

DOCKET NO.: 980992-WS - COMPLAINT BY D.R. HORTON CUSTOMER HOMES, INC.  
AGAINST SOUTHLAKE UTILITIES, INC.

DOCKET NO.: 981609-WS - EMERGENCY PETITION BY D.R. HORTON CUSTOM HOMES,  
INC. TO ELIMINATE AUTHORITY OF SOUTHLAKE UTILITIES, INC. TO COLLECT  
SERVICE AVAILABILITY CHARGES AND AFPI CHARGES

WITNESS: **DIRECT TESTIMONY OF WILLIAM TROY RENDELL** APPEARING ON BEHALF  
OF THE STAFF OF THE FLORIDA PUBLIC SERVICE COMMISSION

DATE FILED: MARCH 22, 2001

DOCUMENT NUMBER-DATE

03662 MAR 22 01

FPSC-REG. ADS. REPORTING

DIRECT TESTIMONY OF WILLIAM TROY RENDELL

Q. Would you please state your name and business address?

A. My name is Troy Rendell, and my business address is 2540 Shumard Oak Boulevard, Tallahassee, FL 32399.

Q. By whom are you employed and in what capacity?

A. I am employed by the Florida Public Service Commission as a Public Utilities Supervisor in the Staff Assisted Cases Section, Bureau of Rate Cases, Division of Economic Regulation.

Q. How long have you been employed with the Commission?

A. Since November 1987.

Q. Would you please give a brief description of your educational background and professional experience?

A. I graduated from Gulf Coast Community College in 1985 with an Associate of Arts Degree in Business Administration. In 1987, I graduated from the Florida State University with a Bachelor of Science Degree in Finance. After graduation, I was employed as a comptroller for Port Panama City Marina, Inc. In November 1987, I began working for the Florida Public Service Commission as a Regulatory Analyst I in the Bureau of Gas Regulation, Division of Electric and Gas. In January 1991, during a structural reorganization of the Commission, I joined the Division of Auditing and Financial Analysis in the Bureau of Accounting. In October 1991, I transferred to the Division of Water and Wastewater as a Regulatory Analyst IV in the Bureau of Industry Structure and Policy Development. On March 1, 1994, I accepted my current position within the Bureau of Rate Cases in the Division of Economic Regulation.

Q. Are you a member of any professional associations?

1 A. Yes. I am a member of the Florida Water Environment Association.

2 Q. Have you had cause to testify in other dockets before the Florida Public  
3 Service Commission?

4 A. Yes. I testified in Docket No. 930880-WS (Investigation of SSU's Rate  
5 Structure). I have also filed direct testimony in Docket No. 960329-WS (Gulf  
6 Utility Company rate case) and Docket No. 880002-EG (the Energy Conservation  
7 Cost Recovery (ECCR) docket), which was stipulated into the record.

8 Q. What are your present responsibilities with the Commission?

9 A. I am responsible for supervising a professional technical staff who are  
10 involved in accounting and rate aspects of formal rate applications, service  
11 availability cases, and limited proceedings. The primary responsibility of  
12 my section is in staff assisted rate cases, limited proceedings, and reuse  
13 dockets. My responsibilities also include preparing and presenting expert  
14 testimony concerning accounting and rate matters at formal hearings before the  
15 Commission, as well as advising and making recommendations to the  
16 Commissioners. I am also responsible for conducting research, generic  
17 investigations and recommending statutory and rule changes, and Commission  
18 policies in areas of my responsibility.

19 Q. What is the purpose of your testimony in this proceeding?

20 A. The purpose of my testimony is to provide information regarding the  
21 appropriateness of reassessment of service availability charges to residential  
22 connections. Specifically, I am addressing if Southlake Utilities, Inc.'s  
23 (Southlake or utility) current water and wastewater tariffs allow a  
24 reassessment of residential service availability charges.

25 Q. When did staff first become aware of the utility's assertion that it had

1 the authority to reassess service availability charges for residential  
2 connections?

3 A. By a letter dated December 17, 1999, to Ms. Samantha Cibula, staff  
4 attorney, the utility stated that the houses within its service area that were  
5 constructed by D.R. Horton Custom Homes, Inc. (Horton) had an overall average  
6 daily flow of 871 gallons per day (gpd) per house, based on metered flows for  
7 the period ending November 17, 1999. The utility asserted that this flow  
8 exceeds the 350 gpd of water per house for plant capacity reserved by Horton.  
9 The utility further asserted that its existing tariff authorizes a  
10 reassessment of plant capacity charges for residential customers.  
11 Specifically, the utility contends that Horton has not paid for its pro rata  
12 share of the cost of the utility's water and wastewater treatment facilities.  
13 This letter is attached to my testimony as Exhibit WTR-1. Subsequently, by  
14 letter dated December 23, 1999, to Mr. Bart Fletcher, staff analyst, the  
15 utility reaffirmed its position that its existing tariff allows the utility  
16 to reassess plant capacity charges for residential customers if consumption  
17 exceeds the amount reserved by the developer. This letter is attached to my  
18 testimony as Exhibit WTR-2.

19 Q. Could you identify the language in Southlake's water and wastewater tariffs  
20 which address service availability charges?

21 A. Yes. Water Tariff Sheet No. 38.0, Southlake's water service availability  
22 schedule of fees and charges, states that each residential water equivalent  
23 residential connection (ERC) shall be charged \$420, which was based upon 350  
24 gallons per day (gpd) for each residential water ERC at the time the charge  
25 was approved. It also states that all other customers shall pay \$1.20 per

1 gallon of estimated consumption per day. This per gallon provision is  
2 specifically designed for all general service customers. Wastewater Tariff  
3 Sheet No. 35.0, the utility's wastewater service availability schedule of fees  
4 and charges, states that each residential wastewater ERC shall be charged  
5 \$775, which was based on 300 gpd for each residential wastewater ERC at the  
6 time the charge was approved. It further states that all other customers  
7 shall pay \$2.58333 per gallon of estimated consumption per day. This per  
8 gallon provision is also specifically designed for all general service  
9 customers.

