

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application for certificates to provide water and wastewater service in Marion County by OB Utility Systems, L.L.C. | DOCKET NO. 110020-WS  
ORDER NO. PSC-11-0441-FOF-WS  
ISSUED: October 5, 2011

The following Commissioners participated in the disposition of this matter:

ART GRAHAM, Chairman  
LISA POLAK EDGAR  
RONALD A. BRISÉ  
EDUARDO E. BALBIS  
JULIE I. BROWN

FINAL ORDER GRANTING WATER AND WASTEWATER CERTIFICATES

BY THE COMMISSION:

Background

On January 7, 2011, Equity LifeStyle Properties, Inc. (ELPI) filed an application for original water and wastewater certificates in Marion County on behalf of its subsidiary, OB Utility Systems, L.L.C. (OB Utility or Utility). Since approximately 1981, the Utility has been providing potable water and wastewater service to the Oak Bend Mobile Home Park (Oak Bend MHP), which is located east of Interstate 75 near the city of Ocala. The Oak Bend MHP is in the St. Johns River Water Management District (SJRWMD) in a Water Resource Caution Area.

OB Utility currently serves approximately 262 residential connections in addition to a clubhouse, pool, laundry facilities, and fitness center. Based on projected revenues, the Utility will be a Class C water and wastewater utility.

In the past, ELPI included the cost of water and wastewater service in the customers' lot rental fees. Therefore, ELPI has been exempt from our regulation pursuant to Section 367.022(5), Florida Statutes (F.S.). However, our approval of the Utility's request for original water and wastewater certificates, as set forth below, places the Utility under our regulatory jurisdiction pursuant to Section 367.031, F.S.

The appropriate rates and charges for this Utility will be addressed by us in this docket at a later date. Upon our approval of the appropriate rates and charges, ELPI asserts that it intends to offset the establishment of rates and charges with appropriate decreases in the lot rental fees.

Pursuant to Section 367.031, F.S., we shall grant or deny an application for a certificate of authorization within 90 days after the official filing date of the completed application. OB Utility's application was completed on June 27, 2011; therefore, we must grant or deny the Utility's application by September 26, 2011. The purpose of this Order is to address the Utility's

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application for original water and wastewater certificates. We have jurisdiction pursuant to Sections 367.031, 367.045, 367.081, 367.091, and 367.101, F.S. Additional time is needed for our staff to conduct a customer meeting, in order to allow customers to provide input regarding the Utility's quality of service and to answer customers' questions about the Utility's proposed rates and charges. Our staff will file a recommendation addressing initial rates and charges at a subsequent Commission Conference.

#### Granting of Certificates

As previously stated, on January 7, 2011, ELPI filed an application for original water and wastewater certificates in Marion County. However, the original filing was deficient, with the deficiencies being corrected on June 27, 2011, and that date was set as the official date of filing pursuant to Section 367.083, F.S. As set out below, the Utility's application is in compliance with the governing statutes, Sections 367.031 and 367.045, F.S., and other pertinent statutes and administrative rules concerning an application for original certificates.

**Notice.** The application contains proof of compliance with the noticing provisions of Rule 25-30.030, F.A.C. On July 14, 2011, an objection was filed on behalf of Oak Bend Homeowners Association, Inc. (Oak Bend HOA). The Oak Bend HOA letter addressed concerns regarding ELPI's adjustment of lot rental fees as well as OB Utility's establishment and operation of facilities, as ELPI is currently providing water and wastewater services to Oak Bend MHP's residents. By letter dated July 28, 2011, our staff responded to the objection by explaining that OB Utility will continue to provide water and wastewater services to its customers using its existing water and wastewater facilities. The letter also described the process of a formal hearing and a protestor's rights and responsibilities and requested that our staff be informed by August 11, 2011, should Oak Bend HOA intend to pursue the objection and request a formal hearing. Our staff subsequently received a letter from Oak Bend HOA indicating that it did not wish to pursue a formal hearing. Additionally, no local government or utility objected to the application. No further objections have been received, and the time for filing such has expired.

**Territory.** Rules 25-30.033(1)(l) and (n), F.A.C., prescribe that a utility's application for original certificates shall provide a description of the territory to be served, using township, range, and section references, as well as a copy of a map showing township, range, and section with the proposed territory plotted thereon and with a defined reference point of beginning. The Utility has provided an accurate legal description of the proposed service territory and adequate service territory maps. The proposed service territory, approximately 62 acres, includes the area currently served by the Utility. The legal description of the proposed service territory is appended to this Order as Attachment A.

**Proof of Ownership.** Rule 25-30.033(1)(j), F.A.C., requires evidence in the form of a warranty deed that the utility owns the land upon which the utility treatment facilities are located or a copy of an agreement which provides for the continued use of the land, such as a 99-year lease. The application contained a copy of an unexecuted warranty deed made by MHC Oak Bend, L.L.C., a wholly-owned subsidiary of ELPI and the current owner of the property on which the water and wastewater facilities are located, to OB Utility. The application indicated

that the deed will be executed upon issuance of a final order granting water and wastewater certificates to the Utility. Pursuant to Rule 25-30.033(1)(j), F.A.C., the Utility shall submit an executed and recorded copy of the warranty deed within 30 days after the date of this Order granting the certificates.

