

**Diamond Williams**

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**From:** PEDER HONG [pederhong@gmail.com]  
**Sent:** Wednesday, August 10, 2011 11:43 AM  
**To:** Filings@psc.state.fl.us  
**Cc:** D. BRUCE MAY, JR., ESQ; Lisa Bennett; STEPHEN C. REILLY, ESQ.  
**Subject:** DOCKET NO.110019-WS PETITION FOR FORMAL HEARING  
**Attachments:** PETITION.doc

Please accept for electronic filing the attached Petition for Formal Hearing in the Word format.

1. The full name, address, telephone number, and email address of the person responsible for the electronic filing.

Peder Hong  
5400 Saddleback Ct.  
Lady Lake, FL, 32159  
[pederhong@gmail.com](mailto:pederhong@gmail.com)  
325-391-9097

2. The docket number and title if filed in an existing docket.

Docket No 110019-WS

Aqua Utilities Florida, Inc.'s application for original certificate for an existing wastewater system, request for initial rates and charges for Harbor Hills Utilities, L.P.'s wastewater system, amendment of wastewater Certificate No. 120-S in Lake County, to include Harbor Hills Utilities, L.P.'s wastewater service area; and application for approval of transfer of Harbor Hills Utilities, L.P.'s water system to Aqua Utilities Florida, Inc., amendment of Aqua Utilities Florida, Inc.'s Certificate No. 106-W in Lake County, to include the Harbor Hills Utilities, L.P.'s water service territory, and cancellation of Harbor Hills Utilities, L.P.'s water Certificate No. 522-W

3. The name of the party on whose behalf the document is filed.

Peder Hong

4. The total number of pages in the attached document.

27 pages

5. A brief description of the attached document.

DOCUMENT NUMBER-DATE  
05628 AUG 10 =  
FPSC-COMMISSION CLERK

8/10/2011

Petition for Formal Hearing

Respectfully submitted,

Peder Hong  
5400 Saddleback Ct.  
Lady Lake, FL 32159

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

IN RE: APPLICATION FOR ORIGINAL  
CERTIFICATE FOR AN EXISTING  
WASTEWATER SYSTEM, REQUEST  
FOR INITIAL RATES AND CHARGES  
FOR HARBOR HILLS UTILITIES, L.P.'S  
WASTEWATER SYSTEM, AMENDMENT  
OF WASTEWATER CERTIFICATE  
NO. 120-S TO INCLUDE HARBOR HILLS  
UTILITIES, L. P.'S WASTEWATER SERVICE  
AREA; AND APPLICATION FOR APPROVAL  
OF TRANSFER OF HARBOR HILLS UTILITIES,  
L.P.'S WATER SYSTEM TO AQUA  
UTILITIES FLORIDA, INC., AMENDMENT  
OF AQUA UTILITIES FLORIDA, INC.'S  
WATER CERTIFICATE NO 106-W,  
IN LAKE COUNTY, TO INCLUDE THE  
HARBOR HILLS UTILITIES, L.P.'S  
WATER SERVICE TERRITORY, AND  
CANCELLATION OF HARBOR HILLS  
UTILITIES, L.P.'S WATER CERTIFICATE  
NO. 522-W.

DOCKET No. 110019- WS

DATE: AUGUST 10, 2011

PETITION FOR FORMAL HEARING

I, Peder Hong, do hereby object to the applications in the above captioned proceeding and each of them, and request a formal evidentiary hearing on all issues of fact and law in this matter, and allege the following:

1. The name and address of the agency affected and the agency's file number:

Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, Fl. 32399-0850  
Docket No. 110061-WS