10 Q. Are there additional provisions in Southlake's tariffs which address  
11 service availability charges?

12 A. Section 13 of Southlake's service availability policy describes the  
13 provision for plant capacity charges in its water and wastewater tariff,  
14 Sheets Nos. 31.0 and 28.0, respectively. Both water and wastewater tariffs  
15 are identical with the exception of the reference numbers. The water tariff  
16 states:

17           Utility requires that all Contributors pay for a pro  
18           rata share of the cost of Utility's water and  
19           wastewater treatment plant facilities whether the  
20           facilities have been constructed or not. Such  
21           charges to Contributors pursuant to this policy are  
22           calculated based upon the estimated demand of the  
23           Contributor's proposed installations and improvements  
24           upon the treatment facilities of the Utility and are  
25           computed by multiplying the number of calculated

1                   equivalent residential connections by the plant  
2                   capacity reservation charges reflected on Sheet No.  
3                   38.0. If the experience of the Contributor after  
4                   twelve months of actual usage exceeds the estimated  
5                   gallons on which the plant capacity charges are  
6                   computed, the Utility shall have the right to collect  
7                   additional contributions in aid of construction. The  
8                   twelve month period shall commence when certificates  
9                   of occupancy have been issued for the Contributor's  
10                  entire project.

11       Based on this tariff language, the utility contends that any customer's plant  
12       capacity charges can be reassessed after 12 months.

13       Q. Do you agree with the utility's interpretation of the assessment of service  
14       availability charges for residential connections?

15       A. No. I disagree with the utility's interpretation to the extent that this  
16       provision applies to residential customers. The residential amounts stated  
17       in the utility's service availability schedule of fees and charges are fixed  
18       amounts established by the Commission.

19       Q. Are you familiar with past Commission decisions concerning residential  
20       service availability charges?

21       A. Yes. In Order No. PSC-94-1042-FOF-SU, issued August 24, 1994, in Docket  
22       No. 921293-SU, Application for a Rate Increase in Pinellas County by Mid-  
23       County Services, Inc., the Commission agreed with the utility's witness  
24       statement that:

25                   When the service availability guideline rules were being

1 promulgated, the Commission considered and adopted a service  
2 availability policy that would fix charges for the  
3 individual residential and commercial applicants and allow  
4 some flexibility for negotiated charges between developers  
5 and utilities. As long as those negotiated charges are  
6 consistent with the utility's tariffs and do not cause the  
7 utility, as a whole, to violate the guidelines, they are  
8 allowable under Rule 25-30.585.

9 Thus, the Commission established that residential service availability charges  
10 will be determined based on fixed average gallonage per day. The Commission  
11 further agreed with the utility's witness in that Rule 25-30.585, Florida  
12 Administrative Code, applies only to the determination of the proper hydraulic  
13 capacity of the total cost of the utility's facilities, and that this rule's  
14 intended purpose was to provide the proper guidelines to settle disagreements  
15 or disputes between developers and utilities over the actual demand a  
16 developer will place on the system.

17 Q. Were you directly involved in the Commission's decision in Order No. PSC-  
18 94-1042-FOF-SU?

19 A. Yes. I was directly responsible for writing staff's post hearing  
20 recommendation in Docket No. 921293-SU concerning service availability  
21 charges. Further, the Commission's final order was subsequently affirmed by  
22 the First District Court of Appeal.

23 Q. Do you have any other concerns with applying Southlake's interpretation of  
24 the assessment of service availability charges for residential connections?

25 A. Yes. It would be an extreme administrative burden for any utility to

1 reevaluate consumption patterns for all residential customers after one year  
2 of service. Further, this would cause confusion on the part of residential  
3 customers.

4 Q. Does Southlake intend to reassess all residential customers' service  
5 availability charges?

6 A. No. It appears that Southlake only wants to reassess the charges for those  
7 customers who exceeded the consumption level and also bought houses from  
8 Horton. This practice appears to be discriminatory, especially as Southlake  
9 has not mentioned offering a refund of plant capacity charges to customers  
10 whose consumption is less than the fixed residential consumption level or  
11 reassess the plant capacity charges for homes built by someone other than  
12 Horton.

13 Q. Is there a remedy which Southlake could have undertaken if it believed that  
14 the residential customers were not paying their pro rata share of the water  
15 and wastewater facilities?

16 A. Yes. Southlake could have come to the Commission and filed a petition to  
17 revise its service availability charges. This revision could have been based  
18 on numerous factors, including an increase in residential usage. If  
19 residential customers in Southlake's service area were consuming significantly  
20 more than the usage previously established by the Commission, these charges  
21 could have been revised to reflect this overall average usage on a going  
22 forward basis for new customers.

23 Q. Do you believe that the utility's current service availability tariffs  
24 should be revised, and if so, which ones?

25 A. Yes. To specifically delineate that the service availability charges for



1 residential customers cannot be reassessed. I believe that it would be  
2 appropriate to reflect this on the utility's tariff. The provision for plant  
3 capacity charges of Southlake's current water and wastewater tariff, Sheets  
4 Nos. 31.0 and 28.0, respectively, should be revised. Specifically, the first  
5 sentence in the second paragraph of the provision should be revised to reflect  
6 the following wording: "If the experience of the non-residential Contributor  
7 after twelve months of actual usage exceeds the estimated gallons on which the  
8 plant capacity charges are computed, the Utility shall have the right to  
9 collect additional contributions in aid of construction. Conversely, if the  
10 experience of the non-residential Contributor after twelve months of actual  
11 usage is lower than the estimated gallons on which the plant capacity charges  
12 are computed, the Utility shall refund the pro rata share of contributions in  
13 aid of construction."

14 Q. What do you mean by the phrase non-residential?

15 A. That term would apply to any customer who is not a "stand-alone"  
16 residential house with an individual meter. It would include any commercial  
17 customer, as well as any multi-family connection.

