

Harbor Waterworks, Inc.'s (HWW) application for Original certificate for an Existing Wastewater System and initial rates and charges, pursuant to Section 367.045, Florida Statutes, to operate a wastewater Utility to provide service to the following described Territory in Lake County, Florida as follows:

Docket No.120158 Waste Water

LEGAL DESCRIPTION

Township 18 South, Range 24 East
Section 13

Township 18 South, Range 25 East
Sections 7 and 18

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PETITION FOR FORMAL HEARING

I, Robert V. Nicholson, do hereby object to the application in the above captioned proceeding and, request a formal evidentiary hearing on all issues of fact and law in this matter, and allege the following:

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

Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, Fl. 32399-0850
Docket No. 120158 Waste Water

2. The name, address, and telephone number of the Petitioner:

Robert V. Nicholson
6201 Topsail Rd.
Lady Lake, Fl. 32159
352-259 2789

3. The petitioner is a customer of Harbor Water Works, Inc. (HWW) and resides in the gated community of Harbor Hills in Lake County, Florida. The substantial interests of the Petitioner will be affected by the Commission's decision in this matter because the proposed application is not in

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the public interest, and if approved, would unlawfully and adversely affect the rate structure, and cost of waste water treatment to the Petitioner and the other current households in Harbor Hills.

The wastewater proposal would unlawfully alter a rate structure and contractual and property rights benefiting consumers for the past 22 years.

3. A statement of when and how the Petitioner received notice of the applications:

The petitioner received a copy of the notice of the applications by mail on May 18, 2012. Petitioner filed and served timely objections to the applications on May 30, 2012.

With regard to a concise statement of the ultimate facts alleged, including specific facts that the Petitioner contends warrant denial of the application for an original certificate for the existing Wastewater System, Petitioner hereby provides the following allegations:

- The application for an original wastewater certificate does not provide sufficient and accurate information concerning the number of equivalent residential connections (ERC's) proposed to be served, by meter size and customer class.
- The application for an original wastewater certificate does not provide sufficient and accurate information concerning the types of customers anticipated, i.e., single family homes, mobile homes, duplexes, golf course, club house, commercial, etc.
- The application for an original wastewater certificate does not provide sufficient and accurate information in support of a cost study, including customer growth projections, in support of proposed wastewater rates, charges and availability charges.
- The application for an original wastewater certificate does not provide sufficient and accurate information to support a schedule showing the projected operating expenses of the wastewater system by USOA account numbers, when 80% of the design capacity of the system is being utilized.

4. All wastewater customers are not residential. Various commercial entities include the for-profit clubhouse and conference center, the for-profit business offices, the for-profit dining areas, the for-profit golf course, the for-profit swimming area, the for-profit tennis facility, etc.

5.. Noncompliance with PUD

Terms and conditions of the Harbor Hills Planned Unit Development (PUD) provide

. . . II Public Facilities:

B. Sewer Facilities:

1. All multifamily, clubhouse, and commercial areas shall be served by a Central Wastewater System.

It is an inherent and intrinsic presumptive that these provisions intended and required the recording of income and expense in books of account as set forth by the Florida Public Service Commission, or other governing body. Failure of the prior owner of the Waste Water Treatment facility to keep such records with respect to the Waste Water Treatment facility is not in compliance with the spirit and intent of the PUD. In the event such records do exist, they have not been provided as part of the rate application, nor otherwise provided in the annual report form PSC/ECR 003-w to the Public Service Commission.

As a consequence, neither the public nor the PSC has full information on which to reach informed conclusions and make informed decisions. Absent the production of these records, the granting of an initial wastewater certificate should be denied.

6. Unjust enrichment:

Approval of the Application will result in the unjust enrichment of HWW and its predecessor Harbor Hills Utilities LP. The parties will be unjustly enriched because they will acquire property rights (Certificate for Initial Rates). These “property rights” will be acquired at the expense of the residential property owners within the Wastewater system without compensation to said residents.

In the event the application is approved, equity requires that it be amended to protect the property rights of the residential property owners within the system. This can be accomplished by amending the Application to exclude present residential property owners from the rate charges for a period of years equal to the remaining composite useful life of the waste water utility.

The use of Composite useful life is recognized by the Florida Public Service Commission. (See footnote to Exhibit W-4, Form PSC/ECR 003-W, to wit: “*If depreciation rates prescribed by this Commission are on a composite basis, entries should be made on this line only”)

7. Approval of the request for rates and charges for Wastewater services is in violation of, and contrary to an existing contractual agreement. (Whether verbal or written this contractual agreement is validated by time and usage over an extended period of years.)