2. The name, address, and telephone number of the Petitioner:

Peder Hong  
5400 Saddleback Ct.  
Lady Lake, Fl. 32159  
352-391-9097

3. An explanation of how the Petitioner's substantial interests will be affected by the applications:

The petitioner is a customer of Harbor Hills Utility [hereafter "HHU"] and resides in the gated community of Harbor Hills in Lake County, Florida. The substantial interests of the Petitioner will be affected by the Commission's decision in this matter because the proposed applications are not in the public interest, and if approved, would unlawfully and adversely affect the quality, reliability, customer service, rate structure, and cost of potable water and irrigation water, to the Petitioner and the approximately 500 current households in Harbor Hills, plus approximately 95 households in the Grove, plus the future approximately 140 residents of Bella Vista (Phases VI and VII), a part of Harbor Hills, the future residents of approximately 50 vacant lots in Lakeview Village, a part of Harbor Hills, and the future residents of currently unplatted contiguous areas numbering in the,

DOCUMENT NUMBER-DATE

05628 AUG 10 =

FPSC-COMMISSION CLERK

perhaps, hundreds of acres owned by Harbor Hills Development, Ltd.

The wastewater proposal would unlawfully alter a rate structure and contractual and property rights benefiting consumers for the past 33 years.

4. A statement of when and how the Petitioner received notice of the applications:

The petitioner received a copy of the revised notice of the applications by mail on March 11, 2011. Petitioner filed and served timely objections to the applications on March, 21, 22, and 23 and also objected to Aqua's submission of 3/8/2011 on April 2, 2011. Said objections are incorporated herein by reference.

5. A concise statement of the ultimate facts alleged, including specific facts that Petitioner contends warrant denial of the applications:

#### PUBLIC RESPONSES TO THE APPLICATIONS

a. In excess of 237 public responses have been filed in this proceeding to date concerning the applications. The facts and matters contained therein are adopted and incorporated herein by reference, and the Commission is requested to take judicial/administrative notice thereof of each said responses , including, but not limited to, the filings consisting of:

1. Resolution 2011-97 of the Lake County Board of County Commissioners dated July 26, 2011. Reference is made to its many considered objections. This resolution is entitled to be given great weight before this Commission.
2. Letter from Kristen Kollgaard, Town Manager, Town of Lady Lake dated May 17, 2011. Reference is made to the willingness of the Town of Lady Lake to purchase and/or operate the utility operations here involved.
3. Letter from State Senator D. Alan Hays, dated March 24, 2011.
4. Letter from State Representative H. Marlene O'Toole dated March 29, 2011.
5. Letter from Board of Property Owners of Harbor Hills, Inc. dated March 31, 2011.
6. Letter from Ellen Wilcox, President, Property Owners of Harbor Hills, Inc. dated February 14, 2011.

JUDICIAL/ADMINISTRATIVE NOTICE, RES JUDICATA, COLLATERAL  
ESTOPPEL, EQUITABLE ESTOPPEL

b. The applicant, Aqua Utilities Florida, Inc., [hereafter "AUF"] is barred from denying the prior findings and conclusions of this Commission that AUF's overall quality of service is marginal and that its attempt to address customer satisfaction is marginal. See Order No. PSC-11-0256-PAA-WS, ( issued 6/13/2011), at p. 34 and Order No. PSC-09-0385-FOF-WS ( issued 5/29/2009), at p. 21.

## CERTAIN ACTIONS PROHIBITED

c. The gated community of Harbor Hills is governed by an ordinance of Lake County referred to as a PUD. It's most recent version is Ordinance #2010-45, recorded at Book 3949/Pages 1649 ff. By its terms, and at all times material, since 1987, its terms and conditions have been covenants running with the land including petitioner's, and a legal contract benefiting land owners including the petitioner, and creating property and contract rights possessed by the residents of Harbor Hills including petitioner within the meaning and protections of the Florida Constitution.

d. The gated community of Harbor Hills is also governed by Declarations and Covenants which at all times material from 1987, and also since being restated in 1995, recorded at Book 1403/Pages 808 ff. and in its prior versions, have been covenants running with the land including petitioner's, and a legal contract benefiting land owners including petitioner. They incorporate the terms and conditions of the PUD and create property and contract rights possessed by the residents of Harbor Hills including petitioner within the meaning and protections of the Florida Constitution.

e. On March 31, 2011 the Supreme Court of Florida issued its opinion in the case of COHN V. THE GRAND CONDOMINIUM ASSOCIATION, INC.,