18 Q. Could you summarize your testimony?

19 A. Yes. Based on a review of the utility's tariffs and past Commission  
20 practice, I believe that the utility's current water and wastewater tariffs  
21 do not authorize a reassessment of additional plant capacity charges for  
22 changed consumption for residential customers at any time after connection to  
23 the system. Further, I believe that the utility's current water and  
24 wastewater tariffs should be revised to: 1) indicate that the reassessment  
25 of additional service availability charges only applies to non-residential

1 customers; and 2) provide for refunds if actual usage of non-residential  
2 customers is lower than the estimated gallons.  
3 Q. Does that conclude your testimony?  
4 A. Yes, it does.  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25



**Southlake**

**SOUTHLAKE UTILITIES, INC.**  
333 U.S. Highway 27, Clermont, FL 34711  
Telephone (352) 394-8898 Facsimile (352) 394-8894  
Florida Public Service Commission Certs. 464-S 533-W

December 17, 1999

By Facsimile: (850) 413-6203

Ms. Samantha Cibula, Esquire  
Staff Attorney  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, FL 32399-0850

**RECEIVED**

**DEC 27 1999**

Florida Public Service Commission  
Division of Water and Wastewater

RE: Emergency Petition by D.R. Horton Custom Homes,  
Inc., to Eliminate Authority of Southlake Utilities, Inc. to  
Collect Service Availability Charges and AFPI Charges in Lake  
County, Docket No. 981609-WS ("Petition")

Dear Samantha:

Southlake Utilities is in the process of renewing certain Consumptive Use Permits issued by the St. Johns River Water Management District ("District"). As part of that process, the District has requested that we complete a Water Audit. According to the Water Audit Form which the District provided to us on December 10, 1999, "All consumptive use permit applicants that are requesting water for public supply type use must complete a water audit using the District's Water Audit Form pursuant to section 12.2.5.1(a) of the Applicant's Handbook: Consumptive Uses of Water ... The water audit is designed to provide assurances of water accountability within the treatment and water distribution systems. The information provided below must reflect volumes covering period of at least 12 consecutive months within the three year period preceding the application submittal."

As part of complying with this requirement, we have performed metered use calculations covering the 366 day period ending November 17, 1999. We were surprised to learn from these numbers that, as a group, the houses within our service area which were constructed by D. R. Horton Custom Homes, Inc. had an overall average annual daily flow of 871 gallons per house per day. See attached Exhibit A. This flow far exceeds the 350 gallons per day per house of water plant capacity reserved from Southlake Utilities, Inc. by D. R. Horton for these houses. It also exceeds the 350 gallons per day allocated to each lot in Woodridge under Florida Department of Environmental Protection Permit WD35-247809, 115,500 GPD for 330 lots ( $115,500 \text{ GPD} \div 330 = 350 \text{ GPD/ERC}$ ), and allocated in Clear Creek under FDEP permit WD35-80599-001, 86,100 GPD for 246 single family homes ( $86,100 \div 246 = 350 \text{ GPD/ERC}$ ). Copies of these permits are also attached.

Mr. Samantha Cibula

page 2

Based on information provided to us by the District, D. R. Horton could have followed well known water conservation practices, particularly landscaping practices, which would have greatly reduced the water demand of the houses they have sold. These practices include use of low volume micro-irrigation systems; not installing the high demand grasses they have selected, such as St. Augustine; soil conditioning to reduce excessive percolation; and xeriscaping.

The Southlake Utilites, Inc. Tariff Service Availability and Main extension policy, as approved by the Florida Public Service Commission, contains the following provision with regard to plant capacity charges:

13.0 PLANT CAPACITY CHARGES

Utility requires that all Contributors pay for a pro rata share of the cost of Utility's water and wastewater treatment plant facilities whether the facilities have been constructed or not. Such charges to Contributors pursuant to this policy are calculated based upon the estimated demand of the Contributor's proposed installations and improvements upon the treatment facilities of the Utility and are computed by multiplying the number of calculated equivalent residential connections by the plant capacity reservation charges reflected in Sheet No. 38.0.

If the experience of the Contributor after twelve months of actual usage exceeds the estimated gallons on which the plant capacity charges are computed, the Utility shall have the right to collect additional contributions in aid of construction. The twelve month period shall commence when certificates of occupancy have been issued for Contributor's entire project.

Based on the historical requirements of houses built by D. R. Horton Custom Homes, Inc., it appears that D. R. Horton Custom Homes, Inc. has not paid for it's pro rata share of the cost of the Utility's water and wastewater treatment facilities. Accordingly, it may be necessary for Southlake Utilities, Inc. to collect additional contributions in aid of construction from D. R. Horton Custom Homes, Inc.'s existing construction and its future construction.

If you need additional information, please do not hesitate to contact me.

Sincerely,

Robert L. Chapman

Enclosures: Exhibit A, DEP Permits

Cc: Mr. James Ade, Esq., Ms. Blanca Bayo, Mr. Ted Davis, Mr. F.  
Marshall Deterding, Esq., Mr. Bart Fletcher, Mr. Norman Mears,  
✓ Ms. Patricia Merchant, Mr. Scott Schildberg, Esq.

