

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: November 7, 2007

TO: Office of Commission Clerk (Cole)

FROM: Division of Economic Regulation (Clapp, Walden)
Office of the General Counsel (Jaeger)

RE: Docket No. 070391-WS – Application for certificates to provide water and wastewater service in Sumter County by Orange Blossom Utilities, Inc.
County: Sumter

AGENDA: 11/20/07 – Regular Agenda – Interested Persons May Participate

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: McMurrian

CRITICAL DATES: 11/28/07 – (Statutory deadline for original certificate pursuant to Section 367.031, Florida Statutes)

SPECIAL INSTRUCTIONS: None

FILE NAME AND LOCATION: S:\PSC\ECR\WP\070391.RCM.DOC

Case Background

On June 29, 2007, Orange Blossom Utilities, Inc. (OBU or utility) filed its application for original water and wastewater certificates in Sumter County. The requested territory includes 52 acres. The area is in the Southwest Florida Water Management District (SWFWMD) but is not in a water use caution area. The utility anticipates providing water and wastewater service to a total of approximately 174 residential and 36 general service customers when it reaches build out.

The property owner determined that there are no existing water and wastewater utilities in the area that could provide service to the 52-acre development. The application included

copies of letters written to neighboring utilities requesting service for the development with responding letters stating that the utilities had no extra capacity which could be used for the applicant's development. The utility was established in 2004 and has been providing water and wastewater service to 11 general service customers (a hotel, an office building, two restaurants, and seven stores), all owned by affiliated developers, since December of 2005, the first phase of the development. The utility was exempt from Commission regulation because it did not charge for service. The related land owners and developers are planning an additional 174 residential and 25 general service customer development in Sumter County. The utility wants to start charging for service which would make it subject to Commission regulation.

The utility consists of a well and pump house, a 15,000 gallon hydropneumatic tank, water distribution lines for potable water service, and fire protection in the project known as Village Park Center. The well has a tested flow capacity of 1,000 gallons per minute. The system will add a second well, identical in flow to the existing well, prior to further development. The water system will eventually serve more than 350 people within the development.

A 99,000 gallons per day central wastewater treatment plant will provide the customers' sewer service in Village Park Center. Treated effluent will be disposed of by ground water recharge through absorption fields. The utility will not have sufficient flows to provide reuse water.

Pursuant to Section 367.031, Florida Statutes, 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. OBU's application was deemed complete on August 30, 2007. Therefore, this application must be ruled upon by November 28, 2007.

This recommendation addresses the application for original water and wastewater certificates. The Commission has jurisdiction pursuant to Sections 367.031 and 367.045, Florida Statutes. Additional time is needed for staff to complete its review of the utility's proposed rates and charges. A recommendation addressing rates and charges will be brought to a subsequent agenda.

Discussion of Issues

Issue 1: Should Orange Blossom Utilities, Inc.'s application for water and wastewater certificates be granted?

Recommendation: Yes, Orange Blossom Utilities, Inc. should be granted Certificate Nos. 639-W and 548-S to serve the territory described in Attachment A effective the date of the Commission's vote. The resultant order should serve as OBU's water and wastewater certificates and it should be retained by the utility. The utility should file an executed and recorded copy of the warranty deed for the land for the water and wastewater facilities within 30 days of the issuance date of the Order granting the certificates. (Clapp, Walden, Jaeger)

Staff Analysis: As stated in the case background, OBU filed its application for original water and wastewater certificates to provide service in Sumter County on June 29, 2007. The applicant filed revised cost and rate data on August 30, 2007. The application is in compliance with the governing statute, Section 367.045, Florida Statutes, and other pertinent statutes and administrative rules concerning an application for original certificate. In addition, the application contains proof of compliance with the noticing provisions set forth in Rule 25-30.030, Florida Administrative Code. No objections to the notice of application have been received and the time for filing such has expired.

The applicant submitted an unrecorded executed warranty deed in the name of the utility for the land for the water and wastewater facilities. Pursuant to Rule 25-30.033(1)(j), Florida Administrative Code, the applicant has agreed to file a copy of the executed and recorded warranty deed with the Commission within 30 days of the Commission order granting certificates to the utility.

Adequate service territory and system maps and a territory description have been provided as prescribed by Rule 25-30.033(1)(l),(m) and (n), Florida Administrative Code. A description of the territory requested by the applicant is appended to this memorandum as Attachment A.

