

**Eric Fryson**

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**From:** DAVIS.PHYLLIS [DAVIS.PHYLLIS@leg.state.fl.us]  
**Sent:** Monday, January 09, 2012 4:35 PM  
**To:** Filings@psc.state.fl.us  
**Cc:** Jennifer Crawford; 'mfriedman@rsbattorneys.com'; REILLY.STEVE  
**Subject:** Electronic Filing: 110153-SU - OPC's Petition on Proposed Agency Action  
**Attachments:** Petition on Proposed Agency Action.pdf

Electronic Filing

a. Person responsible for this electronic filing:

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  
[Reilly.steve@leg.state.fl.us](mailto:Reilly.steve@leg.state.fl.us)

b. Docket No. ~~100426-WS~~ **DM**  
In re: Application for increase in wastewater rates in Lee County by Utilities, Inc. of Eagle Ridge

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

d. There are a total of 5 pages.

e. The document attached for electronic filing is **OPC's Petition on Proposed Agency Action**

Thank you for your attention and cooperation to this request.

Phyllis W. Philip-Guide  
Assistant to Stephen C. Reilly, Associate Public Counsel  
Office of Public Counsel  
Telephone: (850) 488-9330  
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DOCUMENT NUMBER-DATE

00154 JAN-9 2012

FPSC-COMMISSION CLERK

1/9/2012

**BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**

In Re: Application for increase in  
wastewater rates in Lee County  
by Utilities, Inc. of Eagle Ridge

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Docket No. 110153-SU

Filed: January 9, 2012

**PETITION ON PROPOSED AGENCY ACTION**

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 objection to the Florida Public Service Commission’s (“Commission”) Order No. PSC-11-0587-PAA-SU (“Order”), issued December 21, 2011, and state:

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

Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, FL 32399-0850  
Docket No. 110153-SU

2. On December 22, 2011, Utilities Inc. of Eagle Ridge (“UI”, “Eagle Ridge” or “Company”) filed a petition protesting portions of the Commission’s Order. As a direct result of UI’s protest, OPC is filing this petition. The Citizens include customers of UI whose substantial interests will be affected by the Order because the Order authorizes the Utility to increase the rates and charges it imposes upon its customers.

DOCUMENT NUMBER-DATE

00154 JAN-9 2

FPSC-COMMISSION CLERK

3. Pursuant to Section 350.0611, Florida Statutes, the Citizens who file this petition are represented by the Office of Public Counsel ("Citizens", "Petitioner" or "OPC") with the following address and telephone number: Office of Public Counsel, c/o The Florida Legislature, 111 West Madison Street, Room 812, Tallahassee, Florida 32399-1400, telephone no. (850) 488-9330.

4. The Citizens received a copy of the Order on December 21, 2011 from the Commission's website.

5. At this time the ultimate facts alleged, including the specific facts which the Petitioner contends warrants reversal or modification of the agency's proposed action are as follows:

a. Additional adjustments should be made to the Company's revenue requirement because of management's failure to adjust its books and records in accordance with prior Commission orders.

b. Project Phoenix has failed to deliver enhanced benefits promised to its customers when the project was first proposed. For this reason, further adjustments should be made to the Company's revenue requirement.

c. The used and useful percentages for the Eagle Ridge and Cross Creek wastewater treatment plants are overstated.

d. The rate case expense that should be borne by Eagle Ridge's customers is overstated.

6. Each of the forgoing matters involve disputed issues of material fact.

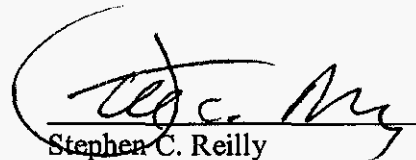
7. The Order establishes January 11, 2012 as the date by which protests must be filed.
  
8. Section 367.081, Florida Statutes, is the specific statute the Petitioner contends requires reversal of the agency's proposed action.
  
9. The Petitioner seeks the Commission to take the following actions with respect to the agency's proposed action:
  - a. Determine that UI's protest of three provisions of the Commission's Order, concerning Project Phoenix, rate case expense and working capital, is without merit, and affirm the Commission's initial findings and orders on these issues, except to the extent that those findings and orders are modified in accordance with OPC's Petition.
  
  - b. Determine that OPC's protest of two additional issues (Company's failure to adjust its books and records and used and useful percentage of wastewater plants) require modifications to the order consistent with OPC's Petition.
  
  - c. Determine the proper revenue requirement and resulting rates after resolution of the above issues (including fallout issues). To the extent final wastewater rates are approved which are less than interim wastewater rates, such over collection shall be refunded to UI's customers with interest.

WHEREFORE, the Citizens hereby protest and object to Commission Order No. PSC-11-0587-PAA-SU, 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,

J.R. Kelly  
Public Counsel

A handwritten signature in black ink, appearing to read "Stephen C. Reilly", is written over a horizontal line. The signature is enclosed within a large, hand-drawn circle.

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

Attorneys for the Citizens  
of the State of Florida

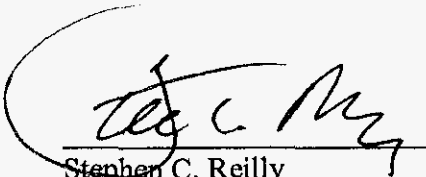
**CERTIFICATE OF SERVICE**  
**DOCKET NO. 110153-SU**

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by U.S.

Mail and electronic mail to the following parties on this 9<sup>th</sup> day of January, 2012.

Jennifer Crawford  
Office of the General Counsel  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, FL 32399-0850

Martin S. Friedman  
Rose, Sundstrom & Bentley LLP  
766 N. Sun Drive, Suite 4030  
Lake Mary, Florida 32746

  
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Stephen C. Reilly  
Associate Public Counsel