

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

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COMMISSION
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In re: Application of Grove Land Utilities, LLC
to operate a water and wastewater utility
in Indian River County, Okeechobee and
St. Lucie Counties, Florida

DOCKET NO. 090445-WS

GROVE LAND'S MOTION TO COMPEL DISCOVERY

Grove Land Utilities, LLC, by and through its undersigned attorneys, hereby files its Motion to Compel against Fort Pierce Utility Authority and would state as follows:

1. On January 19, 2010, Bluefield served requests for production and interrogatories on Fort Pierce Utility Authority by facsimile and U.S. Mail. Pursuant to Rule 28-106.206, Florida Administrative Code, responses were due on February 18, 2010. As of this date, nothing has been filed in response to either the request for production or the interrogatories.¹

2. Rule 28-106.204(3) requires that Motions include a statement that the movant has conferred and shall state whether the party has any objection to the Motion. Attached find a letter sent via facsimile (over two weeks after the discovery responses were due) providing that a Motion to Compel would be filed if no discovery to the response was forthcoming. The letter provided that a Motion to Compel would be the resort of last choice. Unfortunately, no information was produced as a result of the properly tendered discovery nor as a result of the letter.²

3. Rule 28-106.206, Florida Administrative Code, provides that "after commencement of a proceeding, parties may obtain discovery through the means and in the

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ADM _____
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¹ The request for production was also a public records request. While the non-response to the public records request is not within the realm of the Commission's jurisdiction, it is troubling nonetheless.
² Nor as result of the public records request.

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manner provided in Rules 1.280 through 1.390, Florida Rules of Civil Procedure. In this case, no substantive authority or argument is provided in support of the specific discovery which is the subject of this Motion because this is a case of non-response (by objection or otherwise).

WHEREFORE, and in consideration of the above, Grove Land respectfully requests that the Fort Pierce Utility Authority be directed, within five days of any Order granting this Motion, to produce responses to the discovery without objection; and, within seven days of the date of any Order granting this Motion, to produce any responsive documents (whether provided as responsive to Interrogatories or Requests to Produce) in the offices of Tallahassee counsel for Grove Land.

Respectfully submitted this 25th day of
March, 2010, by:



JOHN L. WHARTON
FL BAR ID NO. 563099
F. MARSHALL DETERDING
FL BAR ID NO. 515876
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2548 Blairstone Pines Drive
Tallahassee, FL 32301
(850) 877-6555
(850) 656-4029 FAX

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished
via facsimile and U.S. Mail this 25th day of March, 2010, to:

Tom W. Conely, III
P.O. Drawer 1367
Okeechobee, FL 34973-1367

R. N. Koblegard, III
200 S. Indian River Drive
Suite 201
Fort Pierce, Florida 34950

Michael Minton
Lee Dobbins
1903 South 25th Street, Suite 200
Fort Pierce, FL 34947

George Glenn, Assistant County Attorney
1801 27th Street
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2300 Virginia Avenue
Fort Pierce, FL 34982

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Florida Public Service Commission
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JOHN L. WHARTON

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Please Respond to the Tallahassee Office

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JOHN L. WHARTON

ROBERT M. C. ROSE, (1924-2006)

March 4, 2010
VIA FACSIMILE

R. N. Koblegard, III
200 South Indian River Drive
Suite 201
Fort Pierce, FL 34950

Re: Grove Land Utilities, LLC; PSC Docket No. 090445-WS - Our File No. 44072.01
Bluefield Utilities, LLC; PSC Docket No. 090459-WS - Our File No. 44073.01

Dear Mr. Koblegard:

On January 19, 2010, FPUA received Request for Production and Interrogatories from this office in both of the above-referenced dockets. Your responses were due on February 18, 2010. Please see Rule 28-106-206, Fla. Admin. Code. As of this date, we have heard nothing from you with regard to this discovery. While we would prefer not to resort to a Motion to Compel or such other action under the statutes as is appropriate for public records requests (as our Requests for Production were clearly labeled), if we have not received complete responses to our discovery from you by next Wednesday, March 10, 2010, we will have no choice but to file a Motion to Compel. If FPUA does not intend to continue to participate in these cases as a party, please so clearly indicate on the record and you may thereafter consider our discovery and the public records requests withdrawn.

Please be advised that given this inexplicable lack of response to our discovery and public records requests, any objection to either our discovery or the public records requests will not be well received.

March 4, 2010
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Thank you in advance for your attention to this matter. We look forward to your anticipated cooperation.

Sincerely,

A handwritten signature in cursive script that reads "John L. Wharton".

ROSE, SUNDSTROM & BENTLEY, LLP
John L. Wharton
For The Firm

JLW/tms

cc: Ralph Jaeger, Esq.
Caroline Klancke, Esq.