ET. AL.

f. As a result of the terms and conditions of the foregoing Harbor Hills PUD ordinance the foregoing Declarations and Covenants relating to the single unified water and wastewater systems and rates within Harbor Hills and specifically for Harbor Hills, which come within the protections and meaning of the holding, principles, and doctrines in the Cohn case, and the provisions and protections of the Florida Constitution discussed therein, HHU, AUF, the Florida Public Service Commission, and the State of Florida, including its legislature, and any other of its agencies, are without jurisdiction to, and are prohibited by law from doing the following, as applied to this case:

1. Establishing water and wastewater rates or placing Harbor Hills residents in a system using facts and factors outside the present HHU service area, such as by using the so-called “capband rate structure” as used, by way of illustration, in this Commission's ORDER NO. PSC-11-0256-PAA-WS. Such action, which appears to be contemplated in the applications in this case, will violate petitioner's vested contract, property, and constitutional rights and said rights belonging to other similarly aggrieved residents of Harbor Hills.



2. Applying a water or wastewater rate system, and/or placing Harbor Hills residents in a system of the type requested by AUF in the foregoing proceeding, see COMMISSION ORDER NO. PSC-11-0256-PAA-WA, at p. 94, which this Commission has described as a single rate for all AUF customers. Such action would violate the previously described rights of petitioner, etc..

3. Establishing a system of rates for water of whatever quality and source used within Harbor Hills for lawn irrigation which favors in terms of price discrimination one class of residents, users, neighborhoods, or Phase of development within Harbor Hills over another class of residents, users, neighborhoods, or Phase of development within Harbor Hills. Such action, which appears to be contemplated by the applications in this case, will violate petitioner's vested, contract, property, and constitutional rights and said rights belonging to other similarly aggrieved residents of

Harbor Hills. It is to be noted as well, that the buyer is required by rule to assume the obligations of the seller. See Rule 25-30.037, 3,

(j).

4. Altering the current wastewater rate system which is without charge to its users.

g. Petitioner's letter of April 2, 2011 is incorporated herein by reference.

#### JUDICIAL/ADMINISTRATIVE NOTICE REQUEST

h. Petitioner requests that the Commission take judicial and administrative notice of all consumer complaints about AUF contained in its files and proceedings to date involving the various water and wastewater utilities it operates within the State of Florida.

#### DEFECTS AND OMISSIONS IN THE APPLICATIONS

i. The current water rate of HHU is \$1.23/1,000 gal., [see Exhibit. P]. AUF proposes \$5.89/1,000 gal. [see Attachment. 6] and will ultimately propose AUF's currently commission approved rate likely to apply to Harbor Hills of \$12.39/1,000 gallons, see ORDER NO. PSC-11-0256-PAA-WS, at pp. 94, 99,171,176, 181,186. Such increases, and the rate structures proposed in the applications, and likely to be proposed in the future and the underlying economic and policy ideas behind them, are without any reasonable justification, are based upon erroneous facts and assumptions, and would result in the unjust enrichment of AUF at the

expense of petitioner and other similarly aggrieved residents of Harbor Hills, and are not in the public interest.

j. AUF projects 44 additional new customers each year 2010-2015 [see Exhibit H]. This growth is without any justification and is based upon erroneous facts and assumptions.

k. Exhibit H. does not answer, and AUF has not answered, the question of proposed book value. Nor has it stated the dollar value attributable to assets purchased.

l. The contract between AUF and HHU does not state a sale price; it is conditioned on this Commission setting both water rates and wastewater rates. See Para. 3. The implication of Para. 3 is that the final price will abide new water rates in this or some future proceeding, and not merely wastewater rate setting currently.

m. Para. 5.5 contemplates HHU continuing to provide surface water to the golf course. HHU does not have a ST. JOHNS RIVER WATER MANAGEMENT DISTRICT permit to do this.

n. ST. JOHNS RIVER WATER MANAGEMENT DISTRICT permit 279 requires the installation and operation of irrigation water Pumps P5, P6,

and P7 to service Phases VI but the contract between the parties and the applications do not specify who will bear the capital expense for pumps and related electrical and plumbing infrastructure and/or operating expense.