One of the enticing features of the residential lots served by the Waste Water System was connection to the wastewater system. Developer (same ownership as the Water Utility) voiced no objection and thereby consented thereto by his silence. This circumstance has been uninterruptedly consistent over the past 22 years.

The levy of this additional charge will impact property values, in that it will increase the carrying charges to live here. This is being done, unilaterally, without consent of the property owners. From the date of my residency to present date, (12 years) it has been the procedure to include wastewater services as part of the Utility services. We had every reason to believe, and in fact did so believe that our utility charges included the charges for wastewater services. The Wastewater Utility by its silent uniform course of practice, uninterrupted over more than 22 years, constitutes acknowledgment of this agreement and understanding.

8. Defining a time certain:

This unfair consequence of unjust enrichment can be overcome by calculating the present value of future Wastewater treatment services to Wastewater consumers, recording this as a cost of acquisition of the Utility and recording in juxtaposition thereto a corresponding liability to the subject consumers. Annual charges to the consumers will be paid by constructive receipt, said constructive receipt being an offset to the liability account.

9. History of the Wastewater services and "no charge therefor".

When considering the equities in granting or not granting an original wastewater certificate, the self-serving interests of the Developer and the Utility (owned and operated by the same entity) are relevant thereto.

- a) It was to the benefit of the Harbor Hills Country Club, (owned by the same entity as Harbor Hills Utility LLP; *and the Wastewater facility's largest consumer*) not to charge for these facilities and thereby minimize the Country Club expenses.
- b) By minimizing carrying charges (water and sewer) on realty, it enhanced the salability of Harbor Hills lots and sale of Developer constructed homes, to the benefit of the Developer.
- c) Now that these benefits to the Developer are nonexistent or minimal, the Developer has transferred the Wastewater Utility and reaps the benefit of an unjustified original waste water certificate.

10. A statement of the specific rules or statutes the Petitioner contends require denial or modification of the application:

The application and related matters should be denied pursuant to Commission Rules 25-30.033, 25-30.037; Rule 28-106.201, F.A.C.; Section 367.071, Florida Statutes, Section 367.045, Florida Statutes, and the public interest standard applicable thereto.

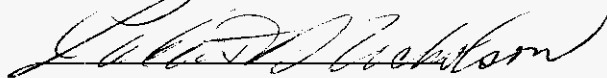
DISPUTES OF MATERIAL FACTS AND THE LEGAL BURDENS OF
PRODUCTION AND PERSUASION

- AA. Each of the foregoing allegations involve disputed issues of material facts.
- BB. With respect to each disputed fact and with respect to each applicable legal Issue, HWW has the legal burdens of production and persuasion.

AMENDMENT AND SUPPLEMENTATION

- CC. Petitioner reserves the right to amend or supplement this petition as new facts, if any come to light.

Respectfully submitted,



Robert V. Nicholson
6201 Topsail Rd.
Lady Lake, FL 32159
352-259 2789

WHEREFORE, for the reasons stated above, the Petitioner requests the Commission to conduct a formal evidentiary hearing pursuant to the provisions of Section 120.57 (1), F.S.; and further petitions that such hearing be scheduled at a convenient time within or as close as practical to the Harbor Hills certificated service area in Lady Lake, Florida; and further petitions that all other related matters also be venued in Lady Lake, or in the alternative, that Petitioner be permitted to appear by telephone.

Respectfully submitted,

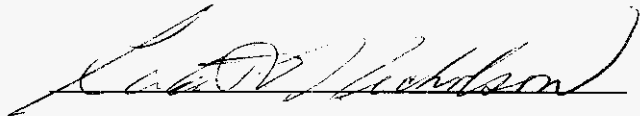


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CERTIFICATE OF SERVICE
DOCKET NO. 120158 WASTE WATER

I HEREBY CERTIFY that this petition was filed with the Florida Public Service Commission, Director, Office of Commission Clerk, 2540 Shumard Oak Boulevard, Tallahassee, FL 32399-0850 this 30th day of May 2012 by depositing the same to said party at said address in the U.S. mail, postage prepaid, and true and correct copies of the above and foregoing have been furnished by mail postage prepaid, to Harbor Water Works, Inc., 5320 Captains Court, New Port Richey, FL 34652 and Lisa Bennett, Esq., Office of the General Counsel, Florida Public Service Commission, 2540 Shumard Oak Boulevard, Tallahassee, FL. 32399-0850.



Robert V. Nicholson