

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-**

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**DATE:** February 1, 2007

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

**FROM:** Division of Economic Regulation (Brady, Redemann)  
Office of the General Counsel (Jaeger)

**RE:** Docket No. 060601-WS – Application for certificates to provide water and wastewater service in Okeechobee County by Grove Utilities, Inc.  
County: Okeechobee

**AGENDA:** 02/13/07 – Regular Agenda – Interested Persons May Participate

**COMMISSIONERS ASSIGNED:** All Commissioners

**PREHEARING OFFICER:** Pending

**CRITICAL DATES:** 04/02/2007 – (Statutory deadline for original certificate pursuant to Section 367.031, Florida Statutes)

**SPECIAL INSTRUCTIONS:** None

**FILE NAME AND LOCATION:** S:\PSC\ECR\WP\060601.RCM.DOC

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### Case 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, which request the information necessary for setting initial rates and charges. The utility's proposed service territory comprises 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) intends 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. Grove was incorporated on May 16, 2006, for purposes of providing the development with water and wastewater service which is estimated to commence in July of 2010. Completion of the development plan is anticipated to occur in January of 2008.

Pursuant to Section 120.542, Florida Statutes, the Commission granted the utility's Motion for Temporary Waiver by Order No. PSC-06-1015-PAA-WS, issued December 11, 2006. After receiving no response to the proposed agency action, the Commission issued Consummating Order No. PSC-07-0014-CO-WS, on January 3, 2007, making the PAA Order final and effective.

Pursuant to Section 367.031, Florida Statutes, the Commission must grant or deny an application for a certificate of authorization within 90 days after the official filing date of the completed application. In this case, the application was completed upon the issuance of the Consummating Order on the temporary rule waiver, making April 2, 2007, the deadline for the Commission's decision on the original certificates.

This recommendation addresses the request for original water and wastewater certificates. The utility anticipates filing the information necessary for rates and charges as early as the 4<sup>th</sup> quarter of 2007. The Commission has jurisdiction pursuant to Sections 367.031 and 367.045, Florida Statutes.

### **Discussion of Issues**

**Issue 1:** Should the application by Grove Utilities, Inc. for water and wastewater certificates be granted?

**Recommendation:** Yes. Grove Utilities, Inc. should be granted Certificate Nos. 633-W and 542-S to serve the territory described in Attachment A. The effective date should be the date of the Commission vote. The resultant order should serve as Grove Utilities, Inc.'s water and wastewater certificates and should be retained by the utility as such. Beginning in January of 2008, the utility should be required to file a report in the docket indicating the status of its development plan. This requirement should continue annually thereafter until the information on rates and charges is filed. (Brady, Redemann, Jaeger)

**Staff Analysis:** As stated in the case background, Grove filed an application for original certificates to provide water and wastewater service on September 11, 2006. The application is in compliance with the governing statute, Sections 367.031 and 367.045, Florida Statutes, Rule 25-30.033, Florida Administrative Code, and other administrative rules concerning an application for an original certificate and initial rates and charges.

**Notice.** Pursuant to Rule 25-30.030, Florida Administrative Code, the application contains evidence that the required notices were given. No objections to the application were received by the Commission and the time for filing such has expired.

**Service Territory.** The utility has provided an adequate service territory map. Staff has verified that the map accurately represents the territory described in Attachment A. As noted in the case background, the territory comprises approximately nine square miles in Okeechobee County.

**Consistency with Comprehensive Plans.** Pursuant to a memorandum of understanding with the Department of Community Affairs (DCA), on October 31, 2006, the DCA filed its comments on the need for service as well as the project's consistency with the current comprehensive plan for Okeechobee County. While the DCA's comments indicated that the proposed project was not consistent with the County's current comprehensive plan, the DCA recognized that an amendment to the comprehensive plan was being prepared such that the proposed project would be consistent. Therefore the DCA concluded that, if the County's comprehensive plan was amended as planned, then the applicant's proposed central water and wastewater utility systems would be appropriate. Based on the DCA's comments, staff requested that the utility provide its estimate for when its development plan will be approved, including the timeline to complete the process. In its response filed on December 21, 2006, the utility indicated that its Application for Development Approval was filed with Okeechobee County in April of 2006 and the challenge period is expected to end in January of 2008. Beginning in January of 2008, staff recommends that the utility be required to file a report in the docket indicating the status of its development plan. This requirement should continue annually thereafter until the information on rates and charges is filed.