o. ST. JOHNS RIVER WATER MANAGEMENT DISTRICT permit 279 permits P5, P6, and P7 to service Phase 7 of Harbor Hills; on information and belief, Phase 7 has not been platted; the contract between the parties and the applications do not specify who will bear the capital expense for pumps and related electrical and plumbing infrastructure and/or operating expense.

p. Critical data on types of users and volume of usage per customer and per meter is missing. Data allowing the breaking down water usage, and types of users, called "tabulated water data" is required by ST. JOHNS RIVER WATER MANAGEMENT DISTRICT permit 279 to be filed annually. Since it and other similar data, have not been supplied, rendering accurate, meaningful rate analysis, and calculation of ERCs in this case impossible to date.

q. HHU cannot assign a FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION permit to AUF. It has expired, and/or it does not have one.

r. AUF has not supplied up to date FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION information HHU is required by permit to file annually relating to the wastewater system.

s. The contract between the parties does not address the capital and operating costs of future expansion of Harbor Hills. This is not an academic question. The Harbor Hills PUD currently permits 949 lots, and there are currently only approximately 500 homes (not including the Grove) . Phase VI and Phase VII have ST. JOHNS RIVER WATER MANAGEMENT DISTRICT permits but Phase VI has only 5 or so homes presently built, and Phase VII has not been platted. Additionally the developer owns perhaps one or more hundreds of additional developable acres in addition to Phase VII.

t. There are a variety of rate structures for irrigation water totally ignored. There is no discussion of a no rate structure specified for irrigation water to Phases VI and VII, and beyond. There is no discussion of irrigation water to the 14 "Blue Tops" duplex villas which is tapped into the golf course surface water source, and would appear to be outside the ambit of the surface water permit, but which the residents are charged for. There is no discussion of the Harbor Hills Homeowners' Association use of water for irrigating common areas which at a \$1.23/1,000 gallons cost is running about

\$25,000 per year and which needs to be considered as one of the large impacts long term impacts should the AUF "capband" water rates be applied to it. Query whether data has been supplied for irrigation water used by the commercial entities.

u. Para. 29 of the application at p. 7 states that ST. JOHNS RIVER WATER MANAGEMENT DISTRICT permit 279 allows 709,000 gallons/day. That is not correct. The permit actually permits 694,548 gallons/day of ground water and 120,356 gallons/day of surface water. Moreover the gross unfairness of the proposed rate scheme for irrigation water can be computed by contrasting the latter number. To use a likely example, if the foregoing surface water is given free or at a low price to users for irrigation purposes in Phases VI and VII that must be compared to the dilemma of the 595 or so residents of Phases I-V plus the Grove neighborhood (the Grove neighborhood is served by HHU but has a separate homeowners' association) who are locked in to using, potable water for irrigation. (Bear in mind the Phases I-V are prohibited by the developer-controlled Declarations of Harbor Hills from drilling wells of their own)

v. A review of the June 24, 2010 Technical Staff Report for ST. JOHNS RIVER WATER MANAGEMENT DISTRICT on Harbor Hills shows that approximately 82.67% of ground water consumed by Harbor Hills goes for irrigation. [ the 404 gallons per capita per day Harbor Hills average less 70

gallons per capita per day national indoor average = 82.67% outdoor use and 17.33% indoor use.]

w. A report to ST. JOHNS RIVER WATER MANAGEMENT DISTRICT dated 5/19/2011 by an engineering firm acting as agent for HHU shows that the ground water consumption under permit 279 for 2010 was 256,830,000 gallons. Applying the 82.67% irrigation use factor indicates that approximately 212,231,360 gallons were for irrigation. For sake of illustration lets say we should add to the 595 residential user number a 15% add-on for the commercial users and the Harbor Hills Homeowners' Association (since that breakout is not supplied in the applications, a hypothetical is required here), giving 684 water users. 212,231,360 gallons divided by 684 users yields 310,289 gallons/yr per user for irrigation or 25,857 gallons per month per average Harbor Hills household. At \$5.89/1,000 gallons that amounts to \$152.30/mo to water the grass in Phases I-V, or \$1827.58/ yr per household. That burden, by comparison, not only benefits the financial well-being of homeowners in Phases VI-VII presumably enjoying free surface water; it also unfairly helps the developer sell its new homes in Phases VI-VII there compared to the residents' attempting to do re-sales in in Phases I-V. Such an outcome would be unfair, unreasonable, and unlawfully discriminatory. This is a rate question, not an infrastructure issue, since the double water line system is required by ST. JOHNS RIVER WATER MANAGEMENT DISTRICT.

