

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

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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

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COMMISSION CLERK

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

DATED: NOVEMBER 18, 2010

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing DIRECT TESTIMONY OF LAURA A. MILLER-REGALADO has been served by U.S. mail, on this 18th day of November, 2010, to the following:

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DOCKET NO. 090459-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.

WITNESS: Direct testimony of Laura A. Miller-Regalado,
Appearing on Behalf of the Florida Public Service Commission.

DATE FILED: November 18, 2010

1 DIRECT TESTIMONY OF LAURA A. MILLER-REGALADO

2 Q. Please state your name and business address.

3 A. My name is Laura A. Miller-Regalado. I am employed by the Department of
4 Community Affairs (Department). My business address is 2555 Shumard Oak Boulevard,
5 Tallahassee, Florida 32399-2100.

6 Q. Please summarize your educational background.

7 A. I received a Bachelor of Design degree in Interior Design from the University of
8 Florida in Gainesville in 1991. I received a Master of Urban and Regional Planning degree
9 with a specialization in Growth Management and Comprehensive Planning from Florida State
10 University in Tallahassee in 2005.

11 Q. Please describe your work experience.

12 A. My work experience includes 19 years in the field of interior design. While working
13 as an interior designer, I completed the Master's of Urban and Regional Planning. I have
14 worked from 2008 until the present for the Department, Division of Community Planning as a
15 Community Planner and Planning Analyst, conducting compliance reviews of comprehensive
16 plan amendments and developments of regional impact. I have reviewed land use
17 amendments and activities within Indian River, St. Lucie, Martin, Palm Beach, Broward, and
18 Miami-Dade Counties. Specific duties include the preparation of detailed review reports, oral
19 presentations, negotiations with local governments and developers, and the provision of
20 technical assistance to local governments and private citizens.

21 Q. What is the purpose of your testimony in this proceeding?

22 A. My testimony is given pursuant to a Memorandum of Understanding executed between
23 the Department and the Public Service Commission (PSC) in which the Department provides
24 information to the PSC concerning local government comprehensive plans and the need for
25 services in the application area.

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1 Q. Are you familiar with the Bluefield Utilities, LLC (Bluefield) and Grove Land
2 Utilities, LLC (Grove Land) applications for water and wastewater certificates?

3 A. I am familiar with the applications of Bluefield and Grove Land as well as the
4 comprehensive plans of the affected counties.

5 Q. What is the Department's position with respect to whether the Bluefield and Grove
6 Land applications are consistent with the currently approved Comprehensive Plans of the
7 potentially affected counties?

8 A. The applications are inconsistent with objectives and policies of the Martin, St. Lucie,
9 Indian River, and Okeechobee Counties' Comprehensive Plans that limit the extension of
10 public facilities in agricultural and rural land areas, emphasize the efficient use of existing
11 public facilities and the efficient expansion of public facilities, discourage urban sprawl, and
12 protect agricultural lands.

13 Q. What is the Department's position with respect to whether the Bluefield and Grove
14 Land applications are consistent with the currently approved Martin County Comprehensive
15 Plan?

16 A. The Martin County Comprehensive Plan Future Land Use Element includes Policy
17 4.4.G.1.i. that "limits the provision of public services outside the Primary and Secondary
18 Urban Service Districts to improvements that are necessary to remedy an existing deficiency."
19 In the instant case, the service territory proposed by Bluefield is located outside of the area
20 designated as the Primary and Secondary Urban Service Districts. The proposed service
21 territory contained in the Grove Land application does not affect Martin County. Policy
22 4.4.G.2.h.(6) "prohibits properties lying outside either the Primary or Secondary Urban
23 Service Districts from receiving utility service from a regional wastewater system;" and
24 Section 4.4.G. "prohibits areas outside the Primary and Secondary Urban Services Districts
25 from connecting to either a regional utility or an interim water system;" Section 4.4.L

1 “restricts the expansion of urban public facilities and services to the urban service districts
2 designated within the Plan in order to preserve agricultural lands and provide farmers with the
3 maximum protection from urban encroachment;” and Policy 4.6.E.2 “preserves agricultural
4 lands by restricting the expansion of urban services to areas adjacent to urban cores.” The
5 existing low-density land uses in the Bluefield application area do not justify the need for
6 centralized water and sewer facilities. The installation of a central water and wastewater
7 facility outside of the urban service area defeats the intent of the above-referenced policies
8 that emphasize that urban uses are intended to be located within the urban service area, which
9 contains the infrastructure needed to accommodate such development. The application is not
10 associated with specific development plans that demonstrate that policies related to the form
11 of development are met to justify centralized water and wastewater facilities or that the
12 application meets the criteria for evaluating and prioritizing capital projects. Creating a
13 central water and wastewater service area in a rural, agriculture area does not establish an
14 efficient potable water and sanitary sewer system that promotes infill or orderly, compact
15 growth, and development that logically expands an existing urban area. Instead, the Bluefield
16 Utilities proposal will undermine the integrity of the Urban Service Areas and promote an
17 urban sprawl pattern of development rather than discourage urban sprawl.

