

State of Florida



Public Service Commission

CAPITAL CIRCLE OFFICE CENTER • 2540 SHUMARD OAK BOULEVARD
TALLAHASSEE, FLORIDA 32399-0850

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

DATE: October 7, 2004

TO: Director, Division of the Commission Clerk & Administrative Services (Bayó)

FROM: Division of Economic Regulation (Johnson, Rieger)
Office of the General Counsel (Brown)

RE: Docket No. 040515-WU – Application for certificate to operate water utility in Orange and Lake Counties by Oak Springs, LLC
Counties: Orange and Lake

AGENDA: 10/19/04 – Regular Agenda – Proposed Agency Action for Issues 2 and 3 – Interested Persons May Participate

CRITICAL DATES: 11/08/04 – Statutory deadline for original certificate pursuant to Section 367.031, Florida Statutes

SPECIAL INSTRUCTIONS: None

FILE NAME AND LOCATION: S:\PSC\ECR\WP\040515.RCM.DOC

Case Background

On April 22, 2004, Oak Springs, LLC (Oak Springs) filed its application for an original water certificate in Orange and Lake County. The proposed area is located in the St. Johns River Water Management District (SJRWMD). Water use restrictions have been imposed district wide to encourage conservation. The water system at Oak Springs has been operated as part of a mobile home community with no separate charge for water service since 1973. In order to promote water conservation, Oak Springs was required by the SJRWMD to form a private utility capable of charging for water use. The utility anticipates serving approximately 438 equivalent residential connections (ERCs) when it reaches build out. The utility is currently serving a total of 314 ERCs.

The utility's initial application was found to be deficient. The utility corrected the deficiency on August 10, 2004, making this the official filing date of the completed application. Pursuant to Section 367.031, Florida Statutes, the Commission shall grant or deny an application

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for a certificate of authorization within 90 days after the official filing date of the completed application.

Oak Springs owns and operates the utility and the mobile home park that is located east of Highway 435 in Mt. Plymouth approximately 5 miles from Mount Dora, in Lake County. The utility has been providing water and wastewater service solely to the mobile home rental community tenants as a part of the lot rent, and was therefore exempt from Commission regulation pursuant to Section 367.022(5), Florida Statutes.¹

This recommendation addresses the application for original water certificate and initial rates and charges. The Commission has jurisdiction pursuant to Sections 367.031 and 367.045, Florida Statutes.

¹ Oak Springs was granted an exemption from Commission regulation pursuant to Order No. PSC-96-1246-FOF-WS, In Re: Request for Exemption from Florida Public Service Commission Regulation from Provision of Water and Wastewater Service in Lake County by Oak Springs Manufactured Home Community.

Discussion of Issues

Issue 1: Should Oak Springs, LLC application for a water certificate be granted?

Recommendation: Yes, Oak Springs, LLC should be granted Certificate No. 623-W to serve the territory described in Attachment A. (Johnson, Rieger, Brown)

Staff Analysis: As stated in the case background, Oak Springs filed its completed application for an original water certificate to provide service in Orange and Lake Counties and initial rates on August 10, 2004. The application is in compliance with the governing statute, Section 367.045, Florida Statutes, and Rule 25-30.033, Florida Administrative Code, and other administrative rules concerning an application for original certificate and initial rates and charges.

On July 12, 2004, Oak Springs mailed notices to its customers which stated that the utility would begin billing for monthly water service and the lot rent would decrease by a specific amount. According to the utility, the lot rent will be reduced by \$10.17 and the reduction will be implemented along with the new water rates. The notice of application for an initial certificate of authorization for a water certificate was mailed to the customers on August 11, 2004. The Commission received one letter from a customer who claimed that the utility's intent to charge separate rates for water service violated his mobile home prospectus agreement. In the letter the customer asserted that he does not object to certification of the utility, only to the separate rates the utility proposes to charge. On September 23, 2004, staff sent a certified letter to the customer asking for a response by October 5, 2004, if the customer objects to the certification. In the letter staff also explained that the customer could comment on the proposed rates at the agenda conference and would have the opportunity to request a hearing on the proposed rates if the Commission decided to approve them. The letter pointed out, however, that the Commission does not enforce the state's mobile home statutes, and a Commission decision regarding utility rates and service would preempt the mobile home statutes to the extent that they were in conflict. See, section 367.011, Florida Statutes. The customer did not respond to staff's letter and confirmed by phone on October 6, 2004, that he does not object to the proposed certification. Staff will continue to keep the customer informed of events scheduled in this docket.

