



COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA PUBLIC UTILITY COMMISSION
P.O. BOX 3265, HARRISBURG, PA 17105-3265

IN REPLY PLEASE
REFER TO OUR FILE

August 9, 2004

In Re: A-210117
A-230101

(SEE LETTER OF 7-12-04)

Application of Hidden Valley Utility Services, LP
A-210117 - Water Application
A-230101 - Wastewater Application

For approval to offer, render, furnish, or supply water and
wastewater services to the public in Hidden Valley, PA

Hearing Notice

This is to inform you that a hearing on the above-captioned
case will be held as follows:

Type: Initial In-Person Hearing

Date: January 12, 2005
January 13, 2005

Time: 10:00 a. m.

Location: 11th floor hearing room
Pittsburgh State Office Building
300 Liberty Avenue
Pittsburgh, Pennsylvania

Presiding: Administrative Law Judge John H. Corbett, Jr.
1103 Pittsburgh State Office Building
300 Liberty Avenue
Pittsburgh, PA 15222
Telephone: (412) 565-3550
Fax: (412) 565-5692

DOCKETED
SEP 13 2004

**DOCUMENT
FOLDER**

*Attention: You may lose the case if you do not come to this
hearing and present facts on the issues raised.*

If you intend to file exhibits, 2 copies of all hearing exhibits to be presented into evidence must be submitted to the reporter. An additional copy must be furnished to the Presiding Officer. A copy must also be provided to each party of record.

Individuals representing themselves do not need to be represented by an attorney. All others (corporation, partnership, association, trust or governmental agency or subdivision) must be represented by an attorney. An attorney representing you should file a Notice of Appearance before the scheduled hearing date.

If you are a person with a disability, and you wish to attend the hearing, we may be able to make arrangements for your special needs. Please call the scheduling office at the Public Utility Commission:

- Scheduling Office: (717) 787-1399.
- AT&T Relay Service number for persons who are deaf or hearing-impaired: 1-800-654-5988.

pc: Judge Corbett
Ona Lester
Beth Plantz
Docket Section
Calendar File

A-210117 & A-230101
HIDDEN VALLEY UTILITY SERVICES LP

FOR APPROVAL TO OFFER, RENDER, FURNISH, OR SUPPLY WATER AND
WASTEWATER SERVICES TO THE PUBLIC IN HIDDEN VALLEY, PA

HIDDEN VALLEY UTILITY SERVICES LP
1 CRAIGHEAD DRIVE SUITE 300
HIDDEN VALLEY PA 15502

JEFFREY A FRANKLIN ESQUIRE
CARL J ENGLEMAN JR ESQUIRE
RYAN RUSSELL OGDEN & SELTZER LLP
1105 BERKSHIRE BOULEVARD SUITE 330
WYOMISSING PA 19610-1222

JAMES F BEENER ESQUIRE
BARBERA CLAPPER BEENER RULLO & MELVIN
146 WEST MAIN STREET
PO BOX 775
SOMERSET PA 15501-0775

DAVID AND ANGIE BOYTER
3914 MAC ALPINE ROAD
ELLCOTT CITY MD 21042

H DAVID & ANGELA M BOYTER
BOX 4214
354 LAKE ROAD
HIDDEN VALLEY PA 15501-0775

EDWIN C MILLER ET AL
203 IMPERIAL ROAD
PO BOX 4143
HIDDEN VALLEY PA 15502

CHRISTINE MALONI HOOVER ESQUIRE
OFFICE OF CONSUMER ADVOCATE
5TH FLOOR FORUM PLACE
555 WALNUT STREET
HARRISBURG PA 17101-1923

CHARLES DANIEL SHIELDS PROSECUTOR
OFFICE OF TRIAL STAFF
PA PUBLIC UTILITY COMMISSION
P O BOX 2365
HARRISBURG PA 17105-3265



COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA PUBLIC UTILITY COMMISSION
P.O. BOX 3265, HARRISBURG, PA 17105-3265

IN REPLY PLEASE
REFER TO OUR FILE

August 10, 2004

In Re: A-210117
A-230101

(SEE LETTER OF 8-9-04)

Application of Hidden Valley Utility Services, LP
A-210117 – Water Application
A-230101 – Wastewater Application

For approval to offer, render, furnish, or supply water and
wastewater services to the public in Hidden Valley, PA

CORRECTED Hearing Notice

This is to inform you that a hearing on the above-captioned
case will be held as follows:

Type: Initial In-Person Hearing

Date: January 12, 2005
January 13, 2005

Time: 9:30 a. m. Please note time correction.

Location: 11th floor hearing room
Pittsburgh State Office Building
300 Liberty Avenue
Pittsburgh, Pennsylvania

Presiding: Administrative Law Judge John H. Corbett, Jr.
1103 Pittsburgh State Office Building
300 Liberty Avenue
Pittsburgh, PA 15222
Telephone: (412) 565-3550
Fax: (412) 565-5692

DOCKETED
SEP 13 2004

**DOCUMENT
FOLDER**

*Attention: You may lose the case if you do not come to this
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If you intend to file exhibits, 2 copies of all hearing exhibits to be presented into evidence must be submitted to the reporter. An additional copy must be furnished to the Presiding Officer. A copy must also be provided to each party of record.

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pc: Judge Corbett
Ona Lester
Beth Plantz
Docket Section
Calendar File

A-210117 & A-230101
HIDDEN VALLEY UTILITY SERVICES LP

FOR APPROVAL TO OFFER, RENDER, FURNISH, OR SUPPLY WATER AND
WASTEWATER SERVICES TO THE PUBLIC IN HIDDEN VALLEY, PA

HIDDEN VALLEY UTILITY SERVICES LP
1 CRAIGHEAD DRIVE SUITE 300
HIDDEN VALLEY PA 15502

JEFFREY A FRANKLIN ESQUIRE
CARL J ENGLEMAN JR ESQUIRE
RYAN RUSSELL OGDEN & SELTZER LLP
1105 BERKSHIRE BOULEVARD SUITE 330
WYOMISSING PA 19610-1222

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DAVID AND ANGIE BOYTER
3914 MAC ALPINE ROAD
ELLCOTT CITY MD 21042

H DAVID & ANGELA M BOYTER
BOX 4214
354 LAKE ROAD
HIDDEN VALLEY PA 15501-0775

EDWIN C MILLER ET AL
203 IMPERIAL ROAD
PO BOX 4143
HIDDEN VALLEY PA 15502

CHRISTINE MALONI HOOVER ESQUIRE
OFFICE OF CONSUMER ADVOCATE
5TH FLOOR FORUM PLACE
555 WALNUT STREET
HARRISBURG PA 17101-1923

CHARLES DANIEL SHIELDS PROSECUTOR
OFFICE OF TRIAL STAFF
PA PUBLIC UTILITY COMMISSION
P O BOX 2365
HARRISBURG PA 17105-3265

COMMONWEALTH OF PENNSYLVANIA
Public Utility Commission

August 11, 2004

SUBJECT: ~~A-210117~~, A-230101 – Application of Hidden Valley Utility Services,
L.P.

TO: James J. McNulty
Secretary

FROM: Cheryl Walker Davis, Director
Office of Special Assistants

DOCUMENT

Pursuant to the requirements of Act 294, (66 Pa. C.S. §332(h)),
Commissioner Pizzingrilli and Commissioner Holland have requested full review of the
Administrative Law Judge's Initial Decision in the above captioned proceeding. The
second request for review was dated August 11, 2004.

Please notify the Office of Administrative Law Judge to prepare the case
for consideration at a future Public Meeting.

RECEIVED
2004 AUG 12 AM 11:34
SECRETARY'S BUREAU



COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Office of Administrative Law Judge
P.O. Box 3265, Harrisburg, PA 17105-3265
Telephone: (717) 787-1399 - Fax: (717) 787-0481
August 12, 2004

IN REPLY PLEASE
REFER TO OUR FILE

In Re: A-210117
A-230101

(SEE ATTACHED LIST)

DOCKETED
SEP 13 2004

Application of Hidden Valley Utility Services, L.P.,
For approval to begin to offer