

**Diamond Williams**

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**From:** Carolyne Amengual [camengual@bmolaw.com]  
**Sent:** Wednesday, July 13, 2011 3:45 PM  
**To:** Filings@psc.state.fl.us; Anna Norris  
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**Attachments:** CITY Objection Petition Docket 110022 (00560902).PDF

A. Person responsible for this electronic filing:

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3. Docket No. 110022

Title: CITY OF NEW PORT RICHEY'S OBJECTION TO THE PROPOSED UTILITY AND PETITION FOR FORMAL ADMINISTRATIVE HEARING

C. Document being filed on behalf of:

Document being filed on behalf of:

City of New Port Richey

D. There are a total of 4 pages.

E. The document attached is the City of New Port Richey's Objection to HV Utility Systems, LLC's Application and Petition for Formal Administrative Hearing in Docket No.: 110022.

**Carolyne Amengual**, Legal Assistant

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DOCUMENT NUMBER-DATE  
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7/13/2011

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7/13/2011

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STATE OF FLORIDA  
PUBLIC SERVICE COMMISSION

In re: Application of HV Utility Systems, LLC,  
to operate a Water and Wastewater Utility      PSC Docket No. 110022  
in Pasco County, Florida

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**CITY OF NEW PORT RICHEY'S OBJECTION TO  
THE PROPOSED UTILITY AND PETITION FOR FORMAL ADMINISTRATIVE  
HEARING**

Petitioner, City of New Port Richey (hereinafter "City"), by and through undersigned counsel, hereby files this Objection to the Application of HV Utility Systems, LLC, to operate a Water and Wastewater Utility in Pasco County, Florida, (the "Application") and this Petition for Formal Administrative Hearing pursuant to Rule 25-30.031, Florida Administrative Code and sections 120.569, 120.57 and 367.045, Florida Statutes, and as grounds therefore states the following:

1. On June 10 2011, HV Utility, LLC, provided legal notice of its application for Original Certificates for Proposed Water and Wastewater System and Request for Initial Rates and Charges. Pasco received the notice via US Mail on June 14, 2011. A copy of the notice is attached to the Pasco County's Objection, filed in this matter.

2. HV Utility proposes to establish a water and wastewater utility in Pasco County in direct conflict with the Pasco County Comprehensive Plan, the Pasco County Code of Ordinances and the PCU Capital Improvement Plan.

3. There are numerous issues of disputed fact and City objects to certification of HV Utility for the following reasons:

a. The proposed provision of utility service is inconsistent with the policies and objectives of the Pasco County Comprehensive Plan including but not limited to the section referenced below. The Comprehensive Plan encourages the purchase of private utilities and their conversion to publicly operated utilities, not the creation of new private utilities. (WAT 2.2.4).<sup>1</sup>

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<sup>1</sup> Citations are to the June 2006, Pasco County Comprehensive Plan (PCP), relevant portions of which are attached (25715/002/00560716.DOCv2)

HV Utility's proposal is contrary to the County policy to replace package plants with regional wastewater treatment plants. (SEW 3.2.1)

b. PCU maintains an existing water and wastewater facilities as part of its system approximately 2,300 feet from the proposed area. These facilities could be extended to provide service to proposed service area. Furthermore, Pasco has established as its service territory the entire unincorporated area of the County not currently served by a legally existing private utility and by a Municipality pursuant to an interlocal agreement with the County. *See*, § 110-28, Pasco County Code. Pasco County does have an agreement with the City of New Port Richey allowing the City to provide service to designated parts of unincorporated Pasco County, including the area proposed to be served by HV Utility. In the event the City does provide service within its designated area, the County can provide service pursuant to the interlocal agreement. Accordingly, HV Utility's proposed service will be in competition with, or a duplication of, the PCU or City systems. Pasco has not received a service request from any property in HV Utility's proposed service area.

c. The Applicant does not have the technical ability to provide service. The application contains no information on the corporate structure, personnel or capabilities of HV Utility Systems, LLC. Contracting with a utility operator will serve to increase the cost of service contrary to the public interest.

d. It is a disputed fact whether the Application complies with Florida Administrative Code Rule 25-30.033.

e. It is a disputed fact whether HV Utility is otherwise entitled to approval of the Application pursuant to Chapter 367, Florida Statutes and Florida Administrative Code Chapter 25-30.

f. It is a disputed fact whether HV Utility has the permitted water capacity or treatment plant capacity to meet the needs of the area.

4. HV Utility has not demonstrated that it has the financial ability to operate a utility.

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to the objection of Pasco County.  
(25715/002/00560716.DOCv2)

5. HV Utility has not demonstrated that it has the long-term continuous use of the land upon which the water facilities are located.

6. The proposed certificate, if granted, would adversely impact the County and/or the City and their respective abilities to effectively and efficiently expand and implement their water and wastewater services within the county.

7. It appears that the wastewater for the area is treated by an on-site package plant. Disputed facts exist as to who will operate that plant and how that will impact the water service operations.

8. The proposed certificate, if granted, will result in private water utility service to County citizens that will likely be increasingly more costly than service that could be provided by Pasco County Utilities or the City of New Port Richey.

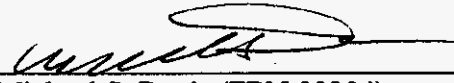
9. It is disputed as to whether the requested certificate is in the public interest. This area has received water service for a number of years from on-site wells and it is not clear as to why a certificate utility is now needed.

10. The proposed utility does not meet the requirements of section 367.045, Florida Statutes, because the applicant has not proven its ability to provide service, or the nonexistence of service from other sources. The proposed utility does not meet the requirements of Rule 25-30.033(1), Florida Administrative Code, because the proposal is not consistent with the Pasco County Comprehensive Plan, the applicant has not demonstrated the financial or technical ability to provide service, the proposed service is not in the public interest, the applicant does not have an adequate agreement for continued use of the land upon which its facilities are to located.

11. The City hereby incorporates by reference, as if fully set forth herein, all objections timely raised by Pasco County in this matter to the extent applicable to the City.

WHEREFORE, Petitioner, the City respectfully requests that the HV Utility, LLC, application for Original Certificates for Proposed Water System and Request for Initial Rates and Charges be denied.

Respectfully submitted this 13th day of July, 2011,

  
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Facsimile No.: (813) 225-2703  
City Attorney for New Port Richey

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by regular U.S. mail and/or electronic filing to the following on this 13<sup>th</sup> day of July 2011:

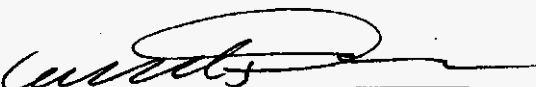
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c/o Equity Lifestyle Properties, Inc.  
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New Port Richey, Fl 33637  
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