18 The Martin County Comprehensive Plan Sanitary Sewer Services Element includes
19 Policy 10.4.A.1.j. that “prohibits package treatment plants outside the Primary and Secondary
20 Urban Service Districts.” The service territory proposed by Bluefield is located outside the
21 Primary and Secondary Urban Service Districts. The Martin County Comprehensive Plan
22 Potable Water Element includes Section 11.5.3.a. that “establishes criteria for the extension of
23 public facilities that discourage urban sprawl by limiting the expansion of public utilities to
24 only the areas identified on the Future Land Use Map (the Urban Service Areas) located in the
25

1 Future Land Use Element of the Comprehensive Plan.” The service territory proposed by
2 Bluefield is located outside of the area designated as the Primary and Secondary Urban
3 Service Districts on the Future Land Use Map. The Martin County Comprehensive Plan
4 Drainage and Natural Groundwater Aquifer Recharge Element includes Section 13.4.6.a. “that
5 establishes criteria for the extension of public facilities that discourage urban sprawl by
6 limiting the expansion of public utilities to only the areas identified on the Future Land Use
7 Map (the Urban Service Areas) located in the Future Land Use Element of the Comprehensive
8 Plan.” The service territory proposed by Bluefield is located outside of the area designated as
9 the Primary and Secondary Urban Service Districts on the Future Land Use Map.

10 Q. What is the Department’s position with respect to the whether the Bluefield and Grove
11 Land applications are consistent with the currently approved St. Lucie County Comprehensive
12 Plan?

13 A. The St. Lucie County Comprehensive Plan Future Land Use Element includes
14 Objective 1.1.2 that calls for a compatible and coordinated land use pattern which establishes
15 agriculture as the primary use outside of the Urban Service Boundary and promotes retention
16 of agricultural activities. The Bluefield and Grove Land’s proposed service territories are
17 located outside of the St. Lucie County Urban Service Boundary. Policies 1.1.2.4 and 1.1.2.5
18 envision the management of growth within the agricultural land use category “through the
19 orderly delivery of services concurrent with the impacts of development” which will occur in
20 “a rational and orderly manner.” Policy 1.1.4.1 discourages “the conversion of property in the
21 agricultural and suburban areas to higher intensity urban uses.” The Bluefield and Grove
22 Land proposed service territories are located outside the St. Lucie County Urban Service
23 Boundary on lands designated as Agriculture on the Future Land Use Map. Objective 1.1.5
24 discourages “the proliferation of urban sprawl.” Objective 1.1.12 and Policy 1.1.12.1 restrict
25 higher densities and intensities of development to urban service areas where

1 public facilities are available and Policy 1.1.12.3 establishes criteria for the location of public
2 facilities. The applications for the proposed service territories of both Bluefield and Grove
3 Land do not provide sufficient detail to determine if they meet the criteria for the location of
4 public facilities contained in Policy 1.1.12.3. For example, public facilities must maximize
5 the efficiency of services provided, minimize their cost, and minimize their impacts on the
6 natural environment. The existing low-density land uses in the Bluefield and Grove Land
7 application areas do not justify the need for centralized water and sewer facilities. Because
8 the proposed service territories of both Bluefield and Grove Land fall outside of the Urban
9 Service Boundary, they are inconsistent with the above-referenced policies. The applications
10 are not associated with specific development plans that demonstrate that policies related to the
11 form of development are met to justify centralized water and wastewater facilities or that the
12 applications meet the criteria for evaluating and prioritizing capital projects. Creating a
13 central water and wastewater service area in a rural, agriculture area does not establish an
14 efficient potable water and sanitary sewer system that promotes infill development or orderly,
15 compact growth, and development that logically expands an existing urban area. Instead, the
16 Bluefield and Grove Land Utilities proposals will undermine the integrity of the Urban
17 Service Boundary and promote an urban sprawl pattern of development rather than discourage
18 urban sprawl.

