

State of Florida



Public Service Commission

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COMMISSION CLERK

-M-E-M-O-R-A-N-D-U-M-

DATE: July 1, 2009

TO: Office of Commission Clerk (Cole)

FROM: Division of Economic Regulation (Brady, Kaproth, Redemann,)
Office of the General Counsel (Jaeger)

Handwritten initials: AB, KK, CROB, JS, CR, M, JSB, 180

RE: Docket No. 060601-WS – Application for certificates to provide water and wastewater service in Okeechobee County by Grove Utilities, Inc.

AGENDA: 07/14/09 – Regular Agenda – Interested Persons May Participate

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: Argenziano

CRITICAL DATES: None

SPECIAL INSTRUCTIONS: None

FILE NAME AND LOCATION: S:\PSC\ECR\WP\060601.RCM.DOC

Case Background

On September 11, 2006, Grove Utilities, Inc. (Grove or utility) submitted an application for original water and wastewater certificates in Okeechobee County, Florida, along with a Motion for Temporary Rule Waiver of Rule 25-30.033(1)(h), (j), (k), (m), (r), (t), (u), (v) and (w), Florida Administrative Code (F.A.C.), which requests the information necessary for setting initial rates and charges. The utility's proposed service territory comprises approximately nine square miles in the northeastern corner of Okeechobee County which is currently being used for citrus agriculture activities. The area is located in the South Florida Water Management District, which is considered a critical water supply problem area.

Grove Community Development Corporation (affiliated developer) intended to develop a self-contained, active-adult community over the next 18 years in the proposed service area with

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an estimated 15,000 residential units and 3.0 million square feet of commercial development. Grove was incorporated on May 16, 2006, for purposes of providing the development with water and wastewater service, estimated to commence in July of 2010.

The Commission granted the utility's Motion for Temporary Waiver by Order No. PSC-06-1015-PAA-WS, issued December 11, 2006. The Commission granted the utility Certificate Nos. 633-W and 542-S pursuant to Order No. PSC-07-0181-FOF-WS, issued February 27, 2007. The territory granted is appended to this memorandum as Attachment A. On April 15, 2009, the utility filed an application for deletion of its service territory and cancellation of its Certificate Nos. 633-W and 542-S. The utility has no utility facilities, customers, or revenues.

This recommendation addresses the request for deletion of territory and cancellation of certificates. The Commission has jurisdiction pursuant to Section 367.045, Florida Statutes (F.S.).

Discussion of Issues

Issue 1: Should the Commission grant Grove Utilities, Inc.'s application to delete its service territory and cancel Certificate Nos. 633-W and 542-S?

Recommendation: Yes. It is in the public interest for the Commission to approve Grove Utilities, Inc.'s request to delete its service territory and cancel Certificate Nos. 633-W and 542-S. The effective date of the cancellation of certificates should be the date of the Commission vote. The utility should be responsible for filing minimum regulatory assessment fees for 2009, as required by Rules 25-30.120(1) and (2), F.A.C. (Brady, Redemann, Kaproth, Jaeger)

Staff Analysis: On April 15, 2009, an application was filed on behalf of Grove to delete its service territory and cancel Certificate Nos. 633-W and 542-S. As noted, Grove has no utility facilities, customers, or revenues. The application meets the requirements of Section 367.045(2), F.S., and Rule 25-30.036(4), F.A.C. Notice of the application was given pursuant to Rule 25-30.030, F.A.C. No protests to the notice of application were received by the Commission.

Rule 25-30.036(4)(c), (d), and (e), F.A.C., requires modified system maps, number of active connections, and modified territory maps, respectively. Because the utility had not yet begun construction, modified system maps do not apply. Because the territory to be deleted represents all of Grove's service area, a modified territory map is also not necessary. As noted above, there are no active connections in the territory proposed to be deleted. For informational purposes, a description of the territory proposed to be deleted is appended to this memorandum as Attachment A.

Rule 25-30.036(4)(f), (g), and (h), F.A.C., requires statements specifying the reason for the proposed deletion of territory, why the proposed deletion is in the public interest, and the effect of the proposed deletion on the ability of current and potential customers to receive water and wastewater service, respectively. The reason for Grove's request for territory deletion and cancellation of certificates is the current economic conditions and the downturn in the housing market in Florida. Because the Grove real estate project in Okeechobee County will not be proceeding, utility service is not required. To date, no facilities have been constructed and no service is being provided. The public interest will be served by Grove avoiding the unnecessary expenditure of funds for construction of facilities that will not be needed.

