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In re: Emergency Petition by)
D.R. Horton Custom Homes, Inc.)
to eliminate authority of)
Southlake Utilities, Inc. to)
collect service availability)
charges and AFPI charges in Lake)
County)

DOCKET NO.
RECORDS AND
REPORTING

981609-WS

In re: Complaint by D.R. Horton)
Custom Homes, Inc. against)
Southlake Utilities, Inc. in)
Lake County regarding collection)
of certain AFPI charges.)

DOCKET NO. 980992-WS

DATE SUBMITTED FOR FILING
MAY 30, 2000

SOUTHLAKE UTILITIES, INC.'S PETITION FOR FORMAL HEARING

Southlake Utilities, Inc. ("Southlake"), by and through its undersigned attorneys, pursuant to the provisions of Order No. PSC-00-0917-SC-WS ("PAA Order"); Rule 28-106.201, Florida Administrative Code ("FAC"); Chapter 120 and Chapter 367, Florida Statutes, petitions the Florida Public Service Commission ("Commission") as follows:

This Petition is intended to conform with the provisions of Rule 28-106.201(2), FAC, the provisions of which are set forth in italics below:

(a) *The name and address of each agency affected and each agency's file or identification number, if known;*

1. The agency affected is the Florida Public Service Commission, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850. The Agency's docket numbers are Docket Nos. 980992-WS and 981609-WS.

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(b) *The name, address, and telephone number of the petitioner; the name, address, and telephone number of the petitioner's representative, if any, which shall be the address for service purposes during the course of the proceeding; and an explanation of how the petitioner's substantial interests will be affected by the agency determination;*

2. The Petitioner is Southlake Utilities, Inc. Southlake's name, address and telephone number are: 333 U.S. Highway 27, Clermont, Florida 34711, (888) 876-3569. Southlake is represented by James L. Ade and Scott G. Schildberg, Martin, Ade, Birchfield & Mickler, P.A., One Independent Drive, Suite 3000, Jacksonville, Florida 32202, telephone number (904) 354-2050. The Petitioner's substantial interests are affected because the PAA Order would eliminate its water plant capacity charge and its water and wastewater Allowance for Funds Prudently Invested ("AFPI") charges, reduce its wastewater plant capacity charge, and require Petitioner to make refunds.

(c) *A statement of when and how the petitioner received notice of the agency decision;*

3. Petitioner received notice of the proposed agency decision by obtaining a copy of the PAA Order on May 11, 2000, via the Commission's website. Petitioner's representatives also received a copy of the PAA Order on May 18, 2000, via U. S. Mail.

- (d) *A statement of all disputed issues of material fact. If there are none, the petition must so indicate;*

4. Petitioner disputes the following issues of material fact which the PAA Order purportedly resolves adversely to Petitioner:

a. Neither the utility's water nor wastewater plant balances should be reduced by \$1,500 related to the office copier.

b. The time when the land was first dedicated to public use is later than the time used in the PAA Order.

c. The PAA Order understates Southlake's water and wastewater land balances and incorrectly did not find that the cost charged by Southlake for such land is prudent.

d. The PAA Order understates Southlake's net book value.

e. The PAA Order incorrectly determined that Southlake's tariff does not authorize a reassessment of plant capacity charges for changed consumption for residential customers at any time after connection to the system.

f. The PAA Order incorrectly revises Southlake's Water Tariff Sheet No. 31.0 and Wastewater Tariff Sheet No. 28.0.

g. The PAA Order understates the growth to be used to calculate the plant capacity charges.

h. The PAA Order incorrectly states the capacity of Southlake's existing water and wastewater plants and how many ERCs the existing plants will serve.

i. The PAA Order overstates CIAC.

j. The calculations in the PAA Order using meter equivalents understate the numbers of customers in Southlake's service area.

k. The time period to analyze charges used in the PAA Order is too short.

l. The PAA Order understates the size and number of plant expansions.

m. The PAA Order misstates the timing of plant expansions.

n. The PAA Order understates the cost of required plant expansions.

o. The PAA Order understates the amount of residential water consumption.

p. The PAA Order understates the amount of residential wastewater consumption.

q. The PAA Order understates the appropriate plant capacity charges.

r. The PAA Order incorrectly requires refunds of plant capacity charges, including incorrectly requiring refunds of prepaid CIAC.

s. The PAA Order incorrectly discontinues Southlake's AFPI charges.

t. The PAA Order incorrectly requires refunds of AFPI charges.

u. The PAA Order incorrectly finds that the collection of wastewater AFPI charges above 375 ERCs were unauthorized charges and essentially held subject to refund.

v. Southlake specifically reserves the right to amend

this protest to include issues which may come to light in the full course of discovery in this docket.

- (e) *A concise statement of the ultimate facts alleged, including the specific facts the petitioner contends warrant reversal or modification of the agency's proposed action;*

5. Petitioner reiterates all subparagraphs of Paragraph 4 above and in addition says the PAA Order overstates CIAC, understates ratebase, improperly eliminates Southlake's water plant capacity charge and water and wastewater AFPI charges, improperly reduces Southlake's wastewater plant capacity charge, and improperly requires refunds.

- (f) *A statement of the specific rules or statutes the petitioner contends require reversal or modification of the agency's proposed action;*

6. Sections 367.101 and 367.121(1)(a), Florida Statutes, and Rule 25-30.434, FAC, require this Commission to establish fair, just, and reasonable charges and conditions for service availability. If permitted to stand, the PAA Order violates this provision of Florida law and rules. In the event that a waiver of Rule 25-30.580, FAC, or any other rule is required, Section 120.542, Florida Statutes, authorizes the Commission to grant variances or waivers of rules.

- (g) *A statement of relief sought by the petitioner, stating precisely the action petitioner wishes the agency to take with respect to the agency's proposed action.*

7. Southlake demands a formal, evidentiary hearing on the petition upon the grounds specifically enumerated above and establish fair, just, and reasonable charges and conditions for

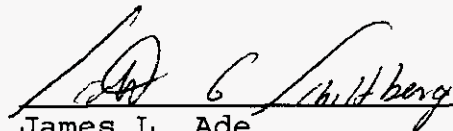
service availability with minimal, if any, requirements for refunds or charges CIAC.

WHEREFORE, Petitioner, Southlake Utilities, Inc., demands a formal hearing under Sections 120.569 and 120.57(1), Florida Statutes, upon the matters raised herein, and demands such other relief as may be appropriate.

Respectfully submitted,

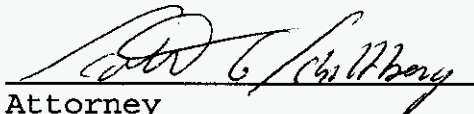
MARTIN, ADE, BIRCHFIELD &
MICKLER, P.A.

By:


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Scott G. Schildberg
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that the original and seven copies of the foregoing Southlake Utilities, Inc.'s Petition for Formal Hearing has been furnished to Ms. Blanca Bayo, Director, Department of Records and Reporting, Florida Public Service Commission, 2540 Shumard Oak Boulevard, Betty Easley Building, Room 110, Tallahassee, Florida 32399-0850, by hand delivery this 30th day of May, 2000, and that copies of the foregoing have been furnished to Samantha Cibula, Attorney, Florida Public Service Commission, Legal Division, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, and F. Marshall Deterding, Rose, Sundstrom & Bentley, LLP, 2548 Blairstone Pines Drive, Tallahassee, Florida 32301, by United States Mail this 30th day of May, 2000.


Attorney