

Diamond Williams

100330-WS

From: Dave Bussey [dbussey@hotmail.com]
Sent: Wednesday, February 23, 2011 8:42 PM
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kenneth.curtin@arlaw.com; rlloyd1@aol.com; wdco@comcast.net
Subject: Electronic Filing (Docket 100330-WS)
Importance: High
Attachments: Petition to Intervene.pdf

Electronic Filing

a. Person responsible for this electronic filing:

Mr. David L. Bussey
4948 Britni Way
Zephyrhills, FL 33541
Phone: (813) 713-9796
Email: dbussey@hotmail.com

b. Docket No. 100330-WS

In re: Application for increase in water/wastewater rates in Alachua, Brevard, DeSoto, Hardee, Highlands, Lake, Lee, Marion, Orange, Palm Beach, Pasco, Polk, Putnam, Seminole, Sumter, Volusia, and Washington Counties by Aqua Utilities Florida, Inc.

c. Document being filed on behalf of:

Mr. David L. Bussey
4948 Britni Way
Zephyrhills, FL 33541

d. There are a total of 6 pages.

e. The document attached for electronic filing is: Petition to Intervene.pdf

Thank you for your attention and cooperation to this request.

Sincerely,

s/ David L. Bussey
Mr. David L. Bussey
4948 Britni Way
Zephyrhills, FL 33541
Phone: (813) 713-9796
Email: dbussey@hotmail.com

Handwritten:
Party added per Jennifer 2-24-11

DOCUMENT NUMBER-DATE
01215 FEB 24 =

2/24/2011

FPSC-COMMISSION CLERK

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application for increase in water/wastewater rates in Alachua, Brevard, DeSoto, Hardee, Highlands, Lake, Lee, Marion, Orange, Palm Beach, Pasco, Polk, Putnam, Seminole, Sumter, Volusia, and Washington Counties by Aqua Utilities Florida, Inc.

DOCKET NO.: 100330-WS

FILED: February 23, 2011

PETITION TO INTERVENE

Pursuant to sections 120.569 and 120.57(1), Florida Statutes and Rules 25-22.039 and 28-106.205, Florida Administrative Code, Mr. David L. Bussey hereby files a Petition to Intervene in the above captioned docket. In support thereof, the petitioner states as follows:

1. Name and address of the affected agency.

Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0850

2. Name and address of the petitioner.

Mr. David L. Bussey
4948 Britni Way
Zephyrhills, FL 33541

3. Service. All pleadings, motions, orders and other documents directed to the petitioner should be served on:

Mr. David L. Bussey
4948 Britni Way
Zephyrhills, FL 33541
Phone: (813) 713-9796
Email: dbussey@hotmail.com

DOCUMENT NUMBER-DATE
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FPSC-COMMISSION CLERK

4. Notice of Docket. Petitioner received notice of this docket from Aqua Utilities Florida, Inc. (AUF), and from reviewing the above captioned docket on the Florida Public Service Commission (FPSC) website.

5. Statement of Substantial Interests. Petitioner is a residential customer of Aqua Utilities Florida, Inc. (AUF), served by the Zephyr Shores system, and receives water and wastewater service at the above-listed address. The AUF water and wastewater bill constitutes a significant portion of the petitioner's monthly household expense. The petitioner has a substantial interest in the above-captioned docket as Commission approval of the rate increase requested by AUF will impact his water and wastewater rates. The petitioner further asserts that his substantial interest is not adequately represented or protected by the Office of Public Counsel (OPC) in the above-captioned docket. Specifically, OPC allegedly represents the interests of *all* utility ratepayers in the state of Florida (global representation) through the Florida Legislature.¹ In contrast, the disputed issues of fact in the above-captioned docket involve matters related to the cross-subsidization of AUF water and wastewater systems, and the affordability limits associated with the proposed uniform rate structure impacting the rates of individual systems (system specific representation). Accordingly, OPC cannot adequately represent *all* AUF ratepayers in this case because they have differing interests. To suggest that the OPC can adequately represent the petitioner's substantial interest leaves the petitioner with a Hobson's choice: In effect, no representation at all. As a result of global representation, OPC will be forced to favor some systems and promote an outcome that

¹ Petitioner asserts that OPC being controlled by the Florida Legislature presents an inherent conflict in itself as evidenced by the fact that Public Counsel was told that he would have to interview to keep his job and the subsequent purge of the Florida Public Service Commission by the Florida Legislature after denying recent utility rate requests. Such actions undoubtedly have a chilling effect on advocacy and public confidence in the process.

will disfavor other systems. This creates a direct conflict with the substantial interests of ratepayers from the individual systems (including the petitioner) who must bear these socialized costs through rates that will be higher than they would otherwise be without cross-subsidization. Moreover, without intervention by the petitioner, OPC has the sole authority to enter into a settlement agreement that may adversely impact the petitioner's substantial interest in the above-captioned docket as it pertains to the Zephyr Shores system. Therefore, intervention by the petitioner as a party to the proceeding is not duplicative to the participation by OPC.² Based upon the above, petitioner hereby files a Petition to Intervene in the above captioned docket to protect to his substantial interests and due process rights in the proceeding.