19 The St. Lucie County Comprehensive Potable Water and Sanitary Sewer Sub-Elements
20 are essentially identical. Therefore, unless otherwise noted, the citations in this paragraph
21 refer to both elements. The elements note at Objectives 6A.1.1 and 6D.1.1 that St. Lucie
22 County shall provide potable water and sanitary sewer facilities that do not promote urban
23 sprawl. Policies 6A.1.1.1 and 6D.1.1.1 emphasize that service areas will be determined on the
24 basis of economy and efficient operation but will not promote leapfrog development.
25

1 Similarly, Policies 6A.1.1.1b and 6D.1.1.1b indicate that service will be provided to the urban
2 service area in “the most cost effective and efficient” manner consistent with Future Land Use
3 Element Policy 1.1.5.1 in a manner that will not promote linear or leapfrog development.
4 Policies 6A.1.3.2, 6D.1.3.1, and 6D.1.3.2 establish the priority for capital improvements such
5 as the replacement of worn out facilities or new facilities that reduce or eliminate deficiencies
6 in level of service. Finally, Policy 6D.1.4.2 in the Sanitary Sewer Sub-Element establishes
7 several limits for the use of small package treatment plants including areas where central
8 sewer systems are not available and pre-treatment of sewage is required for particular
9 industries or commercial uses prior to discharge into a regional system. However, insufficient
10 information is provided in the application to determine if the criteria are met.

11 Q. What is the Department’s position with respect to whether the Bluefield and Grove
12 Land applications are consistent with the currently approved Indian River County
13 Comprehensive Plan?

14 A. Future Land Use Element (FLUE) Objective 1 notes that the County will “have an
15 efficient and compact land use pattern.” Several goals, objectives, and policies emphasize that
16 urban uses are intended to be located within the Urban Service Area which contains the
17 infrastructure needed to accommodate such development (see FLUE Goal 1, FLUE Objectives
18 1 and 2, as well as FLUE Policies 1.11, 1.13, 1.15, 2.1, 2.2, and 2.3). The proposed service
19 territory in the Grove Land application is outside of the Urban Service Area. The application
20 of Bluefield does not affect Indian River County as none of the proposed service territory falls
21 within this County. FLUE Objective 4 and its policies encourage the concentration of urban
22 uses, thereby discouraging sprawl and encouraging infill and redevelopment. FLUE Policy
23 6.1 notes that the County will “. . . not provide public services or facilities which would induce
24 or encourage the development of agriculturally designated lands except . . .” for health and
25 safety, agriculture planned developments, and other similar forms of development. Because

1 the proposed service territory for Grove Land falls outside the Urban Service Area and does
2 not provide details as to the type of development that will occur, it is not consistent with the
3 above-referenced objectives and policies.

4 The goals, objectives, and policies in the Potable Water and Sanitary Sewer Sub-
5 Elements are essentially identical. Therefore, the following citations refer to both elements.
6 Goal 1 calls for an efficient potable water/sanitary sewer system that prevents degradation of
7 existing resources, promotes orderly growth and development, and meets existing and
8 projected demands. Policy 2.4 notes that the county shall provide service to areas determined
9 to be a public health threat. Policies 5.2 and 5.7 (Policy 5.8 in the Sanitary Sewer Sub-
10 Element) establish the criteria for evaluating and prioritizing capital projects. Based on the
11 information in the application, it cannot be determined whether these criteria have been met.
12 For example, Policy 5.2 in both elements places first priority on projects needed for public
13 health and safety, then on projects which increase efficiency, and finally on projects which are
14 logical facility extensions.

15 Similarly, Policies 5.7 and 5.8 provide further evaluation criteria regarding the location
16 of facilities such as limiting the provision of potable water and sanitary sewer to 1) areas
17 within the Urban Service Area, 2) areas where the County has legal commitments to provide
18 facilities and services, 3) areas outside of the Urban Service Area where at least a portion of
19 the site is contiguous to an Urban Service Area boundary as depicted on the Future Land Use
20 Map and the area meets additional criteria regarding density and a limit on the distance of the
21 line extension (the proposed expansion areas are not contiguous to the Urban Service Area), 4)
22 development projects outside the Urban Service Area that use clustering or traditional
23 neighborhood design, 5) areas where there is a health risk due to private well contamination,
24 and 6) approved agricultural businesses where at least a portion of the development site is
25 within one mile of a public roadway which serves as an Urban Service Area Boundary as

1 depicted on the Official Future Land Use Map. Because the proposed territory for Grove
2 Land is outside the Urban Service Area Boundary and the application lacks detailed
3 information, these criteria have not been met.

4 Finally, Policy 6.1 notes that privately owned public water treatment plants or package
5 treatment plants shall be allowed in areas of development outside of the Urban Service Area
6 Boundary when such development meets the criteria of policies of the Future Land Use
7 Element for clustering of residential development within agricultural areas. The Grove Land
8 application does not contain any information which would indicate that it meets the criteria of
9 policies of the Future Land Use Element for clustering of residential development within
10 agricultural areas.