x. For homeowners using more than 25,857 gallons/month for irrigation the hit would be much more. Probably most single family homes in Harbor Hills use significantly more than this amount, since the average irrigation use is brought down by the "Blue Tops" which are villas with minimal lawns as well as the Grove and other areas with lawn sizes below average. Many households have water bills in excess of 50,000 gallons/month because of large sized yards and sandy soils.

y. The applications are inconsistent and incomplete on the dimensions of water pipes in Harbor Hills, especially for the commercial users. See Attachment 6, and Wastewater Exhibit. J which recite 5/8" to 10". See Wastewater Exhibit. D which recites 5/8" to 3". See Exhibit. P which recites 5/8" to 6".

z. The data necessary for calculations concerning ERC's for the commercial users is absent, incomplete and/or erroneous and misleading. Underlying data such as meter locations and volume history, usage growth rates, and water rates paid by the commercial users would appear to be necessary in order to fairly calculate ERC's and the relative shares among classes of users.

aa. Exhibit. J calls for the tax returns of HHU but they have not been supplied. On information and belief they will show that HUU is profitable or



breakeven at \$1.23/1,000 gallons and no wastewater charge, thereby hugely undermining the tariffs proposed by AUF.

bb. Para. 14 of AUF's 3/14/2011 response says it will not pay future capital expenses for wastewater line expansion. It omits to state the same intention regarding potable water line expansion and related infrastructure.

cc. Para. 10 of AUF's 3/14/2011 response is false in saying all wastewater customers are residential and omits to mention various commercial entities including the for-profit clubhouse and conference center, the for-profit business offices, the for-profit dining areas, the for-profit golf course, the for-profit swimming area, the for-profit tennis facility, etc.

dd. Para. 4 of AUF's 3/14/2011 response is incomplete; it does not show the golf course permit which is ST. JOHN'S RIVER WATER MANAGEMENT DISTRICT permit 124036 and this permittee is not AUF.

ee. Para. 10 of AUF's 3/14/2011 response regarding assumptions and calculations is incomplete and erroneous. The letters from Robert Nicholson filed in this proceeding are incorporated herein by reference.

ff. The applications fail to state which entity will supply irrigation water to Phases VI and VI.

gg. The applications fail to state, and cannot state, that the proposals have the approval of Lake County generally and pursuant to Para. V., 2, E. of Ordinance 33-90 [ the Harbor Hills PUD] specifically. **In fact, the application proposals have effectively been disapproved by the Lake County Board of County Commissioners' in Resolution 2011-97 on file in this case.**

hh. The applications and proposed tariffs completely fail to supply the conservation rate structure required by the ST. JOHNS RIVER WATER MANAGEMENT DISTRICT permit 279.

ii. The applications fail to state who shall bear the costs related to homes in foreclosure.

jj. The applications fail to state that the current Declarations of Harbor Hills prohibit the residents from drilling wells; thereby foreclosing the option in Phases I-V consisting of approximately 500 households from a low cost irrigation water option and locking them into high water rates for this function which runs from 20,000 to 50,000 gallons of water per month per home. The Grove is not subject to the Harbor Hills Declarations but their ability to obtain 95 well permits is, of course, speculative.

## SINGLE UNIFIED SYSTEM VIOLATED

kk. The PUD for Harbor Hills requires a single unified system with equality of service and water rates including irrigation water . The applications appear to provide for different classes of water quality to different neighborhoods for irrigation and also different water rates, thereby imposing the prospect of lawfully unfair, discriminatory, and unconstitutional damage upon petitioner and the 500 households in Phases I-V, and also the Grove.

