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Public Service Commission

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TALLAHASSEE, FLORIDA 32399-0850

COMMISSION
CLERK

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

DATE: August 24, 2011

TO: Office of Commission Clerk (Cole)

FROM: Division of Economic Regulation (Jones-Alexis, Walden, Davis, Marsh) *MAWA*
Office of the General Counsel (Klancke) *CKW JSC*

RE: Docket No. 110021-WS – Application for certificates to provide water and wastewater service in Lake County by COL Utility Systems, L.L.C.
County(ies): Lake

AGENDA: 09/08/11 – Regular Agenda – Interested Persons May Participate

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: Brisé

CRITICAL DATES: 09/26/11 (Statutory Deadline for Original Certificates Pursuant to Section 367.031, Florida Statutes)

SPECIAL INSTRUCTIONS: None

FILE NAME AND LOCATION: S:\PSC\ECR\WP\110021.RCM.DOC

Case Background

On January 7, 2011, Equity LifeStyle Properties, Inc. (ELPI) filed an application for original water and wastewater certificates in Lake County on behalf of its subsidiary, COL Utility Systems, L.L.C. (COL Utility or Utility). Since approximately 1973, the Utility has been providing potable water and wastewater service to the Grand Island Resort Mobile Home Park (Grand Island MHP or MHP), which is located south of County Road 44 on Lake Eustis. The MHP is in the St. Johns River Water Management District (SJRWMD) in a Water Resource Caution Area.

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COL Utility currently serves approximately 362 residential connections in addition to a clubhouse, billiards room, laundry room, and pool. Based on projected revenues, the Utility will be a Class C water and wastewater utility. ELPI currently includes the cost of water and wastewater service in customers' lot rental fees. Therefore, ELPI is exempt from the Commission's regulation, pursuant to Section 367.022(5), Florida Statutes (F.S.). If the Commission approves the Utility's application, ELPI intends to offset the establishment of rates and charges with appropriate decreases in lot rental fees.

Pursuant to Section 367.031, F.S., the Commission shall grant or deny an application for a certificate of authorization within 90 days after the official filing date of the completed application. COL Utility's application was completed on June 27, 2011; therefore, the Commission must grant or deny the Utility's application by September 26, 2011. The purpose of this recommendation is to address the Utility's application for original water and wastewater certificates. The Commission has jurisdiction pursuant to Sections 367.031, 367.045, 367.081, 367.091, and 367.101, F.S. Additional time is needed for staff to conduct a customer meeting, in order to allow customers to provide input regarding the Utility's quality of service and to answer customers' questions about the Utility's proposed rates and charges. A recommendation addressing initial rates and charges will be brought to a subsequent agenda.

Discussion of Issues

Issue 1: Should the Commission grant COL Utility's application for original water and wastewater certificates?

Recommendation: Yes. The Commission should grant COL Utility water and wastewater Certificate Nos. 655-W and 559-S, respectively, to serve the territory described in Attachment A, effective the date of the Commission's vote. The resultant order should serve as the Utility's water and wastewater certificates and should be retained by the Utility as such. Pursuant to Rule 25-30.033(1)(j), Florida Administrative Code (F.A.C.), the applicant should submit an executed and recorded copy of the warranty deed within 30 days after the date of the order granting the certificates. (Jones-Alexis, Walden, Klancke)

Staff Analysis: On January 7, 2011, ELPI filed an application for original water and wastewater certificates in Lake County. The original filing was deficient. The deficiencies were corrected on June 27, 2011; therefore, in accordance with Section 367.083, F.S., the official filing date is June 27, 2011. The Utility's application is in compliance with the governing statutes, Sections 367.031 and 367.045, F.S., and other pertinent statutes and administrative rules concerning an application for original certificates.

Notice. The application contains proof of compliance with the noticing provisions of Rule 25-30.030, F.A.C. On July 13, 2011, an objection was filed by a resident of Grand Island MHP. By letter dated July 15, 2011, staff responded to the objection by describing the process of a formal hearing and a protestor's rights and responsibilities. In its letter, staff requested to be informed by July 29, 2011, should the customer intend to pursue the objection and request a formal hearing. No further correspondence was received from this customer. In addition, the Commission received several letters from customers requesting information and voicing their concerns about the application, to which staff responded. No further objections have been received, and the time for filing such has expired.