11 The application in its current form falls outside the Urban Service Area Boundary and
12 does not provide sufficient detail as to whether the mitigating criteria have been met to
13 determine if the proposed service territory for Grove Land is consistent with the Indian River
14 County Comprehensive Plan. However, Indian River County and Grove Land reached a
15 settlement agreement filed in Docket No. 090445-WS on March 26, 2010 (Agreement). The
16 Agreement states that development of a wastewater treatment plant or potable water plant and
17 related facilities constructed within the Grove Land territory in Indian River County and
18 serving residential development or non-agricultural commercial development shall comply
19 with the Indian River County Comprehensive Plan. The Agreement stipulates a water or
20 wastewater treatment plan serving a biofuel or other alternative energy related uses, or serving
21 agriculture related uses, or serving a surface water cleansing, retention or treatment facility,
22 shall not be considered a Package Treatment Plant or Privately Owned Public Water Plant.

23 Q. What is the Department's position with respect to the whether the Bluefield and Grove
24 Land applications are consistent with the currently approved Okeechobee County
25 Comprehensive Plan?

1 A. Future Land Use Element (FLUE) Objective L1 notes that the Future Land Use
2 designations are intended to “encourage an efficient pattern of development and discourage
3 sprawl.” Several goals, objectives, and policies emphasize that urban uses are intended to be
4 located within Future Land Use Map (FLUM) categories that support urban uses and that
5 contain the infrastructure needed to accommodate such development (see FLUE Objective L7
6 and FLUE Policy L1.1, L1.2, L1.8, L1.11, L2.1, L7.1, and L10.1). FLUE Policy L1.10 notes
7 that the Agriculture FLUM designation protects agricultural land, identifies land that is not
8 needed to serve projected growth, has minimal road access, has no public sewer or water
9 service, and is intended to be held in reserve for future needs. FLUE Policy L4.1 emphasizes
10 redevelopment and renewal. Similarly, FLUE Objective L10 and FLUE Policy L7.4 promote
11 innovative land development techniques to use public facilities in the most efficient manner
12 possible. While Okeechobee County does not have a delineated Urban Service Area, the
13 proposed service territory in the Grove Land application is outside of the urbanized area of the
14 County and located in Agricultural lands, and is therefore inconsistent with the above-
15 referenced policies. The application of Bluefield does not affect Okeechobee County as none
16 of the proposed service territory falls within this County.

17 Infrastructure Policy S2.2 and Capital Improvements Element (CIE) Policy F1.4
18 provide criteria for evaluating and prioritizing capital projects. Based on the information in
19 the application, it cannot be determined whether these criteria have been met. The proposed
20 service territory in the Bluefield application does not impact Okeechobee County. The Grove
21 Land application does not contain sufficient information to determine whether these criteria
22 have been met. For example, both policies place first priority on projects needed for public
23 health and safety, then on projects which increase efficiency, and finally on projects which are
24 logical facility extensions. Also, Objective S3 notes that the County will work with utility
25 providers to increase the availability of public supply potable water and sanitary sewer

1 facilities in urbanized and urbanizing areas of the county. The Capital Improvements Element
2 also addresses infrastructure at CIE Goal F, which states that the County will provide public
3 facilities “in a manner which protects investments in existing facilities, maximizes the use of
4 existing facilities, and promotes orderly growth.” While Okeechobee County does not have a
5 delineated Urban Service Area, the proposed service territory in the Grove Land application is
6 outside of the urbanized area of the County and located in Agricultural lands and is therefore
7 inconsistent with the above-referenced policies.

8 Q. Has the Department received a request by Martin, St. Lucie, Indian River, or
9 Okeechobee County to amend the existing comprehensive plan for the areas in which
10 Bluefield and Grove Land propose to provide water and wastewater service?

11 A. No.

12 Q. Describe the process to amend a comprehensive plan.

13 A. Generally, amendments are transmitted to the Department as a proposed amendment
14 (there are exceptions for some types of amendments). Within 60 days of the receipt of a
15 complete amendment package from the local government, the Department reviews the
16 amendment for consistency with Chapter 163, F.S. and Rule 9J-5, F.A.C., and issues an
17 Objection, Recommendations, and Comments (ORC) report. Upon receipt of the ORC report,
18 the local government generally has 60 days (there are exceptions for developments of regional
19 impact and amendments based on the Evaluation and Appraisal Report) in which to adopt,
20 adopt with changes, or not adopt the proposed amendment. If the local government adopts the
21 amendment and transmits it to the Department, the Department must issue a notice of intent to
22 find the amendment in compliance or not in compliance with state law within 45 days. If the
23 Department publishes a notice of intent to find the amendment in compliance and no affected
24 parties file a challenge to the adopted amendment within 21 days of the issuance of a notice of
25 intent, the amendment is in effect.

1 Q. Does this conclude your testimony?

2 A. Yes it does.

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