## UNFAIR SUBSIDIES BETWEEN CLASSES OF RESIDENTIAL USERS

ll. As a result of the proposed unequal system of irrigation water rates there will be unfair and unreasonable subsidies by the residents of Phases I-V and the Grove to the residents of Phases VI and VII for, among other things, the operation, maintenance, and repair of pumps P5, P6, and P7 and related electrical infrastructure, and also a disproportionate share of the gross revenue and net profits of AUF from the Harbor Hills water system.

## THE INTERLOCKING CORPORATE RELATIONSHIPS BETWEEN THE COMMERCIAL WATER USERS AND HHU

mm. The applications are not totally explicit, or even totally accurate, regarding the identity of all commercial users of water at Harbor Hills.

These certainly include Harbor Hills Country Club, Ltd., but may also include one or more of the following presently, or in the future: Harbor Hills Utilities, Ltd., Harbor Hills Sales, Inc., Harbor Hills Development, Ltd., HHCC, Inc. and Michael Rich Sales and Marketing, Inc.

nn. Additional data is necessary regarding present and future commercial water and wastewater usage by quality, source and volume; the accuracy and methodology of ERC calculations; the presence or absence of informal agreements with AUF; the pace, nature and extent of future Harbor Hills development; and potential amendment of Harbor Hills declarations.

oo. There is presently, and at all times material has been a unified, homogeneous, and interlocking corporate and business control between HHU and all existing (and potential future) commercial water and wastewater users.

pp. As shown by the 2011 corporate and partnership filings with the Florida Secretary of State HHCC, Inc., a Florida for profit corporation is the general partner of the following three partnerships of Harbor Hills Utilities, Ltd. [HHU], Harbor Hills Development, Ltd, and Harbor Hills Country Club, Ltd.

qq. On information and belief Harbor Hills Utilities, Ltd. [HHU], is the

owner of the water and wastewater systems and well sites.

rr. On information and belief Harbor Hills Country Club, Ltd. owns the clubhouse and conference center, the swimming pool area, the golf course, the tennis facility, and perhaps more.

ss. On information and belief, Harbor Hills Development, Ltd owns all of the development land of comprising Harbor Hills and not conveyed to residents, including Phases VI and VII.

tt. On information and belief all of the shares of the corporation HHCC, Inc. and the entire partnership interests of the three partnerships are owned by Yale University, or a holding company that is itself wholly owned by Yale University.

uu. On information and belief, the majority of board of directors of HHCC, Inc are employees of the Yale University endowment office.

vv. On information and belief, Harbor Hills Sales, Inc. is a Florida for profit corporation and its President and another director are employees of the Yale University endowment office. In fact, the most recent, 2011 corporate filing states that the fourth director is the head of the Yale University endowment office, David Swensen.

xx. The President of HHCC, Inc. is Michael Rich and serves at the pleasure of its Yale controlled Board of Directors. He and his son, Adam are two of the board members of the developer appointed Board of the Harbor Hills Homeowner's Association, Inc., a Florida non profit corporation which enforces the Harbor Hills declarations and covenants. It has a six member Board. All of its directors are developer-appointed. Another two of its directors are full time employees Harbor Hills Country Club, Ltd, a partnership controlled by HHCC, Inc.

yy. On information and belief Harbor Hills Country Club, Ltd. and Harbor Hills Development, Ltd are large commercial water and wastewater customers of HHU, and they and HHU will be customers of AUF if the applications to transfer are approved. Their rates and water volumes need to be calculated. The Harbor Hills Homeowners' Association (HHHOA) is also a large consumer of HHU treated, potable water for irrigation purposes, a HHHOA expense annually of \$25,000 at the current \$1.23/1,000 gallons rate. At \$12.39/1,000 gallons this bill will go to approximately \$250,000/yr. The developer will be contributing about 5% of the HHHOA budget so that \$237,500 will be spread across approximately 500 homeowners yielding another cost to them of \$475/yr. or \$39.58/mo.

zz The Harbor Hills Homeowner's Association controls the amendment process for the Declarations including any amendment seeking to vacate the current prohibition against private well-drilling within Harbor Hills

aaa. The applications need to clarify if there are any other auxiliary or supplemental agreements, whether formal or informal, between the commercial users, HHU, and AUF.

