

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: March 21, 2024

TO: Office of Commission Clerk (Teitzman)

FROM: Division of Engineering (Watts, Ramirez-Abundez, Ramos) *TB*
Division of Accounting and Finance (Przygocki, Swards) *ALM*
Division of Economics (Bruce, Sibley) *JP*
Office of the General Counsel (Sparks) *JACH*

RE: Docket No. 20230114-WS – Application for certificates to provide water and wastewater service in Volusia County, by Applegate Utility, LLC.

AGENDA: 04/02/24 – Regular Agenda – - Proposed Agency Action - Except for Issue 1 - Interested Persons May Participate

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: Passidomo

CRITICAL DATES: 04/02/24 (Statutory deadline for original certificate pursuant to Section 367.031, Florida Statutes)

SPECIAL INSTRUCTIONS: None

Case Background

Applegate Utility, LLC (Applegate or Utility) is located in Volusia County, Florida. The Utility provides water and wastewater service to approximately 88 mobile home park connections within the Applegate Mobile Home Community, as well as 56 offsite water only connections. The 56 offsite water only customers receive wastewater service from individually owned septic tanks. Applegate acquired the system a little over a year ago, and subsequently became aware that the system was under the jurisdiction of the Florida Public Service Commission (Commission) and should be certificated.

Docket No. 20230114-WS

Date: March 21, 2024

On October 10, 2023, Applegate filed an application for an original certificate for an existing utility currently charging for service pursuant to Rule 25-30.034, Florida Administrative Code (F.A.C.). Staff found this application to be deficient and issued a deficiency letter on November 13, 2023. Applegate provided a response to staff's deficiency letter; however, two deficiencies remained uncured, resulting in a second deficiency letter from staff on December 14, 2023. Applegate responded to the second deficiency letter, and the application was deemed complete on January 3, 2024, establishing the official filing date.

This recommendation addresses the application for original water and wastewater certificates and the appropriate rates and charges for the Utility. The Commission has jurisdiction, pursuant to Sections 367.031 and 367.045, Florida Statutes (F.S.)

Discussion of Issues

Issue 1: Should the application for a water and wastewater certificate by Applegate Utility, LLC be approved?

Recommendation: Yes. Applegate should be granted Certificate Nos. 682-W and 582-S to serve the territory described in Attachment A, which is appended to this recommendation, effective the date of the Commission's vote. The resultant order should serve as Applegate's water and wastewater certificates and should be retained by the Utility. Applegate should submit the recorded deeds for continued access to the land upon which its facilities are located to the Commission within 60 days of the Order granting the certificates, which is final agency action. (M. Watts, Przygocki)

Staff Analysis: On October 10, 2023, Applegate filed its application for original water and wastewater certificates in Volusia County. Upon review, staff determined the original filing was deficient and issued a deficiency letter on November 13, 2023, followed by a second deficiency letter on December 14, 2023. The Utility cured the deficiencies on January 3, 2024, which is considered the official filing date for the application. The Utility's application is in compliance with the governing statutes, Sections 367.031 and 367.045, F.S.

Notice

On October 25, 2023,¹ and October 30, 2023,² Applegate filed proof of compliance with the noticing provisions set forth in Rule 25.30.030, F.A.C. No entity filed a protest during the protest period and the time for filing objections has expired.

Land Ownership and Service Territory

Applegate provided adequate service territory maps, system maps, and a territory description, as required by Rule 25.30.034(1)(k), F.A.C. The legal description of the service territory is appended to this recommendation as Attachment A. The Utility's application included an executed but unrecorded 99-year lease for the land where the water and wastewater treatment facilities are located, pursuant to Rule 25-30.034(1)(m), F.A.C. In response to staff's first data request, Applegate explained that it would record the executed lease in the Volusia County Public Records upon issuance of the Commission's Order approving the original certificate. Applegate should submit the recorded deeds for continued access to the land upon which its facilities are located to the Commission within 60 days of the Order granting the certificates.