**Financial and Technical Ability.** In accordance with Rule 25-30.033(1)(e), F.A.C., ELPI provided a statement describing its financial and technical ability to provide water and wastewater service. ELPI, which is publicly traded on the New York Stock Exchange, also provided its 2009 10-K Annual Report, as filed with the U.S. Securities and Exchange Commission, in the application. A review of this information shows that ELPI has ample financial backing to ensure the safe, efficient, and sufficient provision of water and wastewater service to the proposed service territory, and the Utility appears to have the ability to raise cash when necessary to finance its operations through its parent company, ELPI.

ELPI has been providing service to Oak Bend MHP since approximately 1981. In addition, the application referenced ELPI's ownership interest in properties throughout the United States and Canada (307 properties as of December 31, 2010). Properties owned and operated by ELPI in Florida include utilities that are currently regulated by us, such as CC Utility Systems, L.L.C. d/b/a Coral Cay Water & Sewer Company, a Class C water and wastewater utility in Broward County,<sup>1</sup> and BE Utility Systems, L.L.C., a Class C water utility in Lee County.<sup>2</sup> ELPI notes that utilities wholly-owned by it have a history of contracting professional, licensed companies that provide plant operation and maintenance services.

The Florida Department of Environmental Protection (DEP) conducted an inspection of the water facilities on January 27, 2011. The resulting report indicated that the Utility had no plant deficiencies and that the overall operation of the plant was good. Further, we note the Utility's wastewater treatment facility permit does not expire until April 12, 2015. The DEP's report of the most recent compliance evaluation inspection of the wastewater facilities, conducted on June 22, 2010, indicated that the overall operation was substantially compliant.

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<sup>1</sup> In 1995, we approved the transfer of water and wastewater certificates to CC Utility Systems, L.L.C., which underwent two name changes in Docket Nos. 010670-WS and 030454-WS. See Order No. PSC-95-0622-FOF-WS, issued May 22, 1995, in Docket No. 940850-WS, In re: Application for transfer of Certificates Nos. 481-W and 417-S in Broward County from Colonies Water Company to MHC-DeAnza Financing Limited Partnership d/b/a Colonies Water Company; Order No. PSC-01-1499-FOF-WS, issued July 18, 2001, in Docket No. 010670-WS, In re: Application for acknowledgement of corporate reorganization and name change on Certificate Nos. 417-S and 481-W in Broward County from MHC-DeAnza Financing Limited Partnership, d/b/a Colonies Water Company, to CM Utility Systems, L.L.C. d/b/a Colonies Water Company; and Order No. PSC-03-0919-FOF-WS, issued August 11, 2003, in Docket No. 030454-WS, In re: Application for name change on Certificate Nos. 481-W and 417-S in Broward County from CM Utility Systems, L.L.C. d/b/a Colonies Water Company to CC Utility Systems, L.L.C. d/b/a Coral Cay Water & Sewer Company.

<sup>2</sup> In 1995, we approved the transfer of a water certificate to BE Utility Systems, L.L.C., which underwent a name change in Docket No. 010563-WU. See Order No. PSC-95-0623-FOF-WU, issued May 22, 1995, in Docket No. 940849-WU, In re: Application for transfer of Certificate No. 366-W in Lee County from DeAnza Properties-XI, Ltd., d/b/a Buccaneer Water Service, to MHC-DeAnza Financing Limited Partnership, d/b/a Buccaneer Water Service; and Order No. PSC-01-1498-FOF-WU, issued July 18, 2001, in Docket No. 010563-WU, In re: Application for acknowledgement of corporate reorganization and utility name change from MHC-DeAnza Financing Limited Partnership d/b/a Buccaneer Water Service, holder of Certificate No. 366-W, to BE Utility Systems, L.L.C. d/b/a Buccaneer Water Service in Lee County.

According to the SJRWMD, there are no outstanding compliance issues related to the Utility's Consumptive Use Permit, which expires on November 16, 2020.

OB Utility understands that it must maintain its books and records according to the National Association of Regulatory Utility Commissioners' (NARUC) Uniform System of Accounts (USOA). The Utility also understands the requirements to file annual reports and pay regulatory assessment fees by March 31 for the preceding year ending December 31. In addition, both ELPI and the Utility are aware that the Utility may not change its rates, serve outside its certificated territory, or sell the Utility without our prior approval.

