

Matilda Sanders

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Sent: Friday, April 06, 2007 10:26 AM
To: Filings@psc.state.fl.us
Cc: REILLY.STEVE
Attachments: 060257 Cross petition.doc

ORIGINAL

Electronic Filing

1. Person responsible for this electronic filing:

Stephen C. Reilly, Associate Public Counsel
Office of Public Counsel
c/o The Florida Legislature
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2. Docket No. 060257-WS

In re: Application for increase in water and wastewater rates in Polk County by Cypress Lakes Utilities, Inc.

3. Document being filed on behalf of Office of Public Counsel

4. There are a total of 6 pages.

5. The document attached for electronic filing is a Cross-Petition of the Citizens.

(See attached file: 060257 cross petition.doc)

Thank you for your attention and cooperation to this request.

Asha Maharaj-Lucas
Secretary to Steve Reilly, Associate Public Counsel.
Office of Public Counsel
Telephone: (850) 488-9330
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SCR _____
SGA _____
SEC _____
OTH Per

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Application for increase in water)
and wastewater rates in Polk County by)
Cypress Lakes Utilities, Inc.)
_____)

DOCKET NO. 060257-WS

FILED: April 6, 2007

CROSS-PETITION OF THE CITIZENS

The Citizens of the State of Florida (“Citizens”), by and through their undersigned attorney, pursuant to Section 120.57, Florida Statutes, and Rules 25-22.029 and 28-106.201, Florida Administrative Code, file this Cross-Petition to the Florida Public Service Commission’s (“Commission”) Order No. PSC-07-0199-PAA-WS (“Order”), issued March 6, 2007, and state:

- 1. The name and address of the agency affected and the agency’s file number are:

Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850
Docket No. 060257-WS

- 2. The name and addresses of the Applicant who initiated this docket:

Cypress Lakes Utilities, Inc.	c/o Utilities, Inc.
2335 Sanders Rd	200 Weathersfield Court
Northbrook, IL 60062	Altamonte Springs, FL 32714

- 3. The name and address of Petitioner:

Cypress Lakes Associates, Ltd.
11300 4th Street North, Suite 200
St. Petersburg, FL 33716

4. The name and address of Cross-Petitioner is:

The Office of Public Counsel
Attention: Stephen C. Reilly
c/o The Florida Legislature
111 West Madison Street, Room 812
Tallahassee, Florida 32399-1400
Telephone No. (850) 488-9330

5. Pursuant to Chapter 350.0611, Florida Statutes, the Citizens who filed this Cross-Petition are represented by the Office of Public Counsel (“Citizens”, “Cross-Petitioner” or “OPC”). The Citizens are customers of Cypress Lakes Utilities, Inc. (“Cypress Lakes”, “Utility” or “Company”) whose substantial interests will be affected by the Order because the Order establishes rates and charges, including service availability fees, to be paid by present and future customers of Cypress Lakes.
6. The Citizens received a copy of the Order by inter-office courier on March 8, 2007.
7. At this time the facts alleged, including the specific facts which the Cross-Petitioner contends warrants reversal or modification of the agency’s proposed action are as follows:

RATE BASE

- a. To the extent land and water and wastewater facilities have been contributed to or contracted to be contributed to Cypress Lakes and have not been properly accounted for as contributions-in-and-of-construction (CIAC) and deducted from rate base, such accounting and deductions should be made.

b. To the extent cash payments of CIAC have been made or have been contracted to be made to Cypress Lakes and such cash payments of CIAC have not been properly accounted for and deducted from rate base, such accounting and deductions should be made.

RATES AND CHARGES

c. To the extent land and water and wastewater facilities and cash payments of CIAC have been made or contracted to be made to Cypress Lakes and such land, facilities and cash payments have not been properly accounted for and deducted from rate base, such accounting and deductions should be made and the revenue requirements and the resulting rates for water and wastewater service approved by the Order should be correspondingly reduced.

d. After applying Commission Rules 25-30.565, 30.570, 30.580 and 30.585, F.A.C., to the particular facts of this docket, if the Commission determines that the appropriate service availability fees should be greater than the \$1,500 for water and \$1,500 for wastewater as provided in the Order, such higher service availability fees should be approved and ordered by the Commission.

8. Each of the foregoing matters involve disputed issues of material fact.

9. Order No. PSC-07-0199-PAA-WS establishes March 26, 2007 as the date by which protests must be filed. Cypress Lakes Associates, Ltd. filed a timely protest to the Order. Commission Rule 25-22.029, F.A.C., provides that within 10 days of service of the initial petition, any other person substantially affected by the proposed agency action may file a Cross-Petition identifying additional particular issues on which a hearing is requested.
10. Chapters 367.081 and 367.101, Florida Statutes, are the specific statutes that the Cross-Petitioner contends requires reversal of the agency's proposed action.
11. The Cross-Petitioner requests the Commission to take the following actions with respect to the agency's proposed action:
 - a. Determine all land, water and wastewater facilities and cash CIAC payments that have been made or contracted to be made to Cypress Lakes, and make the appropriate reductions to rate base as a result of these contributions and payments.
 - b. After making the above appropriate reductions to rate base, the Commission should correspondingly reduce the water and wastewater revenue requirements and resulting rates to be imposed upon Cypress Lakes customers.
 - c. The Commission should determine the appropriate plant capacity charges and policy for contributing distribution and collection plant to Cypress Lakes, and should order that Cypress

Lakes accept such donated distribution and collection plant and collect the appropriate plant capacity charges from all future developers requesting water and wastewater services or future water and wastewater customers, whichever the case may be.

WHEREFORE, the Citizens hereby protest and object to Commission Order No. PSC-07-0199-PAA-WS as provided above, and petitions the Commission to conduct a formal evidentiary hearing, under the provisions of Section 120.57(1), Florida Statutes, and further petitions that such hearing be scheduled at a convenient time within or as close as practical to the Utility's certificated service area.

Respectfully submitted,

s/ Stephen C. Reilly
Stephen C. Reilly
Associate Public Counsel
Office of Public Counsel
c/o The Florida Legislature
111 West Madison Street, Room 812
Tallahassee, FL 32399-1400
(850) 488-9330

Attorney for the Citizens
of the State of Florida

CERTIFICATE OF SERVICE
DOCKET NO. 060257-WS

I HEREBY CERTIFY that a true and correct copy of the foregoing Cross-Petition has been furnished by U. S. Mail and electronic mail to the following parties this 6th day of April, 2007:

Katherine Fleming, Esquire
Florida Public Service Commission
Office of the General Counsel
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s/ Stephen C. Reilly
Stephen C. Reilly
Associate Public Counsel