

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: January 24, 2025

TO: Office of Commission Clerk (Teitzman)

FROM: Division of Engineering (Davis, Ellis, Ramos) *TB*
Office of the General Counsel (Stiller) *JSC*

RE: Docket No. 20240140-WS – Application for amendment of Certificate Nos. 589-W and 507-S in Polk County, by NC Real Estate Projects, LLC d/b/a Grenelefe Utility.

AGENDA: 02/04/25 – Regular Agenda – Interested Persons May Participate

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: Administrative

CRITICAL DATES: None

SPECIAL INSTRUCTIONS: None

Case Background

NC Real Estate Projects, LLC d/b/a Grenelefe Utility (Grenelefe or Utility) is a Class B water and wastewater utility operating in Polk County. Grenelefe provides service to approximately 1,359 water and wastewater customers. It is anticipated that the proposed certificate amendment will result in the addition of approximately 2,064 water and wastewater customers, which includes those outside the utility service territory who are currently being served (984 ERCs), those anticipated to be served in the future (1080 ERCs), and a small number of commercial customers. The Utility is in the St. Johns River Water Management District (SJRWMD). On September 16, 2024, an affidavit was signed by the Utility that tariffs and annual reports are on

file with the Commission. In its 2023 Annual Report, Grenelefe reported a net operating loss of \$184,215 for water, and \$233,950 for wastewater. The Utility's last rate case was in 2011.¹

In 1997, the Commission issued original water and wastewater Certificate Nos. 589-W and 507-S to Sports Shinko Utility, Inc. d/b/a Grenelefe Utilities.² In 2005, the Commission granted a transfer of the Utility to Grenelefe Resort Utility, Inc. from the previous owner.³

On August 9, 2022, Grenelefe Resort Utility, Inc. and NC Real Estate Projects, LLC filed a joint application with the Commission for transfer of Certificate Nos. 589-W and 507-S from Grenelefe Resort Utility, Inc. to NC Real Estate Projects, LLC and Grenelefe Resort Utilities Development, LLC. This initial joint application would have NC Real Estate Projects, LLC acquire all assets from the Seller and serve as the Buyer of the utility. NC Real Estate Projects would then lease all utility assets and real estate to Grenelefe Resort Utilities Development, LLC for 7 months. After this 7 month period, NC Real Estate Projects, LLC would transfer both the utility assets and land to Grenelefe Resort Utilities Development, LLC, who would then serve as the utility owner and operator going forward.

On October 10, 2023, Grenelefe Resort Utility, Inc. and NC Real Estate Projects, LLC d/b/a Grenelefe Utility filed an amended joint application. This amended joint application superseded the initial joint application, and proposed to transfer the certificates from Grenelefe Resort Utility, Inc. to NC Real Estate Projects, LLC d/b/a Grenelefe Utility, with no intervening lease period. The sale of the Utility closed on May 31, 2022. The Commission approved transfer of the certificates on February 21, 2024.⁴

On September 17, 2024, Grenelefe filed an application with the Commission for an amendment of Certificate Nos. 589-W and 507-S, water and wastewater service territories in Polk County. During staff's review of the application, staff discovered three deficiencies. Corrections to the deficiencies were filed on November 13, 14, and 26, 2024, and January 15, 2025. After reviewing this information, staff determined that the corrections and application were acceptable. The official filing date for this application was January 15, 2025.⁵

This recommendation addresses a potential show cause proceeding and the Utility's request for an amendment to the certificates of authorization for its water and wastewater service territories in Polk County. The Commission has jurisdiction pursuant to Section 367.045, Florida Statutes (F.S.).

¹ Order No. PSC-12-0433-PAA-WS, issued October 21, 2012, in Docket No. 110141-WS, *In re: Application for staff-assisted rate case in Polk County by Grenelefe Resort Utility, Inc.*

² Order No. PSC-97-1546-FOF-WS, issued December 9, 1997, in Docket No. 961006-WS, *In re: Application for certificates under grandfather rights to provide water and wastewater service by Sports Shinko Utility, Inc. d/b/a Grenelefe Utilities in Polk County.*

³ Order No. PSC-05-0142-PAA-WS, issued February 7, 2005, in Docket No. 030123-WS, *In re: Application for transfer of majority organizational control of Sports Shinko Utility, Inc. d/b/a Grenelefe Utilities in Polk County and for name change on Certificate Nos. 589-W and 507-S to Grenelefe Resort Utility, Inc.*

⁴ Order No. PSC-2022-0128-PCO-WS, issued February 21, 2024, in Docket No. 20220142-WS, *In re: Application for transfer of water and wastewater facilities and Certificate Nos. 589-W and 507-S from Grenelefe Resort Utility, Inc. to NC Real Estate Projects, LLC d/b/a Grenelefe Utility, in Polk County.*

⁵ Document No. TBD in Docket No. 20240140-WS.