Based on the above information, we find it is in the public interest to grant OB Utility's request for original water and wastewater certificates. Accordingly, we shall grant the Utility water and wastewater Certificate Nos. 657-W and 561-S, respectively, to serve the territory described in Attachment A, effective September 20, 2011. This Order shall serve as OB Utility's water and wastewater certificates and shall be retained by the Utility as such. Pursuant to Rule 25-30.033(1)(j), F.A.C., either the Utility or ELPI shall submit an executed and recorded copy of the warranty deed within 30 days after the date of this order granting the certificates.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that OB Utility Systems, L.L.C. shall be granted water and wastewater Certificate Nos. 657-W and 561-S, respectively, to serve the territory described in Attachment A, effective September 20, 2011. It is further

ORDERED that this Order shall serve as OB Utility Systems, L.L.C.'s water and wastewater certificates and shall be retained by the Utility as such. It is further

ORDERED that pursuant to Rule 25-30.033(1)(j), F.A.C., either the Utility or Equity LifeStyle Properties, Inc. shall submit an executed and recorded copy of the warranty deed within 30 days after the date of this Order granting the certificates. It is further

ORDERED that the docket shall remain open pending receipt of the executed and recorded copy of the warranty deed within 30 days after the date of this Order granting the certificates, and to establish the setting of initial rates, charges, and return on equity.

By ORDER of the Florida Public Service Commission this 5th day of October, 2011.



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ANN COLE  
Commission Clerk  
Florida Public Service Commission  
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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.

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 Office of Commission Clerk, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, 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 and/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.

OB Utility Systems, L.L.C.  
Oak Bend Mobile Home Park  
Description of Water and Wastewater Territory  
Marion County

A PARCEL OF LAND LYING AND BEING IN SECTION 26, TOWNSHIP 16 SOUTH, RANGE 21 EAST, SAID LANDS LYING AND BEING IN MARION COUNTY, FLORIDA, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS;

COMMENCING AT THE SOUTHEAST CORNER OF SAID SECTION 26; THENCE N88°51'15"W, ALONG THE SOUTH LINE OF SAID SECTION 26, A DISTANCE OF 1326.27 FEET TO THE POINT OF BEGINNING OF THE HEREIN DESCRIBED PARCEL; THENCE CONTINUE N88°51'15"W ALONG SAID SOUTH LINE A DISTANCE OF 349.48 FEET TO A POINT ON THE EASTERLY RIGHT OF WAY LINE OF INTERSTATE 75; THENCE N29°25'14"W ALONG SAID EASTERLY RIGHT OF WAY LINE OF INTERSTATE 75 A DISTANCE OF 1920.04 FEET TO THE WEST LINE OF THE SOUTHEAST 1/4 OF SAID SECTION 26; THENCE N01°09'30"E ALONG SAID WEST LINE OF THE SOUTHEAST 1/4 OF SECTION 26 A DISTANCE OF 331.96 TO THE NORTH LINE OF THE SOUTH 1/2 OF THE NORTH 1/2 OF THE SOUTHEAST 1/4 OF SAID SECTION 26; THENCE S88°51'51"E ALONG SAID NORTH LINE OF THE SOUTH 1/2 OF THE NORTH 1/2 OF THE SOUTHEAST 1/4 OF SECTION 26 A DISTANCE OF 2623.90 FEET TO THE WEST RIGHT OF WAY LINE OF 27TH AVENUE; THENCE S01°03'14"W ALONG SAID WEST RIGHT OF WAY LINE A DISTANCE OF 661.64 FEET TO THE NORTH LINE OF THE SOUTHEAST 1/4 OF THE SOUTHEAST 1/4 OF SAID SECTION 26; THENCE N88°51'30"W ALONG THE SAID NORTH LINE OF THE SOUTHEAST 1/4 OF THE SOUTHEAST 1/4 OF SECTION 26 A DISTANCE OF 1300.06 FEET TO THE NORTHWEST CORNER OF SAID SOUTHEAST 1/4 OF THE SOUTHEAST 1/4 OF SECTION 26; THENCE S01°06'22"W ALONG THE WEST LINE OF SAID SOUTHEAST 1/4 OF THE SOUTHEAST 1/4 OF SECTION 26 A DISTANCE OF 1323.86 FEET TO THE POINT OF BEGINNING. CONTAINS 61.81 ACRES MORE OR LESS.

**FLORIDA PUBLIC SERVICE COMMISSION**

authorizes

**OB Utility Systems, L.L.C.**  
pursuant to  
**Certificate Number 657-W**

to provide water service in Marion 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, cancelled or revoked by Order of this Commission.

<u>Order Number</u>	<u>Date Issued</u>	<u>Docket Number</u>	<u>Filing Type</u>
PSC-11-0441-FOF-WS	10/05/2011	110020-WS	Original Certificate

**FLORIDA PUBLIC SERVICE COMMISSION**

authorizes

**OB Utility Systems, L.L.C.**  
pursuant to  
**Certificate Number 561-S**

to provide wastewater service in Marion 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, cancelled or revoked by Order of this Commission.

<u>Order Number</u>	<u>Date Issued</u>	<u>Docket Number</u>	<u>Filing Type</u>
PSC-11-0441-FOF-WS	10/05/2011	110020-WS	Original Certificate