

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

IN RE: RHV UTILITY, INC.

DOCKET NO.: 971635-SU

AMENDED PETITION FOR PERMANENT WAIVER OF
RULE 25-30.110(6), FLORIDA ADMINISTRATIVE CODE,
WITH RESPECT TO THE UTILITY'S FAILURE
TO FILE ANNUAL REPORTS IN A TIMELY MANNER

CITRUS COUNTY, a political subdivision of the State of Florida and court appointed Receiver for RHV UTILITY, INC., pursuant to Section 28-104.002, Florida Administrative Code, does hereby file its Petition for a waive of penalties and interest for its failure to timely file annual reports required pursuant to Rule 25-30.110(6), Florida Administrative Code, and for reason therefore would show:

1. On November 24, 1997, the Circuit Court of the Fifth Judicial Circuit appointed CITRUS COUNTY Receiver for assets owned by RHV UTILITY, INC. which provides wastewater service to the Riverhaven subdivision located in the unincorporated area of Citrus County, Florida.

2. It has been determined by the Receiver that the Utility failed to timely file annual reports for its 1994 and 1995 years resulting in penalty and interest accruing against the Utility pursuant to Rule 25-30.110(6), Florida Administrative Code.

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3. That 25-30.110(6), Florida Administrative Code, implements Sections 367.121(1)(c) and 367.161, Florida Statutes.

4. The waiver of Rule 25-30.110(6), Florida Administrative Code, is requested to be permanent because the Utility is now under the jurisdiction of the County, abandonment having been acknowledged by the Commission on March 10, 1998 and the necessity of filing future reports having been eliminated.

5. Section 367.121(c), Florida Statutes, provides that the Commission shall have the power to require such reports from regulated Utilities as the Commission deems necessary. Pursuant to this authority, the Commission requires regulated Utilities to file annual reports which are utilized for various purposes, including the calculation of regulatory assessment fees and the detection of over-earnings. On March 21, 1997, RHV filed its annual reports for 1994 and 1995. Accordingly, the purpose of the underlying statute has been met as the annual reports have been filed with the Commission and the Commission has had the opportunity to review the financial information of the Utility.

6. Pursuant to Sections 350.127 and 367.161, Florida Statutes, the Commission is authorized to impose upon any regulated Utility that is found to have refused to comply with or willfully violated any lawful rule or order of the Commission or any statute administered by the Commission a penalty of not more than \$5,000. Each day that such refusal or violation continues constitutes a separate offense. The underlying purposes of these statutes is to promote compliance with regulation and to deter future noncompliance. These purposes have been fulfilled in this case because the Utility is presently in compliance as it has filed all required annual reports. Furthermore, no future deterrence is necessary as the Utility is no longer subject to the Commission's regulation.

7. An examination by the County of the books and records of RHV UTILITY, INC. shows that the Utility is virtually bankrupt with debts exceeding \$250,000.00 and a monthly income of less than \$12,000.00, most of which is necessary to pay regular operating expenses.

8. It would work a substantial hardship upon customers of the Utility to in addition to paying for debts, operating expenses and necessary repairs required by the Florida Department of Environmental Protection, to also be burdened

with the full cost of penalties and interest accrued against the Utility pursuant to Rule 25-30.110(6), Florida Administrative Code.

9. The imposition of penalties and interests would only penalize the Utility customers, not the stockholders or management of the Utility for the latter's failure to comply. Therefore the imposition of penalties and interests would be contrary to the purpose and intent of the Rule and the Statute it implements.

10. The application of Rule 25-30.110(6), Florida Administrative Code, imposing penalties and interest against the Utility would therefore work a substantial hardship against the ratepayers of RHV UTILITY, INC. The imposition of said penalties and interest therefore constitute a demonstrated economic hardship within the meaning of Section 120.542, Florida Statutes.

WHEREFORE, the Receiver, CITRUS COUNTY, does hereby request the Public Service Commission to permanently waive the assessments of penalties and interest or to assess said penalties and interest in a nominal amount for the Utility's failure to file annual reports in a timely manner as required by the Florida Administrative Code.

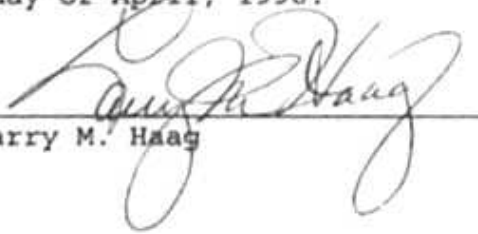
Respectfully submitted,

BY: 

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that the original and 15 copies of the foregoing were furnished by United States Mail to the Florida Public Service Commission, Division of Records & Reporting, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0863; and a to Nona R. Schaffner, Esquire, Assistant General Counsel, 3900 Commonwealth Blvd., MS 35, Tallahassee, FL 32399, to Rodney Fields, Esquire, Post Office Box 20713, Tampa, FL 33622-0713 and to Bobbie L. Reyes, Esquire, Florida Public Service Commission, Division of Legal Services, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0863 this 2nd day of April, 1998.


Larry M. Haag