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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

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IN RE: Application for amendment of)
Certificate No. 106-W to add territory)
in Lake County by Florida Water)
Services Corporation.)
_____)

RECORDS AND
DOCKET NO. 991666-WU
REPORTING

CITY OF GROVELAND'S RESPONSE IN OPPOSITION TO
FLORIDA WATER SERVICES CORPORATION'S MOTION TO STRIKE
AND MOTION FOR EXTENSION OF TIME TO FILE REBUTTAL TESTIMONY

The City of Groveland (City), by and through its undersigned attorney, pursuant to Rule 28-106.204(1), Florida Administrative Code, files this Response in Opposition to Florida Water Services Corporation's Motion to Strike and Motion for Extension of Time to File Rebuttal Testimony and in support thereof states as follows:

1. On November 28, 2000, Florida Water Services Corporation (FWSC) filed a motion to strike and motion for extension of time in which to file rebuttal testimony regarding sewer service availability to the service territory requested to be certified in this docket, the planned unit development known as the Summit.

2. With regard to the motion to strike, FWSC bases its motion on the fact that the developer did not request, nor has he been required by relevant planning authorities to provide, centralized sewer services to the planned development. Any testimony by Mr. Yarborough or Mr. Mittauer on this topic, is therefore, in FWSC's opinion, irrelevant. The City disagrees.

3. Section 367.045, Florida Statutes, sets forth the criteria by which the Commission is to judge an application for a water and/or wastewater certificate modification. These criteria are: 1) the ability or inability of the applicant to provide

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service; 2) the need or lack or need for service; 3) the existence or nonexistence of service from other sources within geographical proximity to the proposed service area; 4) compliance with local comprehensive plan(s); and 5) the public interest. Further, notwithstanding these criteria, the Commission "may not grant . . . an amendment to a certificate of authorization for the extension of an existing system, which will be in competition with, or a duplication of, any other system or portion of a system, unless it first determines that such other system or portion thereof is inadequate to meet the reasonable need of the public or that the person operating the system is unable, refuses or neglects to provide reasonably adequate service." §367.045(5)(a), Florida Statutes.

4. Whether or not the Summit can be provided with sewer service by each potential water provider in this docket is a valid issue in this proceeding even though wastewater service has not been requested by the Summit for several reasons. First, it is in the public's interest to have one provider of water and wastewater services to any single certificated area. This was recognized by the Commission in In re: Application for certificates to operate a water and wastewater utility in Charlotte and DeSoto Counties by Lake Suzy Utilities, Inc., Order No. PSC-00-0575-PAA-WS, 00 FPSC 3:450 (2000), in which the Commission issued Lake Suzy both a water and wastewater certificate to provide water and wastewater service in two counties even though Lake Suzy only had water facilities that transversed county lines. 00 FPSC 3:457-8 (2000). Not only

is one provider of water and wastewater preferred in order to avoid duplication of regulation, but a single service provider makes the most sense from a practical standpoint since sewer service is not metered but is calculated as a percentage of water consumption.

5. Second, it is in the public's interest to have the ability to have access to centralized wastewater service. Both the Department of Environmental Regulation as well as the Water Management Districts prefer centralized wastewater service because the adverse impacts of aging septic tank systems are well documented. The fact that Lake County does not require a centralized sewer system at this time does not make this issue irrelevant. Policies can change in this highly sensitive area.

6. Third, the Commission has broad discretion to consider anything within its jurisdiction with regard to all regulatory issues litigated before it. The City is not arguing that its ability, and FWSC's inability, to provide sewer service should be the only criteria to be considered by the Commission in evaluating FWSC's application, however, it is clearly a criteria which can, and should, be taken into account by the Commission.

7. For these reasons the motion to strike the testimony of Mr. Yarborough and Mr. Mittauer with regard to the availability of City sewer service to the proposed service area should be denied.

8. Finally, it is the position of the City that FWSC should have addressed FWSC's ability to provide sewer service in its rebuttal testimony filed on November 30, 2000. The City would note that the testimony of the City's witnesses was timely filed on

September 7, 2000 and that the City agreed to, and filed with FWSC a joint motion for, an extension of 30 days for the filing of rebuttal testimony until November 30, 2000. Thus, FWSC has had almost two months to formulate its response to the City's direct testimony concerning potential sewer service. However, FWSC waited until two days before the rebuttal testimony was due to file its motion to strike. FWSC has offered no good reason why it could not have addressed its ability to provide sewer service in its rebuttal testimony filed on November 30th and filed its motion to strike simultaneously. This is the normal procedure at the Commission and should have been followed here.

9. The City has followed the agreed upon due dates in this proceeding. FWSC should be required to do likewise. The fact that FWSC has chosen to file a motion to strike without also filing rebuttal testimony is its strategic decision. Whatever adverse consequences of that decision materialize should be visited upon FWSC alone, not the City or the Staff.

WHEREFORE, the City would request that the Commission deny Florida Water Services Corporation's motions to strike and motion for extension of time to file rebuttal testimony on wastewater service.


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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that true and correct copies of the foregoing was furnished by Hand Delivery (*) or regular U.S. Mail to the following on this 5th day of December, 2000:

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