Territory. Adequate service territory maps and a legal description of the proposed service territory were provided, as prescribed by Rules 25-30.033(1)(l) and (n), F.A.C. The proposed service territory, approximately 54 acres, includes the area currently served by the Utility. The legal description of the proposed service territory is appended to this recommendation as Attachment A.

Proof of Ownership. Rule 25-30.033(1)(j), F.A.C., requires evidence in the form of a warranty deed that the utility owns the land upon which the utility treatment facilities are located or a copy of an agreement which provides for the continued use of the land, such as a 99-year lease. The application contained a copy of an unexecuted warranty deed made by MHC Grand Island, L.L.C., a wholly-owned subsidiary of ELPI and the current owner of the property on which the water and wastewater facilities are located, to COL Utility. The application indicated that the deed will be executed upon issuance of a final order granting water and wastewater certificates to the Utility. Staff recommends that, pursuant to Rule 25-30.033(1)(j), F.A.C., the Utility be required to submit an executed and recorded copy of the warranty deed within 30 days after the date of the order granting the certificates.

Financial and Technical Ability. In accordance with Rule 25-30.033(1)(e), F.A.C., ELPI provided a statement describing its financial and technical ability to provide water and wastewater service. ELPI's 2009 10-K Annual Report, as filed with the U.S. Securities and Exchange Commission, was included in the application. According to the applicant, the information indicates that ELPI has ample financial backing to ensure the safe, efficient, and sufficient provision of water and wastewater service to the proposed service territory. The Utility has the ability to raise cash when necessary to finance its operations through its parent company, ELPI, which is publicly traded on the New York Stock Exchange. Staff has reviewed ELPI's financial statements and other documentation included in the 10-K Annual Report, and they appear to show adequate resources to support COL Utility's water and wastewater operations.

ELPI has been providing service to Grand Island MHP since approximately 1973. In addition, the application referenced ELPI's ownership interest in properties throughout the United States and Canada (307 properties as of December 31, 2010). Properties owned and operated by ELPI in Florida include utilities that are currently regulated by the Commission, such as CC Utility Systems, LLC d/b/a Coral Cay Water & Sewer Company, a Class C water and wastewater utility in Broward County,¹ and BE Utility Systems, LLC, a Class C water utility in Lee County.² According to the applicant, utilities wholly owned by ELPI have a history of contracting professional, licensed companies that provide plant operation and maintenance services.

The Florida Department of Environmental Protection (DEP) conducted an inspection of the water facilities on January 5, 2011; the report indicated that the Utility had no plant deficiencies and that the overall operation of the plant was good. The Utility's wastewater treatment facility operating permit expires on November 9, 2014. The DEP's report of the most recent compliance evaluation inspection of the wastewater facilities, conducted on December 21, 2010, indicated that the overall operation was substantially compliant. According to the SJRWMD, there are no outstanding compliance issues related to the Utility's Consumptive Use Permit, which expires on July 7, 2024.

¹ In 1995, the Commission granted the transfer of water and wastewater certificates to CC Utility Systems, LLC, which underwent two name changes in Dockets Nos. 010670-WS and 030454-WS. See Order No. PSC-95-0622-FOF-WS, issued May 22, 1995, in Docket No. 940850-WS, In re: Application for transfer of Certificates Nos. 481-W and 417-S in Broward County from Colonies Water Company to MHC-DeAnza Financing Limited Partnership d/b/a Colonies Water Company; Order No. PSC-01-1499-FOF-WS, issued July 18, 2001, in Docket No. 010670-WS, In re: Application for acknowledgement of corporate reorganization and name change on Certificate Nos. 417-S and 481-W in Broward County from MHC-DeAnza Financing Limited Partnership, d/b/a Colonies Water Company, to CM Utility Systems, L.L.C. d/b/a Colonies Water Company; Order No. PSC-03-0919-FOF-WS, issued August 11, 2003, in Docket No. 030454-WS, In re: Application for name change on Certificate Nos. 481-W and 417-S in Broward County from CM Utility Systems, L.L.C. d/b/a Colonies Water Company to CC Utility Systems, L.L.C. d/b/a Coral Cay Water & Sewer Company.