**Public Interest.** Rule 25-30.033(1)(e), Florida Administrative Code, requires that the applicant provide a statement showing its financial and technical ability to provide service, the need for service, and the steps the applicant has taken to determine if there are any other utilities in the area that could potentially provide service. The application contains a balance sheet for the affiliated developer showing its assets and liabilities as of July 31, 2006. The balance sheet appears to show sufficient resources to fund development for the proposed project until it can be self-sustaining. In addition, the application contains a letter from the affiliated developer dated July 20, 2006, in which it pledges to make the financial and operating commitment necessary for Grove to be successful in its endeavor to provide water and wastewater services to the residents and businesses within its proposed service territory.

The application indicates that the utility's development and management teams include the same individuals responsible for the start-up and management of the water and wastewater company providing service to the Town of Ave Maria. Also, the Barron Collier Company, Ltd., which holds a 50% interest in the development of the Town of Ave Maria, also holds a 50% interest in the development of Grove along with Evans Properties, Inc., which is the owner of the land. These two entities have retained the services of a national water and wastewater engineering firm to provide utility master planning and engineering services.

The application contains a request for service dated July 20, 2006, from the affiliated developer to the utility. The letter indicates that there will be a need for water and wastewater service within the proposed service area by July 2010, assuming the comprehensive plan amendment and development plan are approved as planned.

The application contains a description of the nearest water and wastewater systems in Okeechobee County and the neighboring counties of Indian River and St. Lucie. According to the information provided, there is no system in Okeechobee County closer than 22 miles from the proposed development. The nearest point of contact to Indian River County's Urban Service Area is 15.5 miles away. Indian River County also owns and operates a wastewater treatment plant approximately 6 miles from the proposed development, but it is a small facility with no plans for expansion. The nearest St. Lucie County facility is over 30 miles from the proposed service area.

**Conclusion.** Based upon the above, staff recommends that the applicant has shown that there is a need for water and wastewater service in the proposed service area and that it is in the best position to provide such service. The applicant has also demonstrated that it has the financial and technical ability to provide the service. Staff, therefore, recommends that Grove Utilities, Inc.'s application for original water and wastewater certificates is in the public interest, and the utility should be granted Certificate Nos. 633-W and 542-S. The effective date should be the date of the Commission vote. The resultant order should serve as Grove Utilities, Inc.'s water and wastewater certificates and should be retained by the utility as such. Beginning in January of 2008, the utility should be required to file a report in the docket indicating the status of its development plan. This requirement should continue annually thereafter until the information on rates and charges is filed.

Docket No. 060601-WS

Date: February 1, 2007

**Issue 2**: Should this docket be closed?

**Recommendation**: No. The docket should remain open pending the filing of the information necessary to establish rates and charges, as well as the proof of ownership of the land under the proposed utility facilities, and the Commission's subsequent decision on the appropriate rates and charges. (Jaeger)

**Staff Analysis**: No. The docket should remain open pending the filing of the information necessary to establish rates and charges, as well as proof of ownership of the land under the proposed utility facilities, and the Commission's subsequent decision on the appropriate rates and charges.

**GROVE UTILITIES, INC.**  
**WATER AND WASTEWATER SERVICE TERRITORY**  
**OKEECHOBEE COUNTY**

**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.

**FLORIDA PUBLIC SERVICE COMMISSION**

authorizes

**GROVE UTILITIES, INC.**

pursuant to

**CERTIFICATE NUMBER 633-W**

to provide water service in Okeechobee 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>
*	*	060601-WS	Original Certificate

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

**FLORIDA PUBLIC SERVICE COMMISSION**

authorizes

**GROVE UTILITIES, INC.**

pursuant to

**CERTIFICATE NUMBER 542-S**

to provide wastewater service in Okeechobee 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>
*	*	060601-WS	Original Certificate

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