#### THE PUBLIC POLICY BEST ALTERNATIVE

bbb. A critical public policy document for review is the CONSUMPTIVE USE TECHNICAL STAFF REPORT of the ST. JOHNS RIVER WATER MANAGEMENT DISTRICT dated 6/24/2010 which evaluated Harbor Hills and ST. JOHNS RIVER WATER MANAGEMENT DISTRICT permit 279.

ccc. The report discusses the difficulty HHU would have in raising water rates because of HHU's low rate base, concluding that it appears "...Harbor Hills would not be able to justify a general increase in rates to the Florida Public Service Commission (FPSC) because of its low rate base. The rate base is the capital investment that the utility is authorized to earn on a rate of return on"

ddd. The ST. JOHNS RIVER WATER MANAGEMENT DISTRICT staff

reports it discussed the foregoing rate base problem with the FPSC staff which indicated that rate increases would be approved if the revenue of a water rate hike went to "water conservation initiatives **within the development**"

eee. The best public policy for Harbor Hills would be to hope to retain the ownership of HHU in Yale University, a non-profit, presumably an enlightened and public-spirited institution if given the chance to further reflect upon the substance of the present proceedings, to deny the transfer to AUF, to keep the water utility owned by HHU , and to permit HHU to raise water rates to fulfill a true and comprehensive conservation plan which would include: [1] the requirement of the so called "conservation rate structure" , see Permit 279 [2] the requirement that the additional revenues so raised be spent exclusively on new lawn irrigation infrastructure in Phases I-V and other subsidies and benefits at no extra cost to homeowners (including, perhaps, separate surface water irrigation lines to the curb of homeowner's irrigation lines if the ST. JOHNS RIVER WATER MANAGEMENT DISTRICT felt surface water were available in sufficient quantities from Lake Griffin and would be available even in drought periods) [3] and other appropriate, reasonable measures within the development consistent with its unique character.

fff. The applications before the commission are inconsistent with sound



public policy as it relates to the future of the HHU water and wastewater systems, and will send a significant part of the aforementioned "additional revenues" out of state to AUF's officers and shareholders and not protect the beauty and viability of Harbor Hills and the urgency of the health of Florida's aquifer.

**THE HHU WATER SYSTEM IS FUNDAMENTALLY INCOMPATIBLE WITH THE AUF WATER SYSTEM AND THE TRANSFER WOULD PLACE HARBOR HILLS AT GRAVE AND INTOLERABLE ECONOMIC RISK**

ggg. AUF explicitly aims to have a single rate for all its customers. See ORDER NO. PSC-11-0256-PAA-WS, at p. 94.

hhh. AUF's current commission approved water rate for residential users at Tier 3 and bands 2-4, see *ibid.* at pp. 99, 171, 176, 181, and 186, which would ultimately apply to Harbor Hills is \$12.39/1,000 gallons for treated water. Applying this rate to the previously calculated average irrigation numbers shows that the average user at 25,857 of monthly irrigation water would pay \$320.37/month or \$3844.42/yr. to water the grass. Obviously this is totally unaffordable, and, indeed, absurd. Bear in mind as well that more and more of the newer residents of Harbor Hills are younger families with young children, with early career level wages and above average indoor water use as well. Harbor Hills is not an age-restricted retirement community.

iii. ST. JOHNS RIVER WATER MANAGEMENT DISTRICT requires HHU to keep track of its highest 10% of water users. These would likely be the 10% largest residential lawns in Harbor Hills, including some for whom the developer built homes on double lots. It is highly probable that these homeowners, at the above rates, would be paying in the neighborhood of \$800-1,000/ month simply to water the grass. Again, totally unaffordable, and, indeed, absurd.

