{\circ}48'44''$  W., along said North line 632.53 feet to the West line of the Southeast 1/4 of the Southeast 1/4 of Section 10, Township 19 South, Range 25 East; thence N.  $00^{\circ}04'09''$  W., along said West line 590.69 feet; thence N.  $20^{\circ}57'20''$  E., 591.56 feet to a point on the South line of Lot 31, Golfview, as shown on the

plat thereof, recorded in Plat Book 16, page 49, Public Records of Lake County, Florida; thence along the Southerly line of Lots 22-31 the following five courses and distances: S.  $89^{\circ}59'12''$  E., 87.38 feet; thence N.  $00^{\circ}15'10''$  W., 25.00 feet; thence N.  $89^{\circ}54'21''$  E., 100.08 feet; thence S.  $00^{\circ}04'05''$  W., 25.09 feet; thence N.  $89^{\circ}55'29''$  E., 803.38 feet to the Southwest corner of Lot 21 of said Golfview; thence S.  $45^{\circ}07'58''$  E., along the Southwesterly line of Lots 14-21 553.10 feet to a point on the West line of Lot 14 of said Golfview; thence S.  $00^{\circ}09'49''$  E., along the West line of Lots 5-14 of said Golfview 869.91 feet; to the Northeast corner of Lot 4 of said Golfview; thence S.  $89^{\circ}47'13''$  W., along the North line of Lots 1-4 297.80 feet to the Northwest corner of said Lot 4 and the Point of Beginning.

**FLORIDA PUBLIC SERVICE COMMISSION**  
**authorizes**  
**Aqua Utilities Florida, Inc.**  
**pursuant to**  
**Certificate Number 106-W**

to provide water service in Lake County in accordance with the provisions of Chapter 367, Florida Statutes, and the Rules, Regulations, and Orders of this Commission in the territory described by the Orders of this Commission. This authorization shall remain in force and effect until superseded, suspended, canceled or revoked by Order of this Commission.

<u>Order Number</u>	<u>Date Issued</u>	<u>Docket Number</u>	<u>Filing Type</u>
5573	11/03/72	C-72497-W	Original Certificate
5595	12/07/72	C-72505-W	Original Certificate
5666	03/06/73	C-72651-W	Original Certificate
6801	07/25/75	750327-W (AP)	Original Certificate
6928	09/30/75	750367-W	Original Certificate
8075	12/02/77	770578-W (TC)	Transfer/Amendment
8076	12/02/77	770577-W (TC)	Transfer/Amendment
8144	01/25/78	770579-W (TC)	Transfer/Amendment
8299	05/05/78	780057-WS (TC)	Transfer/Amendment
9483	08/05/80	791043-W	Transfer/Amendment
9635	11/14/80	800192-WS (AP)	Original Certificate
9688	12/10/80	791043-W (TC)	Amendatory
9988	05/05/81	780278-WS (TC)	Transfer/Amendment
10109	06/29/81	800636-WS (TC)	Transfer/Amendment
10109-A	07/31/81	800636-WS (MC)	Amendatory
14115	02/21/85	840304-WS	Original Certificate
15295	10/25/85	850695-WU	Amendment
19575	06/27/88	870633-WS	Transfer Certificate
20647	01/24/89	881011-WU	Transfer/Amendment
20869	03/09/89	880605-WS	Transfer/Amendment
21636	07/31/89	890348-WU	Transfer/Amendment
23378	08/21/90	900106-WS	Transfer/Amendment
23459	09/11/90	900227-WU	Amendment
23505	09/18/90	900556-WU	Amendment
23656	10/23/90	891320-WU	Amendment
23852	12/10/90	900556-WU	Affirm Amendment
24230	03/12/91	900702-WU	Amendment
PSC-93-0754-FOF-WU	05/18/93	921044-WU	Amendment
PSC-93-0754A-FOF-WU	06/07/93	921044-WU	Amendatory
PSC-93-1150-FOF-WU	08/09/93	930129-WU	Amendment
PSC-93-1306-FOF-WU	09/08/93	930129-WU	Amendment
PSC-95-0268-FOF-WS	02/28/95	940091-WS	Transfer/Amendment



<u>Order Number</u>	<u>Date Issued</u>	<u>Docket Number</u>	<u>Filing Type</u>
PSC-96-0131-FOF-WS	01/29/96	950231-WS	Amendment
PSC-96-0432-FOF-WU	03/28/96	950880-WU	Transfer/Amendment
PSC-96-1409-FOF-WU	11/20/96	960716-WU	Transfer Certificate
PSC-97-0375-FOF-WU	04/07/97	960793-WU	Transfer/Amendment
PSC-97-0427-FOF-WS	04/16/97	970028-WS	Name Change
PSC-99-0483-FOF-WS	03/08/99	981508-WS	Transfer Majority Control
PSC-99-2115-PAA-WS	10/25/99	981779-WS	Transfer Certificate
PSC-02-1427-FOF-WU	10/18/02	990054-WU	Amendment/Deletion
PSC-03-0627-FOF-WU	05/23/03	021142-WU	Amendment
PSC-03-1235-FOF-WU	11/03/03	021137-WU	Amendment
PSC-04-0715-FOF-WS	07/21/04	040359-WS	Name Change
PSC-05-1242-PAA-WS	12/20/05	040951-WS	Transfer Certificate
PSC-06-0973-FOF-WS	11/22/06	060643-WS	Reorg./Name Change
PSC-07-0963-PAA-WU	12/04/07	070361-WU	Amendment