Discussion of Issues

Issue 1: Should the Commission institute a show cause proceeding against Grenelefe for an apparent violation of Section 367.045, F.S.?

Recommendation: No. A show cause proceeding should not be initiated. (Stiller)

Staff Analysis: As stated in the case background, Grenelefe acquired a utility that was providing service to 984 water and wastewater connections on 581.17 acres outside of its certificated territory. Grenelefe filed the instant application, in part, to amend its certificates and correct this mistake.

Section 367.045(2), F.S., states that a utility may not extend its service outside the area described in its certificate of authorization until the Commission approves an amended certificate of authorization to include the new area. Section 367.161(1), F.S., authorizes the Commission to assess a penalty of not more than \$5,000 for each offense if a utility is found to have willfully violated any provision of Chapter 367, F.S.

Grenelefe's predecessor utility extended service outside of the area described in its certificates of authorization without Commission approval. This extension appears to be in violation of Section 367.045(2), F.S., and appears to have been "willful" as that term is used in Section 367.161, F.S. Because Grenelefe must fulfill the commitments, obligations, and representations of its predecessor utility,⁶ Grenelefe may bear responsibility for any penalty imposed by the Commission following a show cause proceeding regarding the prior extension of services.

Staff recommends that the Commission not initiate a show cause proceeding under the present circumstances. The extension of service outside the certificated service area was undertaken by Grenelefe's predecessor utility. Grenelefe filed the instant application to amend the certificates to include the area promptly after the Commission approved its application for transfer of the certificates. The amendment area is adjacent to the currently certificated area and is within the same overall Grenelefe Resort development that is served by the Utility's system. Grenelefe has filed annual reports and paid regulatory assessment fees based on the total number of customers it serves, including those inadvertently outside of its certificated area. Staff is not aware of any complaints regarding service in this area.

Conclusion

Staff does not believe that the extra-territorial extension of services described above warrants the initiation of a show cause proceeding by the Commission. Grenelefe has undertaken appropriate actions in a timely manner to amend the certificates to address the territorial issue created by its predecessor.⁷ Therefore, staff recommends that the Commission not order Grenelefe to show cause why it should not be fined for the failure to obtain amended certificates of authorization prior to service being provided outside of the certificated territory.

⁶ Section 367.071(1), F.S.

⁷ See Order No. PSC-05-0678-FOF-WU, issued June 20, 2005, in Docket No. 050255-WU, *In re: Application for a "Quick Take" Amendment of Certificate No. 339-W in Lake County by Brendenwood Water System, Inc.* ("[W]e find that this apparent violation does not rise to the level of a show cause action because the utility has filed the application at issue in order to come into compliance with the statutory requirement.").

Date: January 24, 2025

Issue 2: Should the Commission approve Grenelefe's application for amendment of Certificate Nos. 589-W and 507-S to extend its territory from its certificated water and wastewater service territory in Marion County?

Recommendation: Yes. The Commission should amend Certificate Nos. 589-W and 507-S to include the territory as described in Attachment A, effective the date of the Commission's vote. The resultant order should serve as Grenelefe's amended certificates and should be retained by the Utility. The Utility should charge future customers in the territory added herein the rates and charges contained in its current tariffs until a change is authorized by the Commission in a subsequent proceeding. (Davis)

Staff Analysis: The Utility's application to amend its authorized service territory is in compliance with the governing statute, Section 367.045, F.S., and Rule 25-30.036, Florida Administrative Code (F.A.C.). The appropriate filing fee as required by Section 367.145, F.S., was received by the Commission on September 19, 2024. Grenelefe provided notice of the application pursuant to Section 367.071, F.S., and Rule 25-30.030(5)(b), F.A.C. This notice provided 30 days for customers to file an objection to the transfer. No objections to the application have been received and the time for filing such has expired.