The applicant appears to have the financial and technical ability to provide water and wastewater service to the proposed service area. Regarding financial ability, the application states that Ms. Nancy P. Steinmetz, the president and primary stockholder of OBU, has and will continue to provide necessary startup funding as well as funds sufficient to cover operation shortfalls during the utility's initial years. Staff has reviewed the financial statement of Ms. Steinmetz and she appears to have adequate resources to support the utility during the initial years of operation.

Regarding the applicant's technical ability, the applicant indicates that it will make the financial and operating commitment necessary for the utility to be successful in its endeavor to provide water and wastewater service to the customers within the proposed service territory. Towards that end, the applicant has retained licensed professionals as consultants, design engineers, management, and operators of the utility systems. Specifically, the utility currently has retained the services of Protech Water and Wastewater Systems, Inc., an engineering consultant with 14 licensed professionals, to operate OBU.

According to the application, there is currently a need for water and wastewater service within the proposed service territory. Phase I of the development, which includes 11 general service customers, was completed in 2007. The utility has been providing service, without compensation, to the general service customers within the requested territory since December 2005. The land developer anticipates future construction on 42 acres including 12 single-family homes, 108 town homes, 54 villa residential units, four restaurants, 20 shops, and an office building. Further, the applicant believes there are no other utilities near the proposed service area which can provide the necessary water and wastewater service, and construction of OBU is the only viable alternative.

The application states that the provision of service in the proposed service territory, as outlined in the application, is consistent with the water and wastewater sections of the local comprehensive plan of Sumter County, as approved by the Department of Community Affairs (DCA). A review of the application by the DCA revealed no inconsistencies with the Sumter County comprehensive plan. Pursuant to Section 367.045(5)(b), Florida Statutes, the Commission need not consider whether the issuance of a certificate of authorization is inconsistent with the local comprehensive plan of a county or municipality unless a timely objection to the notice of filing is received.

The applicant understands that it must maintain its books and records according to the National Association of Regulatory Utility Commissioners Uniform System of Accounts. 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 charge rates, change rates, serve outside its certificated territory, or sell the utility without prior Commission approval.

Based on the above information, staff recommends that it is in the public interest to grant the application for original water and wastewater certificates. Accordingly, staff recommends that Orange Blossom Utilities, Inc. should be granted Certificate Nos. 639-W and 548-S to serve the territory described in Attachment A effective the date of the Commission's vote. The resultant order should serve as OBU's water and wastewater certificates and it should be retained by the utility. The utility should file an executed and recorded copy of the warranty deed for the land for the water and wastewater facilities within 30 days of the issuance date of the Order granting the certificates.

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Issue 2: Should this docket be closed?

Recommendation: No. The docket should remain open pending the establishment of initial rates and charges. (Jaeger)

Staff Analysis: The docket should remain open pending the establishment of initial rates and charges.

Orange Blossom Utilities, Inc.
Water and Wastewater Service Area
Sumter County

Section 15, Township 18 South, Range 23 East

Begin at a point 1442.39 feet East of the Northwest corner of Section 15, Township 18 South, Range 23 East, Sumter County, Florida; thence run S. 89°59'25" E., 1442.24 feet; thence run S. 45°03'32" E., 49.56 feet; thence run S. 00°07'42" E., 14.99 feet; thence run S. 89°59'45" E., 14.99 feet; thence run S. 45°03'32" E., 14.16 feet; thence run S. 00°07'39" E., 1271.93 feet; thence run S. 89°55'20" W., 661.67 feet; thence run S. 00°05'52" E., 609.07 feet to the Northerly right-of-way line of County Road No. 466; thence run along said Northerly right-of-way the following courses: N. 45°43'48" W., 96.20 feet to the point of curvature of a curve concave Southwesterly having a radius of 1960.08 feet and a central angle of 26°40'29"; thence run along the arc of said curve 912.54 feet said arc having a chord bearing of N. 59°08'15" W.; and a chord distance of 904.32 feet; thence departing said right-of-way run N. 00°01'25" E., 1411.10 feet to the point of beginning.

FLORIDA PUBLIC SERVICE COMMISSION

authorizes

Orange Blossom Utilities, Inc.
pursuant to
Certificate Number 639-W

to provide water service in Sumter 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>
*	*	070391-WS	Original Certificate

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

FLORIDA PUBLIC SERVICE COMMISSION

authorizes

Orange Blossom Utilities, Inc.
pursuant to
Certificate Number 548-S

to provide wastewater service in Sumter 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>
*	*	070391-WS	Original Certificate

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