6. Standing. Petitioner is a residential customer of Aqua Utilities Florida, Inc. (AUF), served by the Zephyr Shores system, and receives water and wastewater service at the above listed address. Moreover, the petitioner's substantial interests are of the type that this proceeding is designed to protect. See, Agrico Chemical Company v. Department of Environmental Regulation, 406 So.2d 478 (Fla. 2nd DCA 1981). The purpose of the Proposed Agency Action (PAA) proceeding in the above captioned docket is to evaluate the rate increase requested by AUF. The petitioner has a substantial interest in the above captioned docket as Commission approval of the rate increase requested by AUF will impact his water and wastewater rates. Petitioner asserts that the disputed issues of fact in the above-captioned docket involve matters related to the cross-subsidization of AUF water and wastewater systems, and the affordability limits associated with the proposed

² Petitioner's request can also be readily distinguished from Florida Wildlife Federation v. Board of Trustees of the Internal Improvement, 707 So.2d 841 (Fla. 5th DCA 1998) on the grounds that the petitioner is an individual ratepayer directly affected by the case in controversy, and the conflict associated with OPC representing the specific interests of the Zephyr Shores system as discussed above.

uniform rate structure impacting the rates of individual systems (system specific representation). Petitioner further asserts that OPC cannot adequately represent *all* AUF ratepayers in this proceeding due to the inherent conflict identified in Paragraph 5 above. Accordingly, the proceeding in the above captioned docket directly coincides with the substantial interests of the petitioner to ensure that AUF rates are fair, just, and reasonable.

7. Petition to Intervene. Petitioner hereby requests the Commission to grant the Petition to Intervene in the above captioned docket on the basis set forth in Paragraphs 1-6 above.

8. Disputed Issues of Material Fact. Disputed issues of material fact include, but are not limited to the following:

a. All issues identified by Commission staff and the respective parties during the issue identification conference.³

b. Whether the proposed uniform rates will exceed the subsidy limits previously established by the Commission in Order No. PSC-09-0385-FOF-WS (\$12.50 for water systems, and \$12.50 for wastewater systems)?⁴

c. Whether the proposed uniform rates will exceed the affordability limits previously established by the Commission in Order No. PSC-09-0385-FOF-WS (\$65.25 for water systems, and \$82.25 for wastewater systems)?⁵

³ Petitioner acknowledges that under Rule 25-22.039, F.A.C., “Intervenors take the case as they find it.” That being said, petitioner is uncertain as to whether the ultimate issues associated with the PAA have been finalized given the fact that the issue identification conference has not yet been publically noticed by staff nor have the issues been made public. Petitioner reserves the right to raise additional issues for consideration at or before prehearing should the PAA order ultimately be protested.

⁴ Order No. PSC-09-0385-FOF-WS at 128.

⁵ Id.

d. Whether any additional reallocation (cross-subsidization) of revenue requirement from the wastewater system to the water system should be allowed to artificially lower the true cost of AUF wastewater service?⁶

e. Whether the AUF request for uniform rates is appropriate given the previous denial of a similar request by the Commission in Order No. PSC-09-0385-FOF-WS, and the fact that such a rate structure ignores excessive subsidies for certain systems?⁷

e. Should the Commission encourage AUF to divest its systems to counties and municipalities to facilitate consumers receiving quality water at an affordable price?

WHEREFORE, the petitioner respectfully requests the Commission to enter an order granting the Petition to Intervene in the above captioned docket.

s/ David L. Bussey
Mr. David L. Bussey
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Zephyrhills, FL 33541
Phone: (813) 713-9796
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⁶ Order No. PSC-09-0385-FOF-WS at 138-142. Under the existing capband rate structure, \$578,449 of wastewater revenue had to be reallocated to the water system in order to achieve a workable subsidy and affordability combination for the wastewater systems.

⁷ Order No. PSC-09-0385-FOF-WS at 130-131.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished to the following via Electronic Mail this 23th day of February, 2011 to all parties of record as indicated below.

s/ David L. Bussey
Mr. David L. Bussey
4948 Britni Way
Zephyrhills, FL 33541
Phone: (813) 713-9796
Email: dbussey@hotmail.com

<p>Holland & Knight, LLP D. Bruce May, Jr./Gigi Rollini Post Office Drawer 810 Tallahassee, FL 32302-0810 Phone: (850) 224-7000 Fax: (850) 224-8832 Email: bruce.may@hkllaw.com</p> <p>Aqua America, Inc. Kimberley A. Joyce, Esq. 762 West Lancaster Avenue Bryn Mawr, PA 19010 Phone: (610) 645-1077 Fax: (610) 519-0989 Email: kajoyce@aquaamerica.com</p> <p>Aqua Utilities Florida, Inc. 1100 Thomas Ave Leesburg, FL 34748 Phone: (352) 435-4024 Fax: (352) 787-6333 Email: kajoyce@aquaamerica.com</p>	<p>Office of Public Counsel J.R. Kelly/Patricia Christensen c/o The Florida Legislature 111 W. Madison Street, Room 812 Tallahassee, FL 32399-1400 Phone: (850) 488-9330 Email: christensen.patty@leg.state.fl.us</p> <p>Adams and Reese Law Firm Kenneth M. Curtin, Esq. 150 Second Avenue North, Suite 1700 Saint Petersburg, FL 33701 Phone: (727) 502-8261 Fax: (727) 502-8961 Email: kenneth.curtin@arlaw.com</p> <p>Robert Lloyd P.O. Box 63 Captiva, FL 33924 Phone: (239) 395-3771 Fax: (954) 301-5887 Email: rlloyd1@aol.com</p> <p>William Coakley 5934 Lake Osborne Drive Lantana, FL 33461 Phone: (561) 385-8959 Email: wco@comcast.net</p>
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