

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition of D.R. Horton Custom Homes, Inc. for elimination of service availability charges and AFPI charges for Southlake Utilities, Inc. )  
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DOCKET NO. 981609-WS

In re: Complaint of D.R. Horton Custom Homes, Inc. against Southlake Utilities Inc. in Lake County Regarding Collection of Certain AFPI Charges )  
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DOCKET NO. 980992-WS

**PREHEARING STATEMENT OF D.R. HORTON CUSTOM HOMES, INC.**

D. R. Horton Custom Homes, Inc. (hereinafter "Horton"), by and through its undersigned counsel and pursuant to Order Nos. PSC-00-1461-PCO-WS as revised by Order No. PSC-00-1817-PCO-WS and Order No. PSC-00-2267-PCO-WS, hereby files their Prehearing Statement, and in accordance with the requirements of those Orders states as follows:

I.

The name of all known witnesses that may be called by Horton and the subject matter of their testimony is as follows:

1. James C. Boyd, P.E. - Mr. Boyd will provide engineering testimony concerning the cost and timing of improvements necessary to the Southlake system in order to provide water and wastewater service to its territory, and the growth rates inherent therein.
2. Michael E. Burton - Mr. Burton will provide testimony concerning accounting and service availability charge issues inherent in the calculation of appropriate service availability and AFPI charges for Southlake Utilities, and specifically on the issue of the appropriate land valuation to be included in rate base and therefore the establishment of such charges.

DOCUMENT NUMBER-DATE

04540 APR 12 2008

FPSC-RECORDS/REPORTING

## II.

A description of all known exhibits that may be used by the party, which all may be identified on a composite basis by witness is as follows:

- JCB-1 - FDEP Permit (James C. Boyd)
- JCB-2 - Individual Consumptive Use Permit Application (James C. Boyd)
- JCB-3 - Consumptive Use Permit No. 2-069-0010NM (James C. Boyd)
- JCB-4 - Water Well Construction Permit Application (James C. Boyd)
- JCB-5 - Well Construction Permit Number 3-069-3119P (James C. Boyd)
- JCB-6 - Correspondence from William A. Mattick (James C. Boyd)
- JCB-7 - Application to Construct a Drinking Water System (James C. Boyd)
- JCB-8 - Permit Number WC35-210970 (James C. Boyd)
- JCB-9 - Request for Letter of Release (James C. Boyd)
- JCB-10 - Application to Construct a Wastewater Facility (James C. Boyd)
- JCB-11 - Application to Construct a Reuse/Land Application (James C. Boyd)
- JCB-12 - Correspondence from Christianne Ferraro (James C. Boyd)
- JCB-13 - Correspondence for Robert Chapman (James C. Boyd)
- JCB-14 - Correspondence from R.W. Makemson Jr. (James C. Boyd)
- JCB-15 - Permit Number DC35-210971 (James C. Boyd)
- JCB-16 - Notification of Wastewater Facility Operation (James C. Boyd)
- JCB-17 - Correspondence from James Boyd (James C. Boyd)
- JCB-18 - Correspondence from Douglas J. Hearn, P.G. (James C. Boyd)
- JCB-19 - Correspondence from Tom Jackson (James C. Boyd)
- JCB-20 - Correspondence from Thomas E. Jackson (James C. Boyd)
- JCB-21 - Correspondence from Douglas Hearn (James C. Boyd)
- JCB-22 - Consumptive Use Technical Staff Report (James C. Boyd)
- JCB-23 - PSC's First Set of Interrogatories (James C. Boyd)
- JCB-24 - Photographs of Raintree Apartments (James C. Boyd)
- JCB-25 - Capacity Analysis Report (James C. Boyd)
- JCB-26 - Year 2000 Building Permit Data (James C. Boyd)
- JCB-27 - Resume of James C. Boyd, P.E. (James C. Boyd)
- JCB-28 - Various Tables (James C. Boyd)

MEB-1 - August 20, 1999 correspondence from Boyd (Michael E. Burton)

Horton reserves the right to introduce other exhibits for the purposes of impeachment, rebuttal or because the documents are newly discovered. Cross-examination of witnesses and

questions to witnesses by Commissioners may also render additional documents as pertinent and admissible.

### III.

Statement of D.R. Horton's basic position in this proceeding:

1. Horton's basic position in this proceeding is that Southlake Utilities, Inc. charges for service availability and AFPI charges collected since December 15, 1998 should be refunded, and that all wastewater service availabilities collected contrary to Commission Order prior to that date, should also be refunded. In addition, on a going-forward basis, Southlake's service availability charges and AFPI charges should be reduced in accordance with the provisions of the Commission's PAA Order No. PSC-00-0917-SC-WS. Horton is in agreement with the findings of the PAA Order, with the exception of the minor changes resulting from incorporation of the positions taken by Mr. Burton and Mr. Boyd in their Prefiled Direct Testimony. Some recognition and adjustment should also be given for the fact that Horton as one of the many customers of the Utility affected by the Commission's decision in this case, has expended all of the monies in prosecuting the case to date.