The utility has provided adequate service territory and system maps and an adequate description of the territory requested. A description of the territory is appended to this memorandum as Attachment A. In addition, the application includes a recorded warranty deed as evidence that the utility owns the land upon which the utility facilities are located as required by Rule 25-30.033(1)(j), Florida Administrative Code.

As evidence of its financial and technical ability to provide water service to the proposed area, Oak Springs has provided excerpts from its 2002 tax return, along with a balance sheet as of April 30, 2004. The balance sheet indicates total assets of \$6,370,259, and total equity of \$1,601,478. The application states that all funding for the utility will be provided by Oak Springs, LLC and the mobile home park. The utility appears to have the financial support to ensure safe, reliable and efficient potable water service to its service area and for any future expansion of the facilities.

Regarding the applicant's technical ability, Oak Springs indicated that it will make the financial and operating commitment necessary for Oak Springs to be successful in providing water service to the residents within its service territory. The applicant will continue to employ the appropriate management and operations personnel to ensure that it maintains the high quality of service it has provided in the past as an exempt entity.

Oak Springs water treatment facility is made up of two wells with aeration and chlorination. The Department of Environmental Protection (DEP) cited the utility for several deficiencies in its most recent sanitary survey report. However, the utility has corrected those deficiencies.

Based on the above information, staff believes it is in the public interest to grant the application for an original water certificate. Accordingly, staff recommends that Oak Springs, LLC be granted Certificate No. 623-W to serve the territory described in Attachment A. The wastewater system will continue to be exempt from Commission regulation.

Issue 2: What are the appropriate initial water rates and return on investment for this utility?

Recommendation: The utility's proposed water rates and miscellaneous service charges described in the staff analysis should be approved. Oak Springs should charge the approved rates and charges until authorized to change them by this Commission in a subsequent proceeding. The utility should be required to notice all customers of the approved rates prior to billing for monthly water service. The utility should also be required to file a proposed customer notice reflecting the Commission-approved rates within ten days of the date of the consummating order. The approved rates should be effective for service rendered on or after the stamped approval date on the tariff sheet, pursuant to Rule 25-30.475(1), Florida Administrative Code. A return on equity of 11.40% plus or minus 100 basis points should be approved. (Johnson, Rieger)

Staff Analysis: Oak Springs's proposed rates are based on its current rate base, cost of capital, customer growth, and operating and maintenance expenses. In reviewing the utility's proposed rates and charges, it appears that the utility's calculations are reasonable and consistent with those normally used by the Commission in setting initial rates and charges for a utility in existence, but not currently charging for service. The analysis below describes the utility's proposed and staff recommended initial rates and charges and return on investment for water service.

PROJECTED RATE BASE

The utility's proposed rate base of \$201,736 is shown on Schedule No. 1. The rate base schedule is for informational purposes to establish initial rates and is not intended to formally establish rate base. This is consistent with Commission practice in original certificate applications.

Utility Plant in Service (UPIS) and Land

The proposed UPIS of \$429,105 includes \$3,750 for approximately .75 acre of land and \$425,355 for organization costs, structures and improvements, power generation equipment, wells and springs, supply mains, pumping equipment, treatment and distribution facilities, services, meters, hydrants, and backflow prevention devices. The utility indicated that the UPIS balances are the original costs of the assets as reflected in the Oak Springs tax returns. The facilities are designed to serve total build out of 438 ERCs.

Staff has reviewed the utility's UPIS costs and, based on the supporting documentation provided, the amounts appear reasonable. Therefore, staff recommends that the utility's proposed balance of \$429,105 be included in the UPIS and land accounts.

Accumulated Depreciation

The utility's proposed accumulated depreciation balance is \$232,957. The accumulated depreciation balance is calculated using the guidelines for average service lives as set forth in Rule 25-30.140, Florida Administrative Code. Therefore, staff recommends that the utility's proposed balance of \$232,957 be included in the accumulated depreciation account.

