

**BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**

In re: Application for limited proceeding in  
Highlands County by HC Waterworks, Inc.

DOCKET NO. 20210184-WS

FILED: June 13, 2022

**PETITION PROTESTING PROPOSED AGENCY ACTION**

The Citizens of the State of Florida (Citizens), by and through the Office of Public Counsel (OPC), pursuant to Sections 120.57 and 120.80(13)(b), Florida Statutes (Fla. Stat.), and Rules 25-22.029 and 28-106.201, Florida Administrative Code (F.A.C.), file this limited protest of the Florida Public Service Commission's (Commission's) Order No. PSC-2022-0192-PAA-WS, issued May 23, 2022 ("PAA Order"). The PAA Order states the following:

As part of the instant Docket, we received 20 customer comments opposing the rate increase. Additionally, one group of customers filed a complaint with our Customer Assistance and Outreach (CAO) division concerning the wastewater treatment plant.

....

PAA Order, p. 3.

However, the "group" of customers is actually comprised of 143 people who individually signed their names onto detailed petition documents containing complaints about the wastewater treatment plant and referencing both the overall quality of service received from HC Waterworks, Inc. (the "Utility" or "HCWW") and the proposed rate increase. Additionally, correspondence attached to the petition documents referenced complaints about the quality of the water provided by the utility, i.e., that the water is "not drinkable" and "has stained clothing."<sup>1</sup>

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<sup>1</sup> The face of the petition and the attached documents are all stamped received by the PSC April 22, 2022. However, neither the petition letter, signatures, nor attached documents were placed in the instant Docket file by PSC Staff prior to the Agenda hearing held May 3, 2022; nor were they provided to the OPC prior to the Agenda hearing. The OPC was not notified the PSC had the customer petition in its possession prior to the Agenda hearing, despite having asked the PSC specifically about customer complaints. Once OPC subsequently learned of the existence of the petition, the undersigned counsel again contacted Staff counsel, who forwarded copies, and OPC filed them in the Docket on May 4, 2022.

In support of their Petition, Citizens state as follows:

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

Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, Florida 32399-0850  
Docket No. 20210184-WS

2. The Citizens include the customers of HCWW whose substantial interests are affected by the PAA Order because the PAA Order authorizes HCWW to collect from its customers a rate increase.

3. Pursuant to Section 350.0611, Fla. Stat., the Citizens who file this Petition are represented by the Office of Public Counsel with the following address and telephone number:

Office of Public Counsel  
c/o The Florida Legislature  
111 West Madison Street, Room 812  
Tallahassee, Florida 32399-1400  
Telephone No. (850) 488-9330

4. The Citizens obtained a copy of the PAA Order via email on or about May 23, 2022.

5. At this time, the disputed legal issues and disputed issues of material fact, including a concise statement of the ultimate facts alleged, and those specific facts which Citizens contend warrant modification of the PAA Order, are discussed below.

6. HCWW requested a substantial rate increase for its wastewater and water operations in Highlands County Florida via the petition filed in this docket in 2021. On May 23, 2022, the PAA Order awarded HCWW a revenue requirement increase of \$35,220 for water and an increase of \$15,862 for wastewater. These amounts represent a 4.64 percent increase for water and an 18.72 percent increase for wastewater, or increases of \$4.06 and \$9.94 for a typical residential customer who uses 5,000 gallons of water and wastewater, respectively, per month. PAA Order, p. 7, 18-19

7. The PAA Order also documented the Commission's conclusions in a previous order (a) that HCWW's overall quality of service was unsatisfactory, and (b) a related reduction in the Utility's

return on equity by 50 basis points. Order No. PSC-2020-0168-PAA-WS. The instant PAA Order stated “we find that no action need be taken at this time with respect to secondary water quality standards.” PAA Order. p. 3.

8. The Citizens dispute the characterization in the PAA Order of the customer complaints received in the Docket as they relate to the changing of rates. The “one group” of customers is actually comprised of 143 individuals who signed a letter which *not only* listed detailed complaints about the wastewater treatment plant, but also referenced the drinking water treatment plant, stated the customers' previous “request for better service had not been satisfied,” and explained their complaint about being hit with a rate increase while the quality of service is not satisfactory.

9. Examples of the comments filed in the instant Docket prior to the Agenda hearings are as follows:

- “... this is the worst quality of water I have been subjected to.” (Sarsynski)
- “...can't drink this disgusting water” (Cassidy)
- “I certainly can not agree with a second raise with the bad water HC Waterworks is providing” (Dickson)
- “[we] pay for bottled water to drink” (Wiley)
- “Still tastes bad and has a lot of discoloration. Lot of iron, destroys clothes after several washes. Water is not healthy to drink. Cannot even make a good cup of coffee with it. I have to buy bottled water to drink as this water is not safe.” (Corah)
- “I complained on 2/18/22 because the water smelled rotten, and taste is terrible.” (Guy)
- “...the water still stinks and is brown sometimes.” (Fluckey)
- “... the quality of water is terrible ... I wouldn't be surprised if it made people sick.” (Carzola)
- “The last increase was nearly double and the water quality did not improve accordingly.” (Vara)
- “We have always used bottled water for cooking and drinking due to the horrible condition of our water ... This letter is to inform you of my total disgust with HC Water conditions already and asking for a rate increase for this deplorable water is beyond comprehension!” (Cramer-Bernardini)
- “The quality of water is poor.” (Bennett)
- “The water quality is such that we will not consume it or let our pets consume it.” (Wacker and Lilly)
- “...a poor excuse for a water company. The communication between the customer service and ground crew is very poor .... They should be fined instead of rewarded.” (Dougan)

10. The scope of the administrative hearing should be limited to the quality of service provided by HCWW.

11. Therefore, pursuant to Section 120.80(13)(b), Fla. Stat., Citizens object to and protest the applicable portions of the PAA Order as it relates to the quality of service. Further, Citizens protest any reasonably and necessarily related legal, policy and fact issues resulting from the specifically identified areas of protest. Further, Citizens' reserve their right to fully participate in the hearing process to address any issues identified in any other party's protest or cross-petition. Below is a preliminary list of issues identified by Citizens for HCWW as being ripe for hearing in this protest.

**Statement of Disputed Facts and Issues**

**Legal and Policy Issues:**

- Issue 1. Should the Commission in its Order specify that, prior to the May 3, 2022 Agenda hearing, 143 customers signed a petition letter which details complaints about HCWW's wastewater plant and water quality of service, which was submitted to the PSC but not placed in the Docket file by the PSC, and that the complaints of those 143 customers are in addition to the 22 customers who filed comment letters containing complaints directly to the Docket prior to the Agenda hearing?

**Statement of the Ultimate Facts Alleged**

The ultimate facts from each of the issues discussed above will vary depending upon the testimony and discovery brought forth in this hearing; however, the record now contains uncontroverted proof that more than 20 customers filed comments and complaints about the quality of service rendered by HCWW.

Section 367.011(2), Fla. Stat., grants the Commission jurisdiction over water utilities regarding service and rates. Pursuant to Sections 367.081, 367.0812 and 367.121, Fla. Stat., the Commission has the authority and duty to prescribe and fix just and reasonable rates and charges, and also has the authority to require reports from a utility. In the broadest terms, the Citizens' ultimate factual allegation is that the PAA Order contains an incorrect, or at best vague, characterization of the number of customers who expressed dissatisfaction with the quality of both the water and wastewater service HCWW provides. Also, because the petition documents at issue were not placed in the Docket file prior to the Agenda hearing, it is unclear whether the Commissioners had meaningful access to all of the documentation, thus the full scope, of the customers' complaints received by the PSC prior to the Agenda hearing.

The disputed issues of law and policy delineated in and by Citizens' protest should be interpreted broadly in order to effectuate full discovery on the disputed issues, thereby allowing the

parties to adequately determine the scope of the issues for consideration and determination. Citizens' protest encompasses any additional issues logically arising from the specifically identified areas, including related issues that may arise during the process of discovery issued in this case. Further, Citizens reserve the right to fully participate in the hearing process, take positions and file testimony on any additional issues raised by any other party's protest or cross-petition, and resolve any issues which come to light during the pendency of this docket.

Citizens are entitled to a *de novo* proceeding on the disputed issues of material fact raised in any protest of the PAA Order. Citizens maintain that HCWW has the burden of proof in all aspects of the requested evidentiary hearing, and if the burden of proof is not satisfied, the disputed issues of material fact must be resolved in favor of the Utility's ratepayers.

By Order No. PSC-2022-0192-PAA-WS, protests of the PAA Order shall be filed with the Office of Commission Clerk no later than the close of business on June 13, 2021. This Petition has, therefore, been timely filed.

Sections 367.081 and 367.121, Fla. Stat., are the specific statutes that require modification of the PAA Order.

Citizens request that the Commission take the following actions with respect to this limited protest to the PAA Order:

- a) Issue an order which reflects the full number of customers who commented on and complained about the quality of service rendered by HCWW and the proposed rate increase, as of the date of the order.
- b) Establish a hearing schedule to resolve the disputed issues described above, including any additional issues raised by a party's protest or cross-protest and on any issues which come to light during the pendency of this docket.

Citizens have contacted the parties to this proceeding. HC Waterworks, Inc. informed the undersigned that the utility does not agree with the Citizens' petition.

WHEREFORE, the Citizens hereby submit their limited protest and objection to Commission Order No. PSC-2022-0192-PAA-WS, and respectfully petition the Commission to conduct a formal evidentiary hearing under the provisions of Section 120.57, Fla. Stat., at a convenient time within or as close as practical to the Utility's certificated service area.

Respectfully Submitted,

Richard Gentry  
Public Counsel

/s/ Stephanie A. Morse  
Stephanie A. Morse  
Associate Public Counsel  
Florida Bar No. 0068713

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c/o The Florida Legislature  
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Attorneys for the Citizens  
of the State of Florida

**CERTIFICATE OF SERVICE**

**DOCKET NO. 20210184-WS**

I, **HEREBY CERTIFY** that a true and correct copy of the Office of Public Counsel's Petition Protesting Portions of the Proposed Agency Action has been furnished by electronic mail to the following parties on this 13<sup>th</sup> day of June, 2022.

HC Waterworks, Inc.  
Mr. Troy Rendell  
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/s/ Stephanie A. Morse  
Stephanie A. Morse  
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