### IV.

Questions of fact D.R. Horton considers at issue and D.R. Horton's position on each such issue are as follows:

1. What are the appropriate water and wastewater service availability and AFPI charges for Southlake Utilities, Inc. beginning December 15, 1998?

Position of Horton: The appropriate water and wastewater service availability and AFPI charges as of December 15, 1998, are those set forth in Commission PAA Order No. PSC-00-1518-SC-WS with the adjustments so as to reflect the differences noted in Mr. Boyd's and Mr. Burton's testimonies. The differences between these charges established in that fashion, and those collected by the Utility, should be refunded.

2. Should the Utility refund for sewer service availability charges collected prior to December 15, 1998, based upon assessing those charges contrary to a prior Commission Order?

Position of Horton: Yes, significant charges were imposed by the Utility contrary to the PSC's authorization, and those too should be refunded with interest.

3. What is the appropriate land value to be considered in the setting of rates and charges for Southlake Utilities, Inc. for water and wastewater plant land?

Position of Horton: The land value authorized in the Commission's PAA Order is substantially in excess of a reasonable land value in accordance with prior Commission precedent, and reasonable review of the facts in this case. Land value should be set in accordance with the considerations outlined in Mr. Burton's testimony, and appropriate charges and refunds should be recalculated accordingly.

#### V.

Statement of each question of law D.R. Horton considers an issue and D.R. Horton's position on each such issue is as follows:

Horton is not aware of any issues of law at this time.

#### VI.

Statement of each policy question that D.R. Horton considers at issue and D.R. Horton's position on all such issues is as follows:

4. Horton is one of many customers receiving service from Southlake Utilities, Inc. and entitled to refunds under the Commission's PAA Order and even the Utility's proposal. However, Horton has incurred the entire cost of prosecuting this complaint before the Public Service Commission. In order to equitably distribute the cost of this proceeding among all of the customers likely to benefit from the Commission's ultimate decision in this case, Horton believes that the total cost of this proceeding incurred by Horton should be split prorata among those entitled to refunds, and reduce all refunds accordingly. Those costs should then be reimbursed to Horton. The estimated total through hearing of all such costs is approximately \$130,000.

#### VII.

Statement of issues that have been stipulated to by the parties:

Horton is aware of no stipulated issues at this time.

#### VIII.

A statement of all pending Motions or other matters the party seeks action upon:

Horton is aware of no pending Motions at this time.

IX.

A statement to identify the parties' pending request or claims for confidentiality:

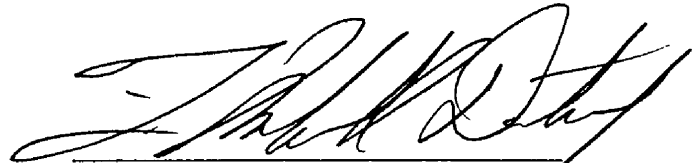
Horton is aware of no pending requests or claims for confidentiality.

X.

A statement as to any requirements set forth in this Order that cannot be complied with and the reasons therefore:

Horton is aware of no pending requirements set forth in the Prehearing Orders which cannot be complied with.

Respectfully submitted this  
12<sup>th</sup> day of April, 2001, by:



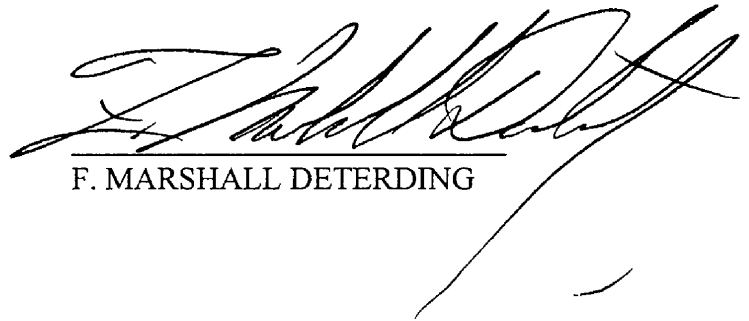
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**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by  
\*Hand Delivery or regular U.S. Mail to the following parties this 12<sup>th</sup> day of April, 2001:

James L. Ade  
Scott Schildberg, Esquire  
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Samantha Cibula, Esquire (\*)  
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F. MARSHALL DETERDING

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