Type: Single Family Homes and  
Vacation Rental HousesBuilder: D. R. Horton Homes  
Location: Woodridge and Clear Creek Subdivisions,  
Clermont, FL 34711

Meter size: 5/8 x 3/4"

Meter reading date:	Days in billing period:	Connections with flow during period at units constructed by D. R. Horton :	Total flow, gallons of treated water, these connections:	Total gallons provided these connections, daily average:	Average gallons of daily flow provided, per unit:	Total plant capacity acquired by Horton for these units, average daily flow at 350 gpd	Total plant capacity required for these units, average daily flow at 350 gpd	Excess demand, gallons per day:	Excess demand, ERCs:
12/16/98	30	155	3,428,000	114,267	737	54,250	114,267	60,017	171
1/17/99	32	159	3,230,000	100,938	635	55,650	100,938	45,288	129
2/17/99	31	159	2,726,000	87,935	553	55,650	87,935	32,285	92
3/17/99	28	171	3,833,000	136,893	801	59,850	136,893	77,043	220
4/19/99	33	174	5,606,000	169,879	976	60,900	169,879	108,979	311
5/15/99	26	183	4,592,000	176,615	965	64,050	176,615	112,565	322
6/17/99	33	194	5,168,000	156,606	807	67,900	156,606	88,706	253
7/16/99	29	202	4,904,000	169,103	837	70,700	169,103	98,403	281
8/14/99	29	212	7,119,000	245,483	1,158	74,200	245,483	171,283	489
9/17/99	34	214	7,877,000	231,676	1,083	74,900	231,676	156,776	448
10/18/99	31	214	6,140,000	198,065	926	74,900	198,065	123,165	352
11/17/99	30	216	5,234,000	174,467	808	75,600	174,467	98,867	282

Period:	Days:	Total annual flow:	Average Annual Daily Flow, total	Average Annual Daily Flow per unit	Plant capacity reserved, per unit	Excess demand, average per unit	Units completed or currently under construction	ERCs utilized without payment of Plant Capacity Charges
12 months	366	59,857,000	163,544	871	350	521	246	366

## EXHIBIT A



Lawton Chiles  
Governor

## Florida Department of Environmental Protection

Central District  
3319 Maguire Boulevard, Suite 232  
Orlando, Florida 32803-3767

Virginia B. Wetherell  
Secretary

**Permittee:**

Condev-Orlando U.S. Highway 27, Ltd.  
Post Office Box 1748  
Winter Park, FL 32790-1748

**Attention:** Joseph J. Gardner, Partner

**Permit Number:** WD35-247809

**Date of Issue:** 5/16/94

**Expiration Date:** 05/16/99

**County:** Lake

**Project:** Southlake Utilities

Woodridge Subdivision (330  
Lots) (115,500 GPD)

This permit is issued under the provisions of Chapter 403, Florida Statutes, and Florida Administrative Code Rule 17-555, (F.A.C.). The above named permittee is hereby authorized to perform the work shown on the application and approved drawing, plans, and other documents attached hereto or on file with the department and made a part hereof and specifically described as follows:

"Dry-line" extension of the Southlake Utilities water distribution system to serve Woodridge Subdivision (330 Lots) located on U.S. 27 one mile north of U.S. 192 in Lake County, Florida.

Conditions are attached to be distributed to the permittee only.

GENERAL CONDITIONS:

1. The terms, conditions, requirements, limitations and restrictions set forth in this permit, are "permit conditions" and are binding and enforceable pursuant to Sections 403.141, 403.727, or 403.859 through 403.861, F.S. The permittee is placed on notice that the Department will review this permit periodically and may initiate enforcement action for any violation of these conditions.
2. This permit is valid only for the specific processes and operations applied for and indicated in the approved drawings or exhibits. Any unauthorized deviation from the approved drawings, exhibits, specifications, or conditions of this permit may constitute grounds for revocation and enforcement action by the Department.
3. As provided in subsections 403.087(6) and 403.722(5), F.S., the issuance of this permit does not convey any vested rights or any exclusive privileges. Neither does it authorize any injury to public or private property or any invasion of personal rights, nor any infringement of federal, state, or local laws or regulations. This permit is not a waiver of or approval of any other Department permit that may be required for other aspects of the total project which are not addressed in this permit.
4. This permit conveys no title to land or water, does not constitute State recognition or acknowledgement of title, and does not constitute authority for the use of submerged lands unless herein provided and the necessary title or leasehold interests have been obtained from the State. Only the Trustees of the Internal Improvement Trust Fund may express State opinion as to title.
5. This permit does not relieve the permittee from liability for harm or injury to human health or welfare, animal, or plant life, or property caused by the construction or operation of this permitted source, or from penalties therefore; nor does it allow the permittee to cause pollution in contravention of Florida Statutes and Department rules, unless specifically authorized by an order from the Department.
6. The permittee shall properly operate and maintain the facility and systems of treatment and control (and related appurtenances) that are installed and used by the permittee to achieve compliance with the conditions of this permit, as required by Department rules. This provision includes the operation of backup or auxiliary facilities or similar systems when necessary to achieve compliance with the conditions of the permit and when required by Department rules.
7. The permittee, by accepting this permit, specifically agrees to allow authorized Department personnel, upon presentation of credentials or other documents as may be required by law and at reasonable times, access to the premises where the permitted activity is located or conducted to:
  - (a) Have access to and copy any records that must be kept under conditions of the permit;
  - (b) Inspect the facility, equipment, practices, or operations regulated or required under this permit; and
  - (c) Sample or monitor any substances or parameters at any location reasonably necessary to assure compliance with this permit or Department rules.Reasonable time may depend on the nature of the concern being investigated.
8. If, for any reason, the permittee does not comply with or will be unable to comply with any condition or limitation specified in this permit, the permittee shall immediately provide the Department with the following information:
  - (a) A description of and cause of noncompliance; and
  - (b) The period of noncompliance, including dates and times; or, if not corrected, the anticipated time the noncompliance is expected to continue, and steps being taken to reduce, eliminate, and prevent recurrence of the noncompliance.

The permittee shall be responsible for any and all damages which may result and may be subject to enforcement action by the Department for penalties or for revocation of this permit.