Contributions In Aid of Construction and Accumulated Amortization

Pursuant to Rule 25-30.570, Florida Administrative Code, if the amount of CIAC has not been recorded on the utility's books and the utility does not submit competent substantial evidence as to the amount of CIAC, the amount of CIAC shall be imputed to the amount of plant costs charged to the cost of land sales for tax purposes if available, or the portion of the cost of the facilities and plant attributable to the water transmission and distribution system and the sewage collection system. In this case, the utility's tax returns show that the cost of the transmission and the distribution lines have not been charged to cost of land sales. Oak Springs does not sell lots; the lots are leased to homeowners. Therefore, staff recommends that CIAC should not be imputed in determining rate base in this case.

Working Capital

A working capital allowance of \$5,588 is included in the rate base calculation which is based on one-eighth of operating and maintenance expenses for the water system. Staff recommends that the amount appears reasonable, and a working capital allowance of \$5,588 should be included in rate base.

SUMMARY OF RATE BASE

Staff recommends that for purposes of setting initial rates and charges, the utility's proposed rate base of \$201,736 should be used. The schedule of rate base is for informational purposes to establish initial rates and is not intended to formally establish rate base.

COST OF CAPITAL

The proposed capital structure for Oak Springs is shown on Schedule No. 2. As required by Rule 25-30.033(1)(w), Florida Administrative Code, the application contained a schedule of the capital structure for Oak Springs including the methods of financing the operation of the utility. The pro forma capital structure consists of 26% equity and 74% debt. The utility proposed an overall cost of capital of 7.00%, based on a cost of equity of 11.40% and a cost of debt of 5.44%. Staff notes that the Commission's leverage formula sets a 40% equity ratio as the lowest reasonable level of common equity.

The proposed cost of equity is based on the current leverage formula authorized in Order No. PSC-04-0587-PAA-WS, issued June 10, 2004, in Docket No. 040006-WS, In re: Water and wastewater industry annual reestablishment of authorized range of return on common equity for water and water utilities pursuant to Section 367.081 (4) (f), F.S., which became final July 1, 2004, and a 40% equity ratio. The utility's cost of debt of 5.44% is based on the current interest rate on Oak Springs' mortgage debt.

Therefore, staff recommends that an overall cost of capital of 7.00% for Oak Springs, a cost of equity of 11.40%, and a cost of debt of 5.44% be used to set the initial rates. This is a reasonable overall cost of capital for calculating the revenue requirement for this original certificate case. Staff further recommends that the Commission set Oak Springs' authorized return on equity at 11.40% with a range of plus or minus 100 basis points.

RETURN ON INVESTMENT

The utility's return on investment, based on cost of capital of 7.00%, is \$13,439, which is shown on Schedule No. 3. Based on staff's recommended rate base and overall return on investment for Oak Springs of 7.00%, staff recommends that a return on investment of \$13,439 be included in the utility's revenue requirement for setting initial rates.

REVENUE REQUIREMENT

The utility's proposed revenue requirement of \$82,043 is based on its proposed rate base, cost of capital, operating and maintenance expenses, and customer base. The following analysis describes the utility's proposed revenue requirement.

Operating and Maintenance Expense

The utility's proposed operating and maintenance expenses of \$44,702 are based on current costs for purchased power, chemicals, materials and supplies, bad debt, miscellaneous expenses and contractual services. Staff recommends that the amount appears to be reasonable and, therefore, \$44,702 should be included in the revenue requirement for operating and maintenance expense.

Depreciation

The utility's proposed depreciation expense of \$17,035 is based on the depreciation rates reflected in Rule 25-30.140, Florida Administrative Code. Staff recommends that the utility's proposed depreciation expense of \$17,035 is reasonable and should be included in the revenue requirement.

Taxes Other Than Income and Income Taxes

The proposed balance for taxes other than income for Oak Springs is \$6,866 which includes regulatory assessment fees (RAFs) of 4.5% of gross revenues and property taxes of \$3,174 for the system. The utility's proposed property taxes and RAFs appear reasonable. Oak Springs' parent company is a limited partnership. The utility operation does not incur an income tax liability; therefore, no income tax expense was included in the proposed revenue requirement. Therefore, staff recommends that taxes other than income of \$6,866 should be included in the revenue requirement.