Rule 25-30.036(4)(i), (j), (k), and (l), F.A.C., requires tariff sheets reflecting the revised service area, return of the utility's original certificates, the number of the most recent order by the Commission establishing or changing rates and charges, and an affidavit that the utility has tariffs on file with the Commission. Because the Commission has never established rates and charges for Grove, there are no orders on rates and charges, nor any tariffs on file. The requirement for utilities to return their original certificates is no longer necessary now that certificates are being issued with orders.

Rule 25-30.036(4)(1), F.A.C., requires an affidavit that the utility has annual reports on file with the Commission. Because the utility has no facilities, customers, or revenues, it has been filing the minimum annual report and paying the minimum regulatory assessments fees (RAFs) required by Rules 25-30.110 and 25-30.120, F.A.C., respectively. Staff has confirmed

that the utility is current on annual reports and RAFs through 2008. Pursuant to Rule 25-30.110(3), F.A.C., the obligation to file an annual report applies to any utility which is subject to the Commission's jurisdiction as of December 31st of each year. If the Commission approves Groves' application for cancellation of its certificates, then Grove will not be jurisdictional as of December 31, 2009, and will not have an obligation to file a 2009 annual report.

Pursuant to Rule 25-30.120(2), F.A.C., the obligation to remit RAFs applies to any year in which the utility is subject to this Commission's jurisdiction. Because Grove has been jurisdictional during 2009, staff recommends that Grove file the minimum annual RAFs of \$25 per service, \$50 total, for 2009, on or before March 31, 2010. Staff has contacted the utility which represented that it intends to pay the RAFs in the time allotted.

In summary, staff recommends that it is in the public interest for the Commission to approve Grove Utilities, Inc.'s request to delete its service territory and cancel Certificate Nos. 633-W and 542-S. The effective date of the cancellation of certificates should be the date of Commission vote. The utility should be responsible for filing minimum RAFs for 2009, as required by Rule 25-30.120(1) and (2), F.A.C.

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Issue 2: Should this docket be closed?

Recommendation: Yes. Because no further action is necessary, this docket should be closed.
(Jaeger)

Staff Analysis: Because no further action is necessary, this docket should be closed.

Grove Utilities, Inc.
Okeechobee County
Description of Territory

Township 34 South, Range 36 East

Sections 1, 2, 3, 10, 11, 12, 13, 14 and 15

All of Sections 1, 2, 3, 10, 11, 12, 13, 14, and 15 in Township 34 South, Range 36 East, Okeechobee County, Florida, less and except the following described lands:

Beginning at a concrete monument marking the Southeast corner of said Section 13, run N 89°26'05" W a distance of 5284.42 feet to an iron pipe marking the Southwest corner of said Section 13; thence run S 89°42'28" W a distance of 5114.05 feet along the south line of Section 14 to an iron pipe at the SW corner thereof; thence run N 89°31'14" W along the south line of Section 15 a distance of 5302.02 feet to a concrete monument marking the Southwest corner of said Section 15; thence run N 00°00'14" E along the West line of Section 15 a distance of 174.49 feet; thence run S 89°12'07" E along a fence line a distance of 5302.87 feet to a point which is 145 feet North of the Southwest corner of said Section 14; thence run S 00°12'46" W a distance of 20.0 feet; thence run N 89°42'28" E along a line lying parallel to and 125 feet North of the South line of Section 14 a distance of 5113.88 feet to a point which is 125 feet North of the Southwest corner of Section 13; thence run S 89°26'05" E along a line parallel to and 125 feet North of the South line of Section 13 a distance of 5149.10 feet to a point which is 135 feet West and 125 feet North of the Southeast corner of Section 13; thence run N 00°00'22" W a distance of 100 feet; thence run S 89°26'05" E a distance of 135 feet to the East line of said Section 13; thence run S 00°00'22" E a distance of 225 feet to the point of beginning at the Southeast corner of Section 13, Township 34 South, Range 36 East, Okeechobee County, Florida.