GENERAL CONDITIONS:

9. In accepting this permit, the permittee understands and agrees that all records, notes, monitoring data and other information relating to the construction or operation of this permitted source which are submitted to the Department may be used by the Department as evidence in any enforcement case involving the permitted source arising under the Florida Statutes or Department rules, except where such use is prescribed by Section 403.111 and 403.73, F.S. Such evidence shall only be used to the extent it is consistent with the Florida Rules of Civil Procedure and appropriate evidentiary rules.
10. The permittee agrees to comply with changes in Department rules and Florida Statutes after a reasonable time for compliance; provided, however, the permittee does not waive any other rights granted by Florida Statutes or Department rules.
11. This permit is transferable only upon Department approval in accordance with Rule 17-4.120 and 17-30.300, F.A.C., as applicable. The permittee shall be liable for any non-compliance of the permitted activity until the transfer is approved by the Department.
12. This permit or a copy thereof shall be kept at the work site of the permitted activity.
13. This permit also constitutes:
  - ( ) Determination of Best Available Control Technology (BACT)
  - ( ) Determination of Prevention of Significant Deterioration (PSD)
  - ( ) Certification of compliance with state Water Quality Standards (Section 401, PL 92-500)
  - ( ) Compliance with New Source Performance Standards
14. The permittee shall comply with the following:
  - (a) Upon request, the permittee shall furnish all records and plans required under Department rules. During enforcement actions, the retention period for all records will be extended automatically unless otherwise stipulated by the Department.
  - (b) The permittee shall hold at the facility or other location designated by this permit records of all monitoring information (including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation) required by the permit, copies of all reports required by this permit, and records of all data used to complete the application for this permit. These materials shall be retained at least three years from the date of the sample, measurement, report, or application unless otherwise specified by Department rule.
  - (c) Records of monitoring information shall include:
    1. the date, exact place, and time of sampling or measurements;
    2. the person responsible for performing the sampling or measurements;
    3. the dates analyses were performed;
    4. the person responsible for performing the analyses;
    5. the analytical techniques or methods used;
    6. the results of such analyses.
15. When requested by the Department, the permittee shall within a reasonable time furnish any information required by law which is needed to determine compliance with the permit. If the permittee becomes aware the relevant facts were not submitted or were incorrect in the permit application or in any report to the Department, such facts or information shall be corrected promptly.



PERMITTEE:  
Condev-Orlando U.S. Highway 27, Ltd.

Permit Number: WD35-247809  
Date of Issue:  
Expiration Date: 05/16/99

Attention: Joseph J. Gardner, Partner

SPECIFIC CONDITIONS:

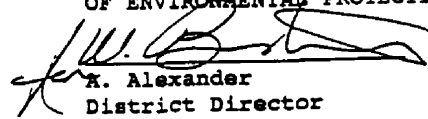
1. General condition number 13 does not apply.
2. A LETTER OF CLEARANCE MUST BE ISSUED BY THE DEPARTMENT TO YOU PRIOR TO YOUR PLACING THIS PROJECT INTO SERVICE OR YOU, THE PERMITTEE, SHALL BE SUBJECT TO APPROPRIATE ENFORCEMENT ACTION. To obtain clearance of the facilities for service, the engineer of record shall submit a "Request for Letter of Release to Place Water Supply System into Service" [DER Form 17-555.910(9)] to the department, a copy of this permit, and a copy of satisfactory bacteriological sample results taken on two consecutive days from, or near, the point of connection to the existing system, from a point near Stations 110+00 and 120+00; from a point near Lots 1, 4, 8, 29, 115, 139, 155, 166, 190, 199, 204, 238, 279, 284 and 319; and from the blowoff.
3. Where water and sewer mains cross with less than 18" vertical clearance, the sewer will be 20' of either ductile iron pipe or concrete encased vitrified clay or PVC pipe, centered on the point of crossing. When a water main parallels a sewer main a separation, measured edge to edge, of at least 10' should be maintained where practical.
4. This permit does not pertain to any wastewater, stormwater or dredge and fill aspects of this project.
5. The permittee will promptly notify the Department upon sale or legal transfer of the permitted facility. In accordance with General Condition #11 of this permit, this permit is transferable only upon Department approval. The new owner must apply, by letter, for a transfer of permit within 30 days.
6. NOTE TO THE UTILITY: Pursuant to 403.859(6), Florida Statutes, do not provide water service to this project (other than flushing/testing) until the Department of Environmental Protection has issued a letter of clearance or you, the utility, shall be subject to enforcement action.
7. This "dry line" water distribution system permit allows the physical installation of a water distribution system prior to having an approved source of potable water. The issuance of this "dry line" water distribution confers absolutely no right to any service connections now or in the future.

The second well and treatment plant currently undergoing construction under permit number WC35-210979 shall be cleared for service before this "dry-line" system can be cleared for service.

PERMITTEE:  
Condev-Orlando U.S. Highway 27, Ltd.  
  
Attention: Joseph J. Gardner, Partner  
  
SPECIFIC CONDITIONS:

Permit Number: WD35-247809  
Date of Issue:  
Expiration Date: 05/16/99

STATE OF FLORIDA DEPARTMENT  
OF ENVIRONMENTAL PROTECTION

  
K. Alexander  
District Director

ISSUED 5/16/94



## Department of Environmental Protection

Lawton Chiles  
Governor

Central District  
3319 Maguire Boulevard, Suite 232  
Orlando, Florida 32803-3767

Virginia B. Wetherell  
Secretary

Permittee:  
D.R. Horton Custom Homes  
6250 Hazeltine National Drive, Suite 102  
Orlando, FL 32822

Attention: David Auld, Vice President

Permit Number: WD35-80599-001  
Date of Issue:  
Expiration Date: 07/31/99  
County: Lake  
Project: Southlake Utilities  
Clear Creek PUD

This permit is issued under the provisions of Chapter 403, Florida Statutes, and Florida Administrative Code Rule 62-555, (F.A.C.). The above named permittee is hereby authorized to perform the work shown on the application and approved drawing, plans, and other documents attached hereto or on file with the Department and made a part hereof and specifically described as follows:

Extension of the Southlake Utilities water distribution system to serve Clear Creek PUD [246 single-family homes] located on Woodcrest Way. The estimated average day water demand is 86,100 GPD.