² In 1995, the Commission granted the transfer of a water certificate to BE Utility Systems, LLC, which underwent a name change in Docket No. 010563-WU. See Order No. PSC-95-0623-FOF-WU, issued May 22, 1995, in Docket No. 940849-WU, In re: Application for transfer of Certificate No. 366-W in Lee County from DeAnza Properties-XI, Ltd., d/b/a Buccaneer Water Service, to MHC-DeAnza Financing Limited Partnership, d/b/a Buccaneer Water Service.

COL Utility understands that it must maintain its books and records according to the National Association of Regulatory Utility Commissioners' (NARUC) Uniform System of Accounts (USOA). The Utility also understands the requirement to file annual reports and pay regulatory assessment fees by March 31 for the previous year. In addition, the applicant is aware that it may not change its rates, serve outside its certificated territory, or sell the Utility without prior Commission approval.

Based on the above information, staff believes it is in the public interest to grant COL Utility's request for original water and wastewater certificates. Accordingly, staff recommends that the Commission grant the Utility water and wastewater Certificate Nos. 655-W and 559-S, respectively, to serve the territory described in Attachment A, effective the date of the Commission's vote. The resultant order should serve as COL Utility's water and wastewater certificates and should be retained by the Utility. Pursuant to Rule 25-30.033(1)(j), F.A.C., the applicant should submit an executed and recorded copy of the warranty deed within 30 days after the date of the order granting the certificates.

Docket No. 110021-WS

Date: August 24, 2011

Issue 2: Should this docket be closed?

Recommendation: No. The docket should remain open pending receipt of the executed and recorded copy of the warranty deed within 30 days after the date of the order granting the certificates, and to establish the setting of initial rates, charges, and return on equity. (Klancke)

Staff Analysis: The docket should remain open pending receipt of the executed and recorded copy of the warranty deed within 30 days after the date of the order granting the certificates, and to establish the setting of initial rates, charges, and return on equity.

COL Utility Systems, L.L.C.
Grand Island Resort Mobile Home Park
Description of Water and Wastewater Territory
Lake County

A PARCEL OF LAND LYING IN THE SECTION 32, TOWNSHIP 18 SOUTH, RANGE 26 EAST AND SECTION 5, TOWNSHIP 19 SOUTH, RANGE 26 EAST, SAID LANDS LYING AND BEING IN LAKE COUNTY, FLORIDA, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS;