jjj. The ST. JOHNS RIVER WATER MANAGEMENT DISTRICT staff report of June 24, 2010, CONSUMPTIVE USE TECHNICAL STAFF REPORT, notes that Harbor Hills enjoys "...historic landscaping practices that make use of extensive areas of turf grass, soil types, and large lot sizes." As such it has a different land use profile, uniquely different from any of the current 56 areas in Rate Bands 1-4 areas currently served by AUF. See ORDER NO. PSC-11-0256-PAA-WS, at 164.

kkk. It is highly improbable, that any area served by AUF uses treated, potable water used for lawn irrigation as Harbor Hills Phases I-V do, and/or in the large volumes required for the large lots that were created and sold by the Harbor Hills developer and exists today.

lll. Allowing the applications and placing Harbor Hills within the AUF system would place the Harbor Hills community at the risk of ultimate AUF

water rates that will surely impair and destroy home values, impair the Harbor Hills component of the tax base of Lake County, pose an undue burden on families with young children, and substantially harm the Harbor Hills community economically and aesthetically as irrigation consumption becomes unaffordable, and lawns, home vales, and the tax base dry up. Admittedly there is a problem to be solved relative to the Harbor Hills irrigation budget, but transfer of the water system to AUF is not a reasonable part of a reasonable solution.

#### PARAGRAPH 1.3 OF THE HHU-AUF CONTRACT

mmm. On information and belief, the water treatment system has a value substantially less than \$500,000.

#### SUBSTANTIALLY INFERIOR

nnn. The applications are substantially inferior to other alternatives available for the future ownership and operation of the Harbor Hills water and wastewater systems.

#### DISPUTES OF MATERIAL FACTS AND THE LEGAL BURDENS OF PRODUCTION AND PERSUASION

ooo. Each of the foregoing allegations involve disputed issues of material

facts.

ppp. With respect to each disputed fact and with respect to each applicable legal issue , AUF has the legal burdens of production and persuasion.

#### AMENDMENT AND SUPPLEMENTATION

qqq. Petitioner reserves the right to amend or supplement this section as new facts, if any, come to light.

6. A statement of the specific rules or statutes the Petitioner contends require denial or modification of the applications.

The applications and related matters should be denied pursuant to Commission Rules 25-30.033, 25-30.037; Rule 28-106.201, F.A.C. ; Section 367.071, Florida Statutes, Section 367.045, Florida Statutes, and the public interest standard applicable to both applications.

WHEREFORE, for the reasons stated above, the Petitioner requests the Commission to conduct a formal evidentiary hearing pursuant to the provisions of Section 120.57 (1), ; and further petitions that such hearing be scheduled at a convenient time within or as close as practical to the Harbor Hills certificated service area in Lady Lake, Florida; and further petitions that all other related

matters also be venued in Lady Lake, or in the alternative, that he be permitted to appear by telephone.

Respectfully submitted,

s/ Peder Hong

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Peder Hong  
5400 Saddleback Ct.  
Lady Lake, FL 32159  
352-391-9097  
Email: pederhong@gmail.com

CERTIFICATE OF SERVICE

DOCKET NO. 110019-WS

I HEREBY CERTIFY that this petition was filed with the Florida Public Service Commission, Director, Office of Commission Clerk, 2540 Shumard Oak Boulevard, Tallahassee, FL 32399-0850 this 10th day of August 2011 by depositing the same to said party at said address in the U.S. mail, postage prepaid, and true and correct copies of the above and foregoing have been furnished by

mail to D. Bruce May, Esq., attorney for Aqua Utilities Florida, Inc., 315 South Calhoun St., Tallahassee, FL 32301 and Lisa Bennett, Esq., Office of the General Counsel, Florida Public Service Commission, 2540 Shumard Oak Boulevard, Tallahassee, FL. 32399-0850.

I also certify that this petition was electronically filed with filed with said party at the Florida Public Service Commission this 10th day of August, 2011 and also furnished to said attorneys by email this date.

s/ Peder Hong

\_\_\_\_\_  
Peder Hong