General Conditions are attached to be distributed to the permittee only.

GENERAL CONDITIONS:

1. The terms, conditions, requirements, limitations and restrictions set forth in this permit, are "permit conditions" and are binding and enforceable pursuant to Sections 403.141, 403.727, or 403.859 through 403.861, F.S. The permittee is placed on notice that the Department will review this permit periodically and may initiate enforcement action for any violation of these conditions.
2. This permit is valid only for the specific processes and operations applied for and indicated in the approved drawings or exhibits. Any unauthorized deviation from the approved drawings, exhibits, specifications, or conditions of this permit may constitute grounds for revocation and enforcement action by the Department.
3. As provided in subsections 403.087(6) and 403.722(5), F.S., the issuance of this permit does not convey any vested rights or any exclusive privileges. Neither does it authorize any injury to public or private property or any invasion of personal rights, nor any infringement of federal, state, or local laws or regulations. This permit is not a waiver of or approval of any other Department permit that may be required for other aspects of the total project which are not addressed in this permit.
4. This permit conveys no title to land or water, does not constitute State recognition or acknowledgement of title, and does not constitute authority for the use of submerged lands unless herein provided and the necessary title or leasehold interests have been obtained from the State. Only the Trustees of the Internal Improvement Trust Fund may express State opinion as to title.
5. This permit does not relieve the permittee from liability for harm or injury to human health or welfare, animal, or plant life, or property caused by the construction or operation of this permitted source, or from penalties therefore; nor does it allow the permittee to cause pollution in contravention of Florida Statutes and Department rules, unless specifically authorized by an order from the Department.
6. The permittee shall properly operate and maintain the facility and systems of treatment and control (and related appurtenances) that are installed and used by the permittee to achieve compliance with the conditions of this permit, as required by Department rules. This provision includes the operation of backup or auxiliary facilities or similar systems when necessary to achieve compliance with the conditions of the permit and when required by Department rules.
7. The permittee, by accepting this permit, specifically agrees to allow authorized Department personnel, upon presentation of credentials or other documents as may be required by law and at reasonable times, access to the premises where the permitted activity is located or conducted to:
  - (a) Have access to and copy any records that must be kept under conditions of the permit;
  - (b) Inspect the facility, equipment, practices, or operations regulated or required under this permit; and
  - (c) Sample or monitor any substances or parameters at any location reasonably necessary to assure compliance with this permit or Department rules.Reasonable time may depend on the nature of the concern being investigated.
8. If, for any reason, the permittee does not comply with or will be unable to comply with any condition or limitation specified in this permit, the permittee shall immediately provide the Department with the following information:
  - (a) A description of and cause of noncompliance; and
  - (b) The period of noncompliance, including dates and times; or, if not corrected, the anticipated time the noncompliance is expected to continue, and steps being taken to reduce, eliminate, and prevent recurrence of the noncompliance.

The permittee shall be responsible for any and all damages which may result and may be subject to enforcement action by the Department for penalties or for revocation of this permit.

GENERAL CONDITIONS:

9. In accepting this permit, the permittee understands and agrees that all records, notes, monitoring data and other information relating to the construction or operation of this permitted source which are submitted to the Department may be used by the Department as evidence in any enforcement case involving the permitted source arising under the Florida Statutes or Department rules, except where such use is prescribed by Section 403.111 and 403.73, F.S. Such evidence shall only be used to the extent it is consistent with the Florida Rules of Civil Procedure and appropriate evidentiary rules.
10. The permittee agrees to comply with changes in Department rules and Florida Statutes after a reasonable time for compliance; provided, however, the permittee does not waive any other rights granted by Florida Statutes or Department rules.
11. This permit is transferable only upon Department approval in accordance with Rule 17-4.120 and 17-30.300, F.A.C., as applicable. The permittee shall be liable for any non-compliance of the permitted activity until the transfer is approved by the Department.
12. This permit or a copy thereof shall be kept at the work site of the permitted activity.
13. This permit also constitutes:
  - ( ) Determination of Best Available Control Technology (BACT)
  - ( ) Determination of Prevention of Significant Deterioration (PSD)
  - ( ) Certification of compliance with state Water Quality Standards (Section 401, PL 92-500)
  - ( ) Compliance with New Source Performance Standards
14. The permittee shall comply with the following:
  - (a) Upon request, the permittee shall furnish all records and plans required under Department rules. During enforcement actions, the retention period for all records will be extended automatically unless otherwise stipulated by the Department.
  - (b) The permittee shall hold at the facility or other location designated by this permit records of all monitoring information (including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation) required by the permit, copies of all reports required by this permit, and records of all data used to complete the application for this permit. These materials shall be retained at least three years from the date of the sample, measurement, report, or application unless otherwise specified by Department rule.
  - (c) Records of monitoring information shall include:
    1. the date, exact place, and time of sampling or measurements;
    2. the person responsible for performing the sampling or measurements;
    3. the dates analyses were performed;
    4. the person responsible for performing the analyses;
    5. the analytical techniques or methods used;
    6. the results of such analyses.
15. When requested by the Department, the permittee shall within a reasonable time furnish any information required by law which is needed to determine compliance with the permit. If the permittee becomes aware the relevant facts were not submitted or were incorrect in the permit application or in any report to the Department, such facts or information shall be corrected promptly.

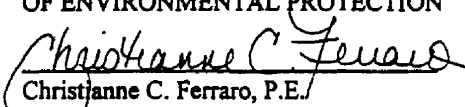
Permittee:  
D.R. Horton Custom Homes  
6250 Hazeltine National Drive, Suite 102  
Orlando, FL 32822  
Attention: David Auld, Vice President

Permit Number: WD35-80599-001  
Date of Issue:  
Expiration Date: 07/31/99  
County: Lake  
Project: Southlake Utilities  
Clear Creek PUD

SPECIFIC CONDITIONS:

1. General condition number 13 does not apply.
2. A LETTER OF CLEARANCE MUST BE ISSUED BY THE DEPARTMENT TO YOU PRIOR TO YOUR PLACING THIS PROJECT INTO SERVICE OR YOU, THE PERMITTEE, SHALL BE SUBJECT TO APPROPRIATE ENFORCEMENT ACTION. To obtain clearance of the facilities for service, the engineer of record shall submit a "Request for Letter of Release to Place Water Supply System into Service" [DEP Form 62-555.900(9)] to the Department, a copy of this permit, and a copy of satisfactory bacteriological sample results taken on two consecutive days from the point of connection, the six blowoffs and Lot 9.
3. Where water and sewer mains cross with less than 18" vertical clearance, the sewer will be 20' of either ductile iron pipe or concrete encased vitrified clay or PVC pipe, centered on the point of crossing. When a water main parallels a sewer main a separation, measured edge to edge, of at least 10' should be maintained where practical.
4. This permit does not pertain to any wastewater, stormwater or dredge and fill aspects of this project.
5. The permittee will promptly notify the Department upon sale or legal transfer of the permitted facility. In accordance with General Condition #11 of this permit, this permit is transferable only upon Department approval. The new owner must apply, by letter, for a transfer of permit within 30 days.
6. NOTE TO THE UTILITY: Pursuant to 403.859(6), Florida Statutes, do not provide water service to this project (other than flushing/testing) until the Department of Environmental Protection has issued a letter of clearance or you, the utility, shall be subject to enforcement action.

STATE OF FLORIDA DEPARTMENT  
OF ENVIRONMENTAL PROTECTION

  
Christanne C. Ferraro, P.E.  
Program Administrator  
Water Facilities

ISSUED July 31, 1997

SUBJECT: Bureau of Rate Cases

NO. 2000 PAGE 1 OF 2

APPROVED:

DATE REVISED:

---

I. TITLE - Index of Bureau Standard Operating Procedures

<u>SOP</u> <u>Number</u>	<u>Title</u>
<u>GENERAL</u>	
2001	Authority, Role and General Philosophy
2002	Customer Meetings PAA Cases
2003	Rate Case Administrative Procedures
2004	Agenda Proof Slips
2005	Case Assignment and Scheduling Record (CASR's)
2006	Base Facility Charge Rate Structure Design
2007	Residential Wastewater Gallonage Cap and Differential in the Wastewater Gallonage Charges Between Customer Groups
<u>FILE AND SUSPEND SECTION</u>	
2100	Authority, Role and General Philosophy
2101	File and Suspend Rate Case Procedures
2102	Overearnings Procedures
2103	Service Availability Application
2104	AFUDC Application
2105	AFPI Application
2106	Rate Case Noticing Requirements and Procedures
<u>ENGINEERING SECTION</u>	
2400	Authority, Role and General Philosophy
2401	File and Suspend Rate Case Procedures
2402	Handbook: Rate Case Procedures for Field Investigation
2403	Overearnings Procedures
2404	Procedures for Evaluating a Water Utility
2405	Water and Wastewater Plant Depreciation
2406	Policy Outline - Used and Useful
2407	Table of Daily Flows for Various Occupancies
2408	Flow Diagrams - Wastewater Treatment Process
2409	Water Meter Equivalents for Rate Case Purposes
2410	Cost Study Procedures
2411	Service Availability Application Procedures
2416	Actions to be taken when utility is in noncompliance with DEP or Water Management Districts

SUBJECT: Bureau of Rate Cases NO. 2000 PAGE 2 OF 2

STAFF ASSISTED CASES SECTION

2700	Authority, Role and General Philosophy
2701	Staff Assisted Rate Case Procedures





**SOUTHLAKE UTILITIES, INC.**  
333 U.S. Highway 27, Clermont, FL 34711  
Telephone (352) 394-8898 Facsimile (352) 394-8894  
Florida Public Service Commission Certs. 464-S 533-W

December 23, 1999

By Facsimile: (850) 413-7018

Mr. Bart Fletcher  
Division of Water and Wastewater  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, FL 32399-0850

**RECEIVED**

**DEC 27 1999**

Florida Public Service Commission  
Division of Water and Wastewater

1999 DEC 27 AM 9:09

DIVISION OF  
ADMINISTRATION

RE: Emergency Petition by D.R. Horton Custom Homes, Inc., to Eliminate Authority of Southlake Utilities, Inc., to Collect Service Availability Charges and AFPI Charges in Lake County, Docket No. 981609-WS ("Petition")

Dear Bart:

I appreciate the fact that you and Ms. Patricia Merchant ("Staff") took time to call me on Monday, December 20, regarding our December 17, 1999, letter to Samantha Cibula, Esq. That letter concerned our preliminary findings from a Water Audit we are conducting at the direction of the St. Johns River Water Management District that subdivisions within our service area constructed by D. R. Horton Custom Homes, Inc. are consuming water at an annual daily flow of 871 gallons per house per day — 249% of the capacity reserved by D. R. Horton for these houses. This consumption also is 249% the subdivision-wide flow per-house capacity authorized to D. R. Horton under F.D.E.P permits.

In our letter we pointed out that the Service Availability and Main Extension Policy of the Southlake Utilities, Inc. Tariff, as approved by the Florida Public Service Commission, contains a provision for in Section 13.0 Plant Capacity Charges [Water Tariff Sheet 31.0] which applies to "all Contributors." "If the experience of the Contributor after twelve months of actual usage exceeds the estimated gallons on which the plant capacity charges are computed, the Utility shall have the right to collect additional contributions in aid of construction."

On Monday, prior to our conversation, I also faxed to Staff a sample Application for Service form, as signed by D. R. Horton, which contains the same provision.

Mr. Bart Fletcher

page 2

On Monday, Staff stated that the "all Contributors" language applied only allowed to commercial customers.

Staff further stated that we are prohibited from collecting more than \$420.00 for a connection to residential units because of our Schedule of Fees and Charges, Sheet 38.0 of the Water Tariff, reads, in part:

<u>DESCRIPTION</u>	<u>AMOUNT</u>	<u>SHEET NO.</u>
Plant Capacity Charge Residential-per ERC (350 gpd)	\$ 420.00	31.0"

She told me that Southlake Utilities is not allowed to "true-up" plant capacity charges to any residential developer for future or past construction, based on usage experience.

We respectfully disagree with Staff's interpretation of Sheet 38.0 and respectfully suggest that this provision has precisely the opposite meaning and effect.

- The "Residential-per ERC" line on Sheet 38.0 states that one ERC is "350 gpd", therefore 871 gallons must equal 2.49 ERCs.
- Because the line of text on Sheet 38.0 listing the "Residential-per ERC" price refers specifically to Sheet 31.0, the provisions found on Sheet 31.0 are incorporated as provisions of the price.

Sheet 31.0 contains Section 13.0, the Plant Capacity Charges section of the Service Availability and Main Extension Policy. It reads, in full, as follows, with **emphasis** added for clarity.

### 13.0 PLANT CAPACITY CHARGES

Utility requires that **all Contributors** pay for a pro rata share of the cost of Utility's water and wastewater treatment plant facilities whether the facilities have been constructed or not. Such charges to Contributors pursuant to this policy **are calculated** based upon the **estimated demand** of the Contributor's proposed installations and improvements upon the treatment facilities of the Utility and are computed **by multiplying** the number of **calculated equivalent residential connections by the plant capacity reservation charges** reflected in Sheet No. 38.0.

If the **experience of the Contributor after twelve months of actual usage exceeds the estimated gallons** on which the plant capacity charges are computed, the Utility **shall have the right to collect additional contributions** in aid of construction. The

Mr. Bart Fletcher

page 3

twelve month period shall commence when certificates of occupancy have been issued for Contributor's entire project.

Staff further stated that Rule 25-30.055 FAC prohibits allocating more than 350 gallons to a residential unit. However, Section 25-50.055 is captioned "Systems With a Capacity or Proposed Capacity to Serve 100 or Fewer Persons." Its text states "Law Implemented: 367.022(6), F.S." That statutory provision reads as follows: "367.022 Exemptions.--The following are not subject to regulation by the commission as a utility nor are they subject to the provisions of this chapter, except as expressly provided:" . . . "(6) Systems with the capacity or proposed capacity to serve 100 or fewer persons."

Rule 25-30.055 FAC defines, for its purposes only, an ERC as "250 gallons per day." The table of meter sizes and types in Section 1(a) is clearly included for the purpose of determining whether a utility is exempt under section 367.022(6) F.S. For example, a utility with a 6" Displacement or Compound meter (or larger) would not be exempt because that meter exceeds the 10,000 gallon per day limit for exemption (i.e.  $50 \times 250 = 12,500$  gallons per day).

We respectfully suggest that the correct procedure for defining an ERC is not to be found in the Exemption for Systems With a Capacity or Proposed Capacity to Serve 100 or Fewer Persons Rule, 25-30.055 FAC.

Instead it is to be found in Part VI - Service Availability, Water and Wastewater Systems, Service Availability Charges, 25-30.515 FAC:

**25-30.515 Definitions.** When used in this part or in service availability policies or in service availability contracts or agreements, the following terms have the following meanings: ...

- (8) Equivalent Residential Connection (ERC) means
  - (a) 350 gallons per day;
  - (b) The number of gallons a utility demonstrates is the average daily flow for a single residential unit; or
  - (c) The number of gallons which has been approved by the Department of Environmental Protection for a single residential unit.

Under our approved Tariff, the per gallon per day capacity charge is \$1.20. The charge for 350 gallons (one ERC) is therefore \$420.00 ( $350 \times \$1.20 = \$420.00$ ).

Under the terms of Section 13.0 of our Service Availability Policy, a developer such as D. R. Horton which has built and continues to build houses with a demonstrated average consumption of 871 gallons per day after one-year of experience should, under our Service Availability Policy, pay for the additional 1.49 ERCs (521 gallons) of plant capacity per unit.

Mr. Bart Fletcher

page 4

Southlake Utilities, Inc. desires to follow its Tariff. We wish to discuss this matter further and have enclosed these points for Staff's consideration.

Sincerely,

A handwritten signature in black ink that reads "Robert L. Chapman, III". The signature is written in a cursive style with a large, stylized "R" and a distinct "III" at the end.

Robert L. Chapman, III  
President

Cc: James Ade, Esq.  
Ms. Blanca Bayo  
Samantha Cibula, Esq.  
Mr. Ted Davis  
F. Marshall Deterding, Esq.  
Mr. Norman Mears  
Ms. Patricia Merchant  
Scott Schildberg, Esq.

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Complaint by D.R. Horton  
Custom Homes, Inc. against  
Southlake Utilities, Inc. in  
Lake County regarding collection  
of certain AFPI charges.

DOCKET NO. 980992-WS

In re: Emergency petition by  
D.R. Horton Custom Homes, Inc.  
to eliminate authority of  
Southlake Utilities, Inc. to  
collect service availability  
charges and AFPI charges in Lake  
County.

DOCKET NO. 981609-WS  
FILED: March 22, 2001

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the Direct  
Testimony and Exhibits of William Troy Rendell has been furnished  
to the following by regular U.S. Mail this 22nd day of March,  
2001:

Scott Schildberg, Esquire  
Ade & Schildberg  
One Independent Dr.  
Ste. 3000  
Jacksonville, FL 32202

F. Marshall Deterding, Esquire  
Rose, Sundstrom & Bentley, LLP  
2548 Blairstone Pines Dr.  
Tallahassee, FL 32301



Samantha Cibula, Senior Attorney  
Fla. Bar No. 0116599

FLORIDA PUBLIC SERVICE COMMISSION  
2540 Shumard Oak Boulevard  
Tallahassee, Florida 32399-0850  
(850) 413-6202