SUMMARY OF REVENUE REQUIREMENT

In summary, based on staff's analysis of the utility's proposed operating and maintenance expenses, depreciation, taxes other than income, and return on investment, staff recommends that the utility's proposed revenue requirement of \$82,043 should be used in setting initial rates for Oak Springs.

RATES

As stated in the case background, as a part of its consumptive use permit, the SJRWMD required Oak Springs to form a private utility capable of charging for water use. The utility's proposed residential and general service rates are based on a revenue requirement of \$82,043. The requested rates include a base facility charge and gallonage charge for residential and general service customers which is considered a conservation rate structure. Since July, 2002, the utility has been separately metering all water use at each point of connection and providing that information to residents monthly without charging for the water service. Therefore, staff recommends that the utility's proposed rates for residential and general service customers be approved. The utility's requested monthly rates, along with a comparison of typical monthly bills, are shown on Schedule 4.

Miscellaneous Service Charges

The application contains a request for miscellaneous service charges. The utility's proposed miscellaneous service charges are in compliance with Rule 25-30.460, Florida Administrative Code, which defines four categories of miscellaneous service charges. Staff recommends that the proposed miscellaneous service charges for the utility are consistent with Commission rules and should be approved.

SUMMARY

The utility's proposed and staff recommended water rates and miscellaneous service charges, as shown on Schedule No. 4 should be approved. Oak Springs should charge these rates and charges until authorized to change them by this Commission in a subsequent proceeding. The utility should be required to notice all customers of the approved rates prior to billing for monthly water service. The utility should also be required to file a proposed customer notice reflecting the Commission-approved rates within ten days of the date of the consummating order. The approved rates should be effective for service rendered on or after the stamped approval date on the tariff sheet, pursuant to Rule 25-30.475(1), Florida Administrative Code. A return on equity of 11.40% , plus or minus 100 basis points should be approved.

Issue 3: What are the appropriate service availability charges for Oak Springs, LLC.?

Recommendation: The utility's proposed service availability policy and charges set forth within the staff analysis are appropriate and should be approved effective for connections made on or after the stamped approval date on the tariff sheets pursuant to Rule 25-30.475(2), Florida Administrative Code. (Johnson, Rieger)

Staff Analysis: Rule 25-30.580(1)(a), Florida Administrative Code, provides that the maximum amount of contributions-in-aid-of-construction (CIAC), net of amortization, should not exceed 75% of the total original cost, net of accumulated depreciation, of the utility's facilities and plant when the facilities and plant are at their designed capacity. Rule 25-30.580(1)(b), Florida Administrative Code, provides that the minimum amount of CIAC should not be less than the percentage of such facilities and plant that is represented by the water transmission and distribution systems.

The utility built all of the plant and distribution system facilities within the existing territory. The utility's requested service availability policy and charges are designed in accordance with the guidelines in Rule 25-30.580, Florida Administrative Code. The utility is requesting approval of a meter installation charge and a main extension charge. The utility's proposed service availability policy states that the main extension and meter installation charges are established for all future service connections where service has not previously been provided.

The utility's proposed main extension charge of \$243 per ERC is based on the cost per ERC of the transmission and distribution lines, services, and hydrants. The utility's requested meter installation charge of \$200 for a 5/8" x 3/4" meter is designed to recover the cost to the utility for the meter and installation.

Based on the above, staff recommends that the utility's requested service availability policy and charges are reasonable and consistent with the guidelines in Rule 25-30.580, Florida Administrative Code, and, therefore, should be approved. The proposed service availability policy and charges should be approved effective for connections made on or after the stamped approval date on the tariff sheets, pursuant to Rule 25-30.475(2), Florida Administrative Code.

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Issue 4: Should this docket be closed?

Recommendation: Yes. If no timely protest is filed by a substantially affected person to proposed agency action Issues 2 and 3, a consummating order should be issued upon expiration of the protest period and the docket should be closed. (Brown)

Staff Analysis: If no timely protest is filed by a substantially affected person to proposed agency action Issues 2 and 3, a consummating order should be issued upon expiration of the protest period and the docket should be closed.