COMMENCING AT THE NORTHWEST CORNER OF THE SOUTHWEST 1/4 OF SAID SECTION 32; THENCE S00°05'14"W ALONG THE WEST LINE OF SAID SOUTHWEST 1/4 SECTION 32 A DISTANCE OF 1312.22 FEET TO THE SOUTH LINE OF THE NORTHWEST 1/4 OF SAID SOUTHWEST 1/4 OF SECTION 32; THENCE S88°50'21"E ALONG SAID SOUTH LINE OF THE N.W. 1/4 OF THE S.W. 1/4 OF SECTION 32 A DISTANCE OF 330.37 FEET TO THE NORTHWEST CORNER OF THE EAST 1/2 OF THE NORTHWEST 1/4 OF THE SOUTHWEST 1/4 OF THE SOUTHWEST 1/4 OF SAID SECTION 32 AND THE POINT OF BEGINNING OF THE HEREIN DESCRIBED PARCEL; THENCE CONTINUE S88°50'21"E ALONG SAID SOUTH LINE OF THE N.W. 1/4 OF THE S.W. 1/4 OF SECTION 32 A DISTANCE OF 991.10 FEET TO THE SOUTHEAST CORNER OF SAID N.W. 1/4 OF THE S.W. 1/4 OF SECTION 32; THENCE S00°20'34"W ALONG THE EAST LINE OF THE SOUTHWEST 1/4 OF THE SOUTHWEST 1/4 OF SAID SECTION 32 A DISTANCE OF 20.00 FEET TO THE SOUTH RIGHT OF WAY LINE OF GRAND ISLAND SHORE ROAD; THENCE S88°50'21"E ALONG THE SAID SOUTH RIGHT OF WAY LINE OF GRAND ISLAND SHORE ROAD A DISTANCE OF 712.70 FEET; THENCE DEPARTING SAID RIGHT OF WAY LINE S00°33'14"W A DISTANCE OF 1732 FEET MORE OR LESS CROSSING THE NORTH LINE OF THE NORTHWEST 1/4 OF SECTION 5 TO THE WATERS OF LAKE EUSTIS; THENCE S77°31'07"W MEANDERING THE WATERS OF LAKE EUSTIS A DISTANCE OF 724 FEET MORE OR LESS TO THE EAST LINE OF THE NORTHWEST 1/4 OF THE NORTHWEST 1/4 OF SAID SECTION 5; THENCE N00°20'34"E ALONG SAID EAST LINE OF THE N.W. 1/4 OF THE N.W. 1/4 OF SECTION 5 A DISTANCE OF 407 FEET MORE OR LESS; THENCE N88°41'12"W A DISTANCE OF 20.00 FEET; THENCE N00°20.34"E A DISTANCE OF 200.00 FEET TO THE NORTH LINE OF SAID N.W. 1/4 OF THE N.W. 1/4 OF SECTION 5; THENCE N88°41'12"W ALONG SAID NORTH LINE OF THE N.W. 1/4 OF THE N.W. 1/4 OF SECTION 5 A DISTANCE OF 637.84 FEET TO THE SOUTHWEST CORNER OF THE SOUTHWEST 1/4 OF THE SOUTHWEST 1/4 OF SECTION 32; THENCE N00°12'55"E ALONG THE WEST LINE OF SAID S.E. 1/4 OF THE S.W. 1/4 OF THE S.W. 1/4 OF SECTION 32 A DISTANCE OF 656.96 FEET TO THE NORTHWEST CORNER OF SAID S.E. 1/4 OF THE S.W. 1/4 OF THE S.W. 1/4 OF SECTION 32; THENCE N88°45'47"W ALONG THE SOUTH LINE OF THE NORTHWEST 1/4 OF THE SOUTHWEST 1/4 OF THE SOUTHWEST 1/4 OF SECTION 32 A DISTANCE OF 329.64 FEET TO THE WEST LINE OF THE EAST 1/2 OF THE NORTHWEST 1/4 OF THE SOUTHWEST 1/4 OF THE SOUTHWEST 1/4 OF SECTION 32; THENCE N00°09'04"E ALONG SAID WEST LINE OF THE EAST 1/2 OF THE N.W. 1/4 OF THE S.W. 1/4 OF THE S.W. 1/4 OF SECTION 32 A DISTANCE OF 656.53 FEET TO THE POINT OF BEGINNING. CONTAINS 54.47 ACRES MORE OR LESS.

FLORIDA PUBLIC SERVICE COMMISSION

authorizes

COL Utility Systems, L.L.C.
pursuant to
Certificate Number 655-W

to provide water service in Lake County in accordance with the provisions of Chapter 367, Florida Statutes, and the Rules, Regulations, and Orders of this Commission in the territory described by the Orders of this Commission. This authorization shall remain in force and effect until superseded, suspended, cancelled or revoked by Order of this Commission.

<u>Order Number</u>	<u>Date Issued</u>	<u>Docket Number</u>	<u>Filing Type</u>
*	*	110021-WS	Original Certificate

***Order Number and date to be provided at time of issuance.**

FLORIDA PUBLIC SERVICE COMMISSION

authorizes

COL Utility Systems, L.L.C.
pursuant to
Certificate Number 559-S

to provide wastewater service in Lake County in accordance with the provisions of Chapter 367, Florida Statutes, and the Rules, Regulations, and Orders of this Commission in the territory described by the Orders of this Commission. This authorization shall remain in force and effect until superseded, suspended, cancelled or revoked by Order of this Commission.

<u>Order Number</u>	<u>Date Issued</u>	<u>Docket Number</u>	<u>Filing Type</u>
*	*	110021-WS	Original Certificate

***Order Number and date to be provided at time of issuance**