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090459-WS

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Sent: Monday, December 06, 2010 3:10 PM
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Subject: Docket Nos 090445-WS & 090459-WS
Attachments: _1206150439_001.pdf

a. The full name, address, telephone number, and e-mail address of the person responsible for the electronic filing:

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b. The docket number and title if filed in an existing docket: 090445-WS and 090459-WS

Application of Grove Land Utilities, LLC and Application of Bluefield Utilities, LLC

c. The name of the party on whose behalf the document is filed:

Grove Land Utilities, LLC and Bluefield Utilities, LLC

d. The total number of pages in each attached document: 6

e. A brief but complete description of each attached document.
Emergency Stipulated Motion for Abatement

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12/6/2010

DOCUMENT NUMBER - DATE

9774 DEC-6 0

FPSC-COMMISSION CLERK

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application for original certificates for proposed water and wastewater system and request for initial rates and changes in Indian River, Okeechobee and St. Lucie counties by Grove Land Utilities, LLC.

DOCKET NO. 090445-WS

In re: Application for original certificates for proposed water and wastewater system and request for initial rates and charges in Martin and St. Lucie Counties by Bluefield Utilities, LLC.

DOCKET NO. 090459-WS

EMERGENCY STIPULATED MOTION FOR ABATEMENT

Grove Land Utilities, LLC and Bluefield Utilities, LLC (hereafter "Grove Land/Bluefield"), by and through their undersigned attorneys, hereby file this Emergency Stipulated Motion for Abatement, and in support thereof would state as follows:

1. The ultimate parent of the applicants for original certificates in this consolidated proceeding is the owner of the lands proposed to be certificated: Evans Properties. This matter is currently scheduled to go to a formal administrative hearing before a Commission panel on February 1, 2011.

2. Evans Properties is also the ultimate parent of Skyland Utilities which filed (contemporaneous with the filing of the applications in these consolidated dockets) an application for an original certificate for lands owned by Evans Properties in Pasco and Hernando Counties. While there are significant differences between the related facts and circumstances of the certificate applications of Grove Land/Bluefield and Skyland, there are also significant similarities.

DOCUMENT NUMBER - DATE

9774 DEC -6 0

FPSC-COMMISSION CLERK

3. The rebuttal testimony of Grove Land/Bluefield is currently due to be filed at the Commission on December 13, 2010. The agenda conference at which the Commission is scheduled to vote on staff's recommendation in the Skyland docket will occur the next day, December 14, 2010. Staff's recommendation was issued on Thursday, December 1, 2010.

4. These consolidated applications were originally the subject of six objections (Okeechobee Utility Authority, St. Lucie County, Martin County, Fort Pierce Utilities Authority, Indian River County, and the City of Port St. Lucie). To date, ongoing negotiations between the applicants and the objecting local governmental entities have resulted in a settlement with Okeechobee Utility Authority, Fort Pierce Utility Authority, Indian River County and the City of Port St. Lucie. Discussions and negotiations remain active and ongoing with the two remaining objectors (St. Lucie County and Martin County).

5. Because of the significant similarities between the Grove Land/Bluefield applications and the Skyland application (and despite the significant dissimilarities) the Commission's decision in Skyland on December 14 will have major implications on the status and posture of this proceeding and how Evans Properties will elect to proceed. This is particularly true if staff's recommendation in the Skyland case is accepted by the Commission on December 14. It is the position of the applicants in this docket and the applicant in Skyland that Staff's recommendation, if accepted by the Commission, would significantly alter the existing standard for the original certification to properties owned by large landowners in the State of Florida. The Commission has previously determined that despite the applicant testifying that until such time as there are customers for whom the construction of water facilities would be needed, the applicant would not move forward with the same¹, and despite the finding that the certificate was

¹ *In re: Application for certificate to provide water service in Volusia and Brevard Counties by Farmton Water Resources, LLC*, Order No. PSC-04-0980-FOF-WU, at 10.

sought for long-range planning purposes to allow the applicant to be prepared to provide service as and when needed to any residential, commercial, or industrial development in the area², the Commission concluded that the large property there at issue should be certificated (in part because it was *not* known when all forms of service would be required³). The Commission in that Order cited the case of East Central Florida Services, in which the Commission held that it is common in the case of a large landowner to grant an original certificate and approve rates for services for which there is no present, quantifiable need, but which may be in demand at a future time⁴. In this case, staff is recommending that need, in the application of Skyland, would be determined on a strikingly more narrow and restrictive basis. Staff's recommendation, among other things, characterizes as a "concession" the fact that Skyland has no "firm plans for development"; references several times the necessity for a demonstration of "immediate need"; and emphasizes the lack of a "formed" plan for cluster development and "requested approval of same". This recommendation, if ultimately accepted by the Commission, will significantly restrict the ability of large landowners to certificate their properties, an activity and outcome deemed by the Commission in several past orders to be in the public interest. The recommendation, if accepted, would constrict the concept of "need" in a way (particularly given the present state of Florida's economy) that discourages the planning, preservation, orderly development, and resource management advantages that such a certificate has traditionally been deemed (by the large landowners who have applied for the same and by the Commission) to provide. If staff's recommendation is accepted by the Commission, it will not only be appropriate, but absolutely necessary, that the applicants in these consolidated dockets determine

² Id, at 7.

³ Id at 11.

⁴ *In re: Application of East Central Florida Services, Inc. for an original certificate in Brevard, Orange, and Osceola Counties*, Order No. PSC-92-0104-FOF-WU, at 19 "Firm plans for . . . development" the lack of which staff's recommendation terms a "concession on cross examination"; "concrete plans for service"; "real and immediate need for service"; a form . . . plan for a cluster development" or a request for "approval of same"; etc.

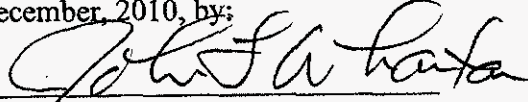
upon a considered basis how best to proceed given such state of affairs. Such a determination cannot possibly be made in between now and the time for the filing of the rebuttal testimony, which is due one day before the aforementioned agenda conference. While some of the significant dissimilarities between these consolidated applicants and Skyland will continue to distinguish those applications even if staff's recommendation is accepted, staff's narrow and restrictive recommendation as to the basis on which the Commission should find "need" in the case of Skyland (and, assumably, for similarly situated large landowners in the future) cannot help but significantly affect the posture and intentions, and the economic, strategic and management decisions, of the applicants in these consolidated cases.

6. The only protesting parties in this docket, Martin County and St. Lucie County, have agreed to the abatement. Abatement will allow the ongoing negotiations to proceed without the distraction simultaneous litigation often creates to such efforts. Abatement of this matter will afford the applicants all of the benefits outlined hereinabove, and will not prejudice or adversely affect the applicants, the objecting parties, the public, or the Commission or its staff. Abatement of this matter, as opposed to a mere continuance, is in the public interest, promotes judicial economy, and will allow these applications and the ultimate determination of their merits by the Commission to proceed in a more orderly and considered fashion.

7. Martin County and St. Lucie County have not stipulated to the contents of this motion, but rather only to the requested abatement itself.

WHEREFORE, and in consideration of the above, the applicants in these consolidated dockets respectfully request that the Commission abate this proceeding and all critical dates associated herewith, and direct that Grove Land/Bluefield advise the Commission, no later than January 31, 2011 as to the status of any negotiations between the parties and whether this matter should be rescheduled for hearing or whether a different course of action is appropriate.

Respectfully submitted this 6th day of
December, 2010, by:



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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been served by
electronic mail this 6th day of December, 2010, to:

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