Oak Springs, LLC
Water Territory Description
Orange & Lake Counties

PARCEL I: ORANGE COUNTY

That part of the Northeast $\frac{1}{4}$ of Section 5, Township 20 South, Range 28 East, Orange County, Florida, more particularly described as follows:

Commence at the Northeast corner of the Northeast $\frac{1}{4}$ of Section 5, Township 20 South, Range 28 East, Orange County, Florida; thence North $89^{\circ}42'51''$ West, along the North boundary of said Northeast $\frac{1}{4}$, a distance of 204.22 feet to the Point of Beginning; thence South $0^{\circ}17'09''$ West, 350.00 feet; thence North $89^{\circ}42'51''$ West, 350.00 feet from and parallel with said North boundary, a distance of 1082.18 feet to a point on the West boundary of Lot 2, and the East boundary of Lot 3, J.B. Babcock's Subdivision, as recorded in Plat Book "B", Page 27, Public Records of Orange County, Florida; thence North $6^{\circ}33'51''$ West, along said boundary, a distance of 135.97 feet; thence North $89^{\circ}42'51''$ West, 215.00 feet from and parallel with said North boundary a distance of 713.38 feet to a point on the East right of way line of State Road No. 435; thence North $0^{\circ}51'24''$ East, along said right of way line, 33.00 feet from and parallel with the centerline of said road, a distance of 215.01 feet to a point on the North boundary of said Northeast $\frac{1}{4}$; thence South $89^{\circ}42'51''$ East, along said North boundary, 1809.63 feet to the point of Beginning. All being in the Northeast $\frac{1}{4}$ of Section 5, Township 20 South, Range 28 East, Orange County, Florida.

PARCEL II: LAKE COUNTY

That part of the Southeast $\frac{1}{4}$ of Section 32, Township 19 South, Range 28 East, Lake County, Florida, more particularly described as follows:

Begin at the Southeast corner of the Southeast $\frac{1}{4}$ of Section 32, Township 19 South, Range 28 East, Lake County, Florida; thence North $89^{\circ}42'51''$ West, along the South boundary of said Southeast $\frac{1}{4}$, a distance of 2013.85 feet to a point on the East right of way line of State Road No. 435; thence North $0^{\circ}51'24''$ East, along said right of way line, 33.00 feet from and parallel with the centerline of said road, a distance of 648.73 feet to the point of curvature of a curve that is concave Westerly, having a radius of 851.51 feet; thence along the arc of said right of way line curve, 33.00 feet from and parallel with said centerline, a chord bearing and distance of North $13^{\circ}36'41''$ West, 425.49 feet to the point of tangency of said curve; thence North $28^{\circ}04'47''$ West, along said right of way line, 33.00 feet from and parallel with said centerline, a distance of 213.52 feet to the point of curvature of a curve that is concave Easterly, having a radius of 268.56 feet; thence along the arc of said curve, 33.00 feet from and parallel with said centerline, a chord bearing and distance of North $19^{\circ}09'24''$ West, 83.31 feet to a point on the North boundary of the South $\frac{1}{2}$ of said Southeast $\frac{1}{4}$; thence South $89^{\circ}46'22''$ East, along said North boundary 298.70 feet to a point on the Southeasterly right of way line of Tifton Street and the