Financial and Technical Ability

Rule 25.30.034(1)(i), F.A.C., requires a statement showing the financial ability of the applicant to provide service, a detailed financial statement, and a list of all entities upon which the applicant is relying to provide funding along with those entities' financial statements. Applegate is a newly formed entity and has no financial statements at this time. Applegate is relying fully upon funds provided by Consolidated Parakeet Holding Company (Parakeet). The application contains Parakeet's most recent balance sheet. Additionally, in response to staff's first deficiency letter, Applegate provided a profit and loss statement for Parakeet. Further, the Utility provided

¹Document No. 05803-2023, dated October 25, 2023.

²Document No. 05876-2023, dated October 30, 2023.

an affidavit from Parakeet assuring it will provide or assist Applegate in securing any necessary funding. Staff believes that Parakeet's financial statements and affidavit adequately demonstrate its ability to provide resources and support the Utility's water and wastewater operations. Therefore, staff recommends that Applegate has demonstrated that it will have access to adequate financial resources to operate the Utility.

Rule 25-30.034(1)(j), F.A.C., requires the applicant to demonstrate the technical abilities to provide service. The application contains a statement describing the technical ability of the Utility to provide service to the proposed service area. The owner of Applegate stated he has no prior utility operation experience in Florida; however, the owner and its affiliates have operated water and wastewater systems throughout the United States. Additionally, the owner committed to employing the appropriate operational, technical, and managerial personnel, who are knowledgeable and experienced in utility operation, as well as contracting experienced personnel and consultants to ensure the continuous operation and management of the utility system in an efficient and effective manner. Based on the above, Applegate has demonstrated the financial and technical ability to provide service to the existing service territory.

Conclusion

Based on the above, staff recommends that it is in the public interest to grant Applegate Certificate Nos. 682-W and 582-S to serve the territory described in Attachment A, effective the date of the Commission's vote. The resultant order should serve as Applegate's water and wastewater certificates and it should be retained by the Utility. Applegate should submit the recorded deeds for continued access to the land upon which its facilities are located to the Commission within 60 days of the Order granting the certificates, which is final agency action.

Issue 2: What rates and charges should be approved for Applegate Utility, LLC?

Recommendation: The rates and charges shown on Schedule No. 1 should be approved for Applegate. The Utility should be authorized to bill all customers on a monthly basis. The Utility should be required to notice all customers of the approved rates and charges. The notice should be approved by staff prior to publication and the Utility should provide proof of the date notice was given, within 10 days of the date of the notice. The approved rates and charges should be effective for service rendered on or after the effective date of the tariffs, pursuant to Rule 25-30.475, F.A.C. (Sibley)

Staff Analysis: The Utility provides service to 144 residential customers, which includes water and wastewater service to approximately 88 mobile home park customers and 56 offsite water only customers. The offsite water only customers have septic tanks for wastewater service. The water rates consist of a monthly base facility charge for a 5/8 inch x 3/4 inch meter size of \$15.00 and a gallonage charge per 1,000 gallons of \$6.25 for residential. For wastewater, its tariff consists of a monthly residential flat rate of \$15.98.

Premises Visit and Violation Reconnection Charge

For miscellaneous service charges, the Utility charges \$15.00 for initial reconnection, and according to the Utility, no other miscellaneous service charges have been assessed in the past. Rule 25-30.460, F.A.C., does not allow for initial connection and normal reconnection charges.³ The Utility's initial connection is obsolete and inconsistent with the rule. Therefore, staff recommends that the initial connection charge be removed. Staff recommends a premises visit and violation reconnection charge of \$15, and the definition for the premises visit charge be updated to comply with Rule 25-30.460, F.A.C. A violation reconnection accounts for the discontinuance of service and subsequent reconnection of service. Therefore, the water violation reconnection charge should account for both services at a charge of \$30.00 (\$15.00 x 2). For wastewater, the violation reconnection charge should be at actual cost, pursuant to Rule 25-30.460(2)(b), F.A.C.

Service Availability Charge

The Utility's proposed tariff indicates a meter installation charge of \$65 for a 5/8 inch x 3/4 inch meter size and actual cost for all other meter sizes. The Utility also has a service line extension and tap-in at actual cost. In its application, the Utility's service availability policy states that the water distribution service is currently in place to serve all lots within the service area. New connections shall pay the approved meter installation charge at the time service is requested. Furthermore, it shall be the customer's responsibility to connect its service lateral to the water meter. For wastewater, there are no service availability charges. Staff believes the service availability policy is appropriate and should be approved.