Grenelefe provided adequate service territory maps and territory descriptions to Commission staff. A description of the territory requested to be extended by the Utility, as well as the resulting service territory description, is appended to this recommendation as Attachment A. The Utility submitted an affidavit with its September 17, 2024, application consistent with Rule 25-30.036(2)(q), F.A.C., stating that it has tariffs and annual reports on file with the Commission.

Grenelefe's existing water system includes two 1,500 gpm potable water wells and several additional irrigation wells. The water is chlorinated for disinfection, and polyphosphate is added for lead and copper corrosion control. The wells appear adequate to provide service to Grenelefe's existing customers both inside and outside of the currently approved FPSC service territory as well as to the proposed Groves at Lake Marion extension area. Grenelefe provided a copy of the Utility's current consumptive use permit from the SJRWMD.

The wastewater treatment plant is an extended aeration activated sludge plant with a design capacity of 340,000 gallons per day with effluent disposal through percolation ponds. The current average annual daily flow through these treatment facilities is 138,578 gallons per day average annual daily flow. As such, the Utility has adequate capacity to meet the needs of both its current customers and the expanded service territory.

Water distribution and wastewater collection facilities were designed and constructed in order to meet the needs of the current customers inside and outside the certificated service territory. The Groves at Lake Marion portion of this extension application will be designed and constructed to provide service to all facilities in the area.

Staff reviewed the most recent Department of Environmental Protection Agency (DEP) Sanitary Survey Report. The May 10, 2023 report identified several deficiencies, but all were corrected in 30 days.

Date: January 24, 2025

Also, staff reviewed the most recent DEP compliance evaluation inspections for the wastewater treatment plant. The December 6, 2022 compliance evaluation inspection also identified several issues, but all deficiencies were corrected and the facility was determined to be in compliance by DEP on March 15, 2023.

Conclusion

The Commission should amend Certificate Nos. 589-W and 507-S to include the territory as described in Attachment A, effective the date of the Commission's vote. The resultant order should serve as Grenelefe's amended certificate and should be retained by the Utility. The Utility should charge future customers in the territory added herein the rates and charges contained in its current tariffs until a change is authorized by the Commission in a subsequent proceeding.

Date: January 24, 2025

Issue 3: Should this docket be closed?

Recommendation: If the Commission approves staff's recommendation, no further action will be necessary, and this docket should be closed upon issuance of the order. (Stiller)

Staff Analysis: If the Commission approves staff's recommendation, no further action will be necessary, and this docket should be closed upon issuance of the order.

**NC REAL ESTATE PROJECTS, LLC d/b/a GRENELEFE UTILITY
WATER AND WASTEWATER SERVICE AREA**

LEGAL DESCRIPTION OF TERRITORY TO BE SERVED

A parcel of land being a portion of Sections 5, 6, 7, 8, 17 and 18, Township 28 South, Range 28 East, Polk County, Florida, being more particularly described as follows:

Begin at the East $\frac{1}{4}$ corner of Section 6, Township 28 South, Range 28 East, Polk County, Florida; thence N00°12'32"W, along the West line of Section 5, Township 28 South, Range 28 East, Polk County, Florida, a distance of 659.16 feet; thence departing said West line, run N89°36'57"E, a distance of 1,714.43 feet to a point on the Westerly Meandering line of Lake Marion; thence the following twelve (12) courses and distances along said Westerly line: thence S26°12'13"W, a distance of 738.08 feet; thence N89°39'08"E, a distance of 68.89 feet; thence S31°14'22"W, a distance of 363.56 feet; thence S06°10'27"W, a distance of 362.41 feet; thence S23°46'45"E, a distance of 277.86 feet; thence S07°13'21"E, a distance of 406.55 feet; thence S17°20'02"E, a distance of 229.68 feet; thence S17°34'19"E, a distance of 229.98 feet; thence S08°55'18"E, a distance of 222.01 feet; thence S07°38'32"E, a distance of 221.30 feet; thence S07°09'37"W, a distance of 221.19 feet; thence S08°57'04"W, a distance of 220.17 feet; thence S89°38'35"W, along said South line, a distance of 560.36 feet to the West Right of Way line of West Lake Marion Road; thence the following two (2) courses and distances along said West Right of Way line: thence S00°00'54"E, a distance of 25.00 feet; thence S00°04'56"W, a distance of 2,611.15 feet; thence departing said West Right of Way line, run N89°58'12"E, a distance of 74.98 feet to a point on the East Right of Way line of West Lake Marion Road; thence N89°51'42"E, a distance of 279.33 feet; thence S00°03'25"W, a distance of 2,148.34 feet; thence N89°52'19"W, a distance of 273.92 feet to the East Right of Way line of West Lake Marion Road; thence S89°19'40"W, a distance of 80.66 feet to a point on the West Right of Way line of West Lake Marion Road, said point also being a Point on a Non-Tangent Curve, Concave to the Northeast, having a Radius of 612.96 feet and a Central Angle of 58°10'16"; thence run Southeasterly along said West Right of Way line, a distance of 622.32 feet (Chord Bearing = S36°27'13"E, Chord = 595.94 feet) to a Point on a Non-Tangent Curve, Concave to the North, having a Radius of 613.27 feet and a Central Angle of 09°24'43"; thence run Easterly along said West Right of Way line, a distance of 100.74 feet (Chord Bearing = S70°13'35"E, Chord = 100.63 feet) to a Point of Non Tangency, said point also being a point on the East line of the West $\frac{1}{2}$ of the Northwest $\frac{1}{4}$ of Section 17, Township 28 South, Range 28 East, Polk County, Florida; thence departing said West Right of Way line, run S01°53'45"E, along said East line, a distance of 2,576.23 feet to a point on the South line of the West $\frac{1}{2}$ of the Northwest $\frac{1}{4}$ of said Section 17; thence departing said East line, run N89°11'18"W, along said South line, a distance of 1,329.53 feet to a point on the East line of Section 18, Township 28 South, Range 28 East, Polk County, Florida; thence S89°05'29"W, along the South Line of the Northeast $\frac{1}{4}$ of said Section 18, a distance of 2,721.89 feet to a point on the West line of the Northeast $\frac{1}{4}$ of said Section 18; thence departing said South line, run N00°23'07"W, along said West line, a distance of 2,596.57 feet to a point on the South line of Section 7, Township 28 South, Range 28 East, Polk County, Florida; thence N00°35'24"W, along the West line of the Southeast $\frac{1}{4}$ of said Section 7, a distance of 2,648.33 feet to a point on the South line of the Northwest $\frac{1}{4}$ of said

Section 7; thence departing said West line, run S89°42'07"W, along said South line, a distance of 2,644.17 feet to a point on the West line of said Section 7; thence departing said South line, run N00°20'31"W, along said West line, a distance of 2,634.95 feet to the Southwest corner of Section 6, Township 28 South, Range 28 East, Polk County, Florida; thence N00°21'33"W, along the West line of said Section 6, a distance of 2,635.87 feet to a point on the North line of the South ½ of said Section 6; thence the following two (2) courses and distances along said North line: thence N89°38'32"E, a distance of 2,635.65 feet; thence N89°39'09"E, a distance of 2,638.50 feet to the Point of Beginning.

Containing 1,277.45 acres, more or less.

FLORIDA PUBLIC SERVICE COMMISSION

**Authorizes
NC Real Estate Projects, LLC d/b/a Grenelefe Utility
pursuant to
Certificate Number 589-W**

to provide water service in Polk 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.

Order Number	Date Issued	Docket Number	Filing Type
PSC-97-1546-FOF-WS	12/09/1997	961006-WS	Grandfather Certificate
PSC-05-0142-PAA-WS Organizational Control	02/07/2005	030123-WS	Transfer of Majority
PSC-2024-0228-PAA-WS	07/08/2024	20220142-WS	Transfer of Certificate
*	*	20240140-WS	Amendment of Certificate

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

FLORIDA PUBLIC SERVICE COMMISSION

**Authorizes
NC Real Estate Projects, LLC d/b/a Grenelefe Utility
pursuant to
Certificate Number 507-S**

to provide wastewater service in Polk 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.

Order Number	Date Issued	Docket Number	Filing Type
PSC-97-1546-FOF-WS	12/09/1997	961006-WS	Grandfather Certificate
PSC-05-0142-PAA-WS Organizational Control	02/07/2005	030123-WS	Transfer of Majority
PSC-2024-0228-PAA-WS	07/08/2024	20220142-WS	Transfer of Certificate
*	*	20240140-WS	Amendment of Certificate

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