Northwesterly boundary of Block 131, Mt. Plymouth, Section "A", as recorded in Plat Book 8, Pages 85 through 85-D, Public Records of Lake County, Florida; thence North $36^{\circ}11'03''$ East, along said right of way line and along said Westerly boundary, a distance of 113.68 feet to a point on a curve that is concave Northwesterly, having a radius of 1059.00 feet; thence along the arc of said curve along said right of way line, a chord bearing and distance of North $30^{\circ}03'55''$ East, 157.64 feet, to a point on the Northwesterly boundary of Block 98, said Section "A"; thence North $26^{\circ}28'40''$ East, along said right of way line and along said Northwesterly boundary, a distance of 165.71 feet to a point on a curve that is concave Southerly, having a radius of 42.70 feet; thence along the arc of said curve, along the Northerly boundary of said Block 98, a chord bearing and distance of North $72^{\circ}53'40''$ East, 62.30 feet to a point on a curve that is concave Northerly, having a radius of 1621.00 feet; thence along the arc of said curve, along the Southerly right of way line of Selma Avenue as shown on said Section "A", and along the Northerly boundary of said Block 98 and continuation thereof, a chord bearing and distance of South $71^{\circ}18'13''$ East, 611.36 feet to a point on the West boundary of Block 129, said Section "A"; thence North $0^{\circ}20'54''$ West, along West boundary, and the East right of way line of St. Andrews Boulevard, as shown on said Section "A", a distance of 70.56 feet, to the most Northerly corner of said Block 129; thence South $38^{\circ}15'27''$ East, along the Northeasterly boundary of said Block 129, and Southwesterly right of way of Selma Avenue, a distance of 355.01 feet to a point on the North boundary of said South $\frac{1}{2}$; thence South $89^{\circ}46'22''$ East, along said North boundary, 850.77 feet to the Northeast corner of said South $\frac{1}{2}$; thence South $0^{\circ}07'38''$ East, along the East boundary of said Southeast $\frac{1}{4}$, a distance of 3.43 feet to a point on the South boundary of Block 100, said Section "A"; thence North $89^{\circ}42'04''$ West, along the South boundary of said Block 100, a distance of 265.20 feet to the Southwest corner of said Block; thence South $44^{\circ}54'51''$ East, 376.44 feet to a point on said East boundary; thence South $0^{\circ}07'38''$ East along said East boundary, 1061.85 feet to the Point of Beginning. All being in the Southeast $\frac{1}{4}$ of Section 32, Township 19 South, Range 28 East, Lake County, Florida.

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OAK SPRINGS, LLC
Schedule of Water Rate Base

Schedule No. 1

<u>DESCRIPTION</u>	<u>BALANCE PER UTILITY AND STAFF RECOMMENDED</u>
Utility Plant in Service and Land	\$429,105
Accumulated Depreciation	(232,957)
CIAC	0
Accumulated Depreciation	0
Working Capital Allowance	<u>5,588</u>
RATE BASE	<u>\$201,736</u>

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OAK SPRINGS, LLC
Schedule of Cost of Capital

Schedule No. 2

<u>DESCRIPTION</u>	<u>BALANCE PER UTILITY</u>	<u>WEIGHT</u>	<u>COST RATE</u>	<u>WEIGHTED COST</u>
Common Equity	\$ 52,451	26.00%	11.40%	2.96%
Long and Short-Term Debt	149,285	74.00%	5.44%	4.03%
Customer Deposits	0	0.0%	8.00%	0.00%
	\$201,736	100.0%		7.00%
Range of Reasonableness	High	Low		
Common Equity	12.40%	10.40%		

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OAK SPRINGS, LLC
Schedule of Water Rate Base

Schedule No. 3

<u>DESCRIPTION</u>	<u>UTILITY REQUESTED AND STAFF RECOMMENDED</u>
Operating Revenues	<u>\$ 82,043</u>
Operating and Maintenance	44,702
Depreciation Expense	17,035
Taxes Other Than Income	6,866
Income Taxes	<u>0</u>
Total Operating Expense	<u>68,604</u>
Net Operating Income(Loss)	<u>\$13,439</u>
Rate Base	\$201,736
Rate of Return	7.00%

Monthly Service Rates

Residential & General Service

Base Facility Charge

5/8" x 3/4"	\$ 7.74
Full 3/4"	11.61
1"	19.35
1 1/2"	38.70
2"	61.92
3"	123.84
4"	193.50
Charge per 1,000 gallons	\$2.14

Typical Residential Bills

5/8" x 3/4" meter

3,000 gallons	\$ 14.16
5,000 gallons	\$ 18.44
10,000 gallons	\$ 29.14

MISCELLANEOUS SERVICE CHARGES

Initial Connection	\$ 15.00
Normal Reconnection	15.00
Violation Reconnection	15.00
Premises Visit (in lieu of disconnection)	10.00