

## BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application of Malabar Woods	)	DOCKET NO. 890694-WS
Utilities, Inc. for water and sewer	)	ORDER NO. 21641
certificates in Brevard County, Florida.)	)	ISSUED: 7-31-89
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The following Commissioners participated in the disposition of this matter:

MICHAEL MCK. WILSON, Chairman  
 BETTY EASLEY  
 JOHN T. HERNDON  
 GERALD L. GUNTER

ORDER GRANTING CERTIFICATES

BY THE COMMISSION:

Background

In February 1989, Malabar Woods Utilities, Inc. (Malabar or Utility) noticed its intent to file an application with this Commission for certificates to provide water and sewer service in Brevard County. On February 22, 1989, the City of Melbourne filed an objection to Malabar's notice, stating that the area which Malabar proposed to serve is within the service area allocated to the City of Melbourne by the South Brevard Water Authority (SBWA).

The SBWA is in the process of developing a source of high quality water for all areas of South Brevard County, with the City of Melbourne designated as the distribution agency and the entity responsible for providing funding for the development of the water source. On March 29, 1989, the City of Melbourne submitted a letter to the Commission withdrawing its objection to Malabar's notice of intent to apply for water and sewer certificates since the Utility will be obtaining bulk water and sewer services from the City of Palm Bay. On May 19, 1989, by Order No. 21264, the Commission acknowledged the City of Melbourne's withdrawal of its objection.

On April 26, 1989, Malabar filed its application with the Commission for water and sewer certificates in Brevard County. In its application, Malabar requested that the Commission issue the water and sewer certificates prior to the final determination of rates and charges. The request was made to

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In its application, Malabar requested that the Commission issue the water and sewer certificates prior to the final determination of rates and charges. The request was made to enable the Utility to proceed with its application for construction permits required by the Department of Environmental Regulation (DER).

The Utility further requested that it be granted a temporary waiver of the provisions of Rule 25-30.035, Florida Administrative Code, requiring the filing of proposed tariffs, territory maps, engineering plans and specifications, and the original cost data necessary to set initial rates and charges. Upon consideration, we will bifurcate the application process and grant the temporary waiver. The Utility will file the remaining information by July 31, 1989.

#### Application

The application is in compliance with Section 367.041, Florida Statutes, and other pertinent statutes and administrative rules concerning applications for original certificates. In particular, the notarized application contains:

- a) One check totaling \$1,800 which, upon calculation, (\$900 for water and \$900 for sewer), equates to the correct filing fee as prescribed by Section 367.141, Florida Statutes.
- b) Adequate service territory description pursuant to Rule 25-30.035(i), Florida Administrative Code. Said territory to be served is described as being in Brevard County, and more particularly as described in Attachment A attached.
- c) Proof of notice to all interested governmental and regulatory agencies, and all utilities within a four-mile radius of the territory to be served, and proof of advertisement in a newspaper of general circulation in the county, as prescribed by Rule 25-30.030, Florida Administrative Code.
- d) Since the utility will receive bulk services from the City of Palm Bay, the Utility will not need any land for its facilities.

Principal funding for the Utility will come from its parent and sole shareholder, The First, F.A. Our review of The First, F.A.'s financial statements indicate that there are

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sufficient funds available to operate the Utility during its initial years of operation.

The proposed system is located within the corporate limits of the Town of Malabar. Malabar intends to serve 900 equivalent residential connections (ERCs). A review of the area to be served shows that it is not within the geographical vicinity of an existing utility. Therefore, it is in the public interest for the applicant to provide service to the territory requested.

#### Rates

As stated previously, the Utility will file information regarding its initial rates and charges by July 31, 1989. Upon receipt of the information, it will be analyzed and appropriate rates and charges will be set at a subsequent agenda conference. Further, the Utility shall not charge for water and sewer service prior to the final establishment of rates and charges by the Commission.

It is, therefore,

ORDERED by the Florida Public Service Commission that Malabar Woods Utilities, Inc., 390 N. Orange Avenue, Orlando, Florida 32301, is hereby granted Water Certificate No. 521-W and Sewer Certificate No. 455-S to provide service to the territory described in Attachment A of this Order. It is further

ORDERED that Malabar shall not charge for service until appropriate rates and charges are established for the Utility by this Commission. It is further

ORDERED that the Utility's request for a temporary waiver of the provisions of Rule 25-30.035, Florida Administrative Code, requiring the filing of proposed tariffs, territory maps, engineering plans and specifications, and the original cost data necessary to set initial rates and charges is hereby granted. Malabar shall file the information required for the establishment of rates and charges by July 31, 1989. It is further

ORDERED that Docket No. 890694-WS shall remain open to establish rates and charges for the Utility.

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By ORDER of the Florida Public Service Commission,  
this 31st day of July, 1989.

  
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STEVE TRIBBLE, Director  
Division of Records and Reporting

( S E A L )

ALC

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.59(4), 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 Director, Division of Records and Reporting 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 sewer utility by filing a notice of

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appeal with the Director, Division of Records and Reporting 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

MALABAR WOODS UTILITIES, INC.  
BREVARD COUNTY

Section 36, Township 28 South, Range 37 East

All of Section 36

Less and except:

- 1) North half of Northeast quarter of the Northeast quarter;
- 2) West half of Southwest quarter.