

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application for certificates to provide  
water and wastewater service in Okeechobee  
County by Grove Utilities, Inc.

DOCKET NO. 060601-WS  
ORDER NO. PSC-09-0503-FOF-WS  
ISSUED: July 16, 2009

The following Commissioners participated in the disposition of this matter:

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

ORDER DELETING SERVICE TERRITORY, CANCELLING CERTIFICATES NOS. 633-W  
AND 542-S, AND CLOSING DOCKET

BY THE COMMISSION:

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 comprised 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 an estimated 15,000 residential units and 3.0 million square feet of commercial development. The 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.

We granted the Utility's Motion for Temporary Waiver by Order No. PSC-06-1015-PAA-WS, issued December 11, 2006, and 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.

DOCUMENT NUMBER-DATE

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FPSC-COMMISSION CLERK

This Order addresses the request for deletion of territory and cancellation of certificates. We have jurisdiction pursuant to Section 367.045, Florida Statutes (F.S.).

#### DELETION OF SERVICE TERRITORY AND CANCELLATION OF CERTIFICATES

As stated above, on April 15, 2009, the Grove applied to delete its service territory and cancel Certificate Nos. 633-W and 542-S. 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 this 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 the 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 the 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 the 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 this Commission establishing or changing rates and charges, and an affidavit that the Utility has tariffs on file with this Commission. Because we have never established rates and charges for the 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 this 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. 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 our jurisdiction as of December 31<sup>st</sup> of each year. Because we are approving the Grove's application for cancellation of its certificates, the 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 the Grove has been jurisdictional during 2009, it shall file the minimum annual RAFs of \$25 per service, \$50 total, for 2009, on or before March 31, 2010. The Utility represented that it intends to pay the RAFs in the time allotted.

In summary, we find that it is in the public interest to approve the Grove's request to delete its service territory and cancel Certificate Nos. 633-W and 542-S. Therefore, the entire territory shall be deleted and the certificates shall be canceled effective July 14, 2009. The Utility shall be responsible for filing minimum RAFs for 2009, as required by Rule 25-30.120(1) and (2), F.A.C.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that Grove Utilities, Inc.'s territory shall be deleted and its Certificate Nos. 633-W and 542-S shall be canceled. It is further

ORDERED that Grove Utilities, Inc. shall be responsible for filing minimum regulatory assessment fees for 2009, as required by Rule 25-30.120(1) and (2), F.A.C. It is further

ORDERED that this docket shall be closed.

By ORDER of the Florida Public Service Commission this 16th day of July, 2009.



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ANN COLE  
Commission Clerk

(SEAL)

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.

**Grove Utilities, Inc.**  
**Okeechobee County**  
**Description of Territory Deleted**

**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.