³Order No. PSC-2021-0201-FOF-WS, issued on June 4, 2021, in Docket No. 20200240-WS, *In re: Proposed amendment of Rule 25-30.460, F.A.C., Application for Miscellaneous Service Charges.*

Conclusion

Based on the above, staff recommends that the rates and charges shown on Schedule No. 1 should be approved for Applegate. The Utility should be authorized to bill all customers on a monthly basis. The Utility should be required to notice all customers of the approved rates and charges. The notice should be approved by staff prior to publication and the Utility should provide proof of the date notice was given within 10 days of the date of the notice. The tariff should be effective for service rendered or connections made on or after the stamped approval date on the tariff sheets, pursuant to Rule 25-30.475, F.A.C.

Issue 3: What are the appropriate initial customer deposits for the water and wastewater systems of Applegate Utility, LLC?

Recommendation: The appropriate initial customer deposits for the residential 5/8 inch x 3/4 inch meter size should be \$82 for water and \$84 for wastewater. The initial customer deposits for all other residential meter sizes and all general service meter sizes should be two times the average estimated bill. The approved initial customer deposits should be effective for services rendered or connections made on or after the stamped approval date on the tariff sheets pursuant to Rule 25-30.475, F.A.C. The Utility should be required to collect the approved deposits until authorized to change them by the Commission in a subsequent proceeding. (Sibley)

Staff Analysis: Rule 25-30.311, F.A.C., provides the criteria for collecting, administering, and refunding customer deposits. Customer deposits are designed to minimize the exposure of bad debt expense for the Utility and, ultimately, the general body of ratepayers. An initial customer deposit ensures that the cost of providing service is recovered from the cost causer. Historically, the Commission has set initial customer deposits equal to two times the average estimated bill. The Utility's average monthly residential usage is 4,139 gallons per month for water and wastewater. Therefore, the average residential monthly bill is approximately \$41 for water and \$42 for wastewater service based on staff's recommended rates.

Staff recommends the appropriate initial customer deposits for the residential 5/8 inch x 3/4 inch meter size should be \$82 for water and \$84 for wastewater. The initial customer deposits for all other residential meter sizes and all general service meter sizes should be two times the average estimated bill. The approved initial customer deposits should be effective for services rendered or connections made on or after the stamped approval date on the tariff sheets, pursuant to Rule 25-30.475, F.A.C. The Utility should be required to collect the approved deposits until authorized to change them by the Commission in a subsequent proceeding.

Issue 4: Should this docket be closed?

Recommendation: Yes. If no person whose substantial interests are affected by the proposed agency actions in Issues 2 and 3 files a protest within 21 days of the issuance of the order, a consummating order should be issued. The docket should remain open for staff's verification that the revised tariff sheets and customer notice have been filed by the Utility and approved by staff. Once these actions are complete, this docket should be closed administratively. (Sparks)

Staff Analysis: If no person whose substantial interests are affected by the proposed agency actions in Issues 2 and 3 files a protest within 21 days of the issuance of the order, a consummating order should be issued. The docket should remain open for staff's verification that the revised tariff sheets and customer notice have been filed by the Utility and approved by staff. Once these actions are complete, this docket should be closed administratively.

APPLEGATE UTILITY, LLC

Water and Wastewater Service Area

ALL OF LOTS A AND B, AND THE NORTH 1/2 OF LOT C, NORTHWOOD SUBDIVISION, ACCORDING TO THE MAP OR PLAT THEREOF AS RECORDED IN MAP BOOK 6, PAGE 156, OF THE PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA LOCATED IN SECTION 28, TOWNSHIP 16 SOUTH RANGE 30 EAST, AND THAT PART OF GOVERNMENT LOT 4, SECTION 29, TOWNSHIP 16 SOUTH, RANGE 30 EAST, VOLUSIA COUNTY, FLORIDA, ALL BEING DESCRIBED AS FOLLOWS:

BEGIN AT A POINT ON THE SOUTHEASTERLY LINE OF THE DOMINGO REYES GRANT, SECTION 38, TOWNSHIP 16 SOUTH, RANGE 30 EAST, BEING THE NORTHWEST CORNER OF SECTION 28, TOWNSHIP 16 SOUTH, RANGE 30 EAST, VOLUSIA COUNTY, FLORIDA; THENCE N49°10'51"E ALONG THE NORTHWESTERLY LINE OF SAID SECTION 28 AND THE SOUTHWESTERLY LINE OF SAID DOMINGO REYES GRANT, A DISTANCE OF 1,543.69 FEET TO A POINT ON THE WEST RIGHT-OF-WAY LINE OF STATE ROAD NO. 11, HAVING A 200.00 FOOT RIGHT-OF-WAY; THENCE S00°43'19"E ALONG THE WEST RIGHT-OF-WAY OF SAID STATE ROAD NO. 11, A DISTANCE OF 1,312.31 FEET TO A POINT ON THE SOUTH LINE OF THE NORTH 1/2 OF LOT C, NORTHWOOD SUBDIVISION, ACCORDING TO THE MAP OR PLAT THEREOF, AS RECORDED IN MAP BOOK 6, PAGE 156, OF THE PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA; THENCE S89°35'41"W ALONG THE SOUTH LINE OF THE NORTH 1/2 OF SAID LOT C, A DISTANCE OF 1,180.87 FEET TO A POINT ON THE EAST LINE OF GOVERNMENT LOT 4, SECTION 29, TOWNSHIP 16 SOUTH, RANGE 30 EAST, VOLUSIA COUNTY, FLORIDA; THENCE S00°43'19"E ALONG THE EAST LINE OF SAID GOVERNMENT LOT 4, A DISTANCE OF 244.42 FEET TO A POINT ON THE SOUTHERLY BOUNDARY LINE OF PARCEL 3, AS DESCRIBED IN OFFICIAL RECORDS BOOK 8125, PAGE 4012, OF THE PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA; THENCE DEPARTING SAID EAST LINE, RUN S50°22'13"W ALONG SAID SOUTHERLY BOUNDARY LINE, A DISTANCE OF 412.73 FEET TO THE SOUTHWEST CORNER OF SAID PARCEL 3; THENCE N41°38'55"W ALONG THE WESTERLY BOUNDARY LINE OF SAID LANDS, A DISTANCE OF 416.74 FEET TO A POINT ON AFORESAID SOUTHEASTERLY LINE OF THE DOMINGO REYES GRANT AND THE NORTHWESTERLY LINE OF AFORESAID SECTION 29, TOWNSHIP 16 SOUTH, RANGE 30 EAST; THENCE N49°10'51"E, ALONG SAID NORTHWESTERLY LINE OF SECTION 29 AND THE SOUTHEASTERLY LINE OF THE DOMINGO REYES GRANT, A DISTANCE OF 776.75 FEET TO THE POINT OF BEGINNING.

SAID LANDS CONTAINING 27.77 ACRES, MORE OR LESS.

FLORIDA PUBLIC SERVICE COMMISSION

Authorizes

Applegate Utility, LLC

pursuant to

Certificate Number 682-W

to provide water service in Volusia County in accordance with the provisions of Chapter 367, Florida Statutes, and the Rule, 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>
*	*	20230114-WS	Original Certificate

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

FLORIDA PUBLIC SERVICE COMMISSION

Authorizes

Applegate Utility, LLC

pursuant to

Certificate Number 582-S

to provide wastewater service in Volusia County in accordance with the provisions of Chapter 367, Florida Statutes, and the Rule, 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>
*	*	20230114-WS	Original Certificate

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

Applegate Utility, LLC

Monthly Water Rates

Residential

5/8" x 3/4" meter size \$15.00

Charge per 1,000 gallons \$6.25

Monthly Wastewater Rates

Residential

All meter sizes \$15.98

Miscellaneous Service Charges

Violation Reconnection Charge - Water	\$30.00
Violation Reconnection Charge - Wastewater	Actual Cost
Premises Visit Charge	\$15.00

**Service Availability Charges
Water Service**

Meter Installation Charge	
5/8" x 3/4"	\$65.00
1"	Actual Cost
1 1/2"	Actual Cost
2"	Actual Cost
Service Line Extension and Tap-In	Actual Cost