

Diamond Williams

100330-WS

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Sent: Monday, April 04, 2011 3:20 PM
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Subject: Petition to Intervene Wambsgan Docket 100330-WS
Attachments: Petition to Intervene Wambsgan Docket 100330-WS (00589477).PDF

Electronic filing

a. Person responsible for the electronic filing:

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b. DOCKET NO.: 100330-WS

c. Name and address of the petitioner:

Lucy Wambsgan
 1222 La Salida Way
 Leesburg, Florida 34748-8205

d. Total number of pages: 6

e. Petition to Intervene in PDF format.

*3.5.11
 Party's
 added
 (RM/lean)*

DOCUMENT NUMBER - DATE

02226 APR-4 =

FPSC-COMMISSION CLERK

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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: April 4, 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, Mrs. Lucy Wambsgan through her undersigned attorney, 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.

Lucy Wambsgan
1222 La Salida Way
Leesburg, Florida 34748-8205

3. Service. All pleadings, motions, orders and other documents directed to the petitioner

should be served on:

Kelly Sullivan - Attorney at Law
570 Osprey Lakes Circle
Chuluota, FL 32766-6658
Phone: (321) 287-5062
Email: kelly.sullivan.woods@gmail.com

DOCUMENT NUMBER-DATE

02226 APR-4 =

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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 Morning View 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 her water and wastewater rates. The petitioner further asserts that her substantial interest is not adequately represented or protected by the Office of Public Counsel (OPC) in the above-captioned docket. Specifically, the OPC advocates on behalf of Florida's utility consumers before both state and federal regulatory authorities and before the Florida and federal courts. The Public Counsel is independent from any regulatory authority and accounts only to the people of the state of Florida through the Florida Legislature. OPC aims to represent the interests of *all* utility ratepayers (global representation) in the state of Florida. However, the disputed issues of fact in the above-captioned docket involve matters related to the cross-subsidization of AUF water and wastewater systems and affordability limits associated with the proposed uniform rate structure impacting the rates of individual systems (system specific representation). Accordingly, the OPC cannot adequately represent *all* AUF ratepayers in this case because they have differing interests. The OPC will be forced to favor some systems and promote an outcome that will disfavor other systems. This creates a conflict with the substantial interests of ratepayers from the

individual systems who must bear these socialized costs through rates that will be higher than they would otherwise be without cross-subsidization. Moreover, without intervention on Mrs. Wamsgan's behalf, OPC has the sole authority to enter into settlement agreements that may adversely impact the petitioner's substantial interest in the above-captioned docket as it pertains to the Morning View system. Therefore, intervention by the petitioner as a party to the proceeding is not duplicative to the participation by OPC.¹ Based upon the above, petitioner, through her undersigned attorney, hereby files a Petition to Intervene in the above-captioned docket to protect her 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 Morning View 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 her water and wastewater rates. 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.

¹ Petitioner's request is easily 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.

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.²
 - 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).³
 - 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).⁴
 - 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.⁵
 - 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.⁶

² Petitioner acknowledges that under Rule 25-22.039, F.A.C., "Intervenors take the case as they find it." Petitioner reserves the right to raise issues for consideration at or before prehearing should the PAA order ultimately be protested.

³ Order No. PSC-09-0385-FOF-WS at 128.

⁴ Id.

⁵ Order No. PSC-09-0385-FOF-WS at 138-142. Under the existing cap-band 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.

⁶ Order No. PSC-09-0385-FOF-WS at 130-131.

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/ Kelly Sullivan

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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 4th day of April, 2011 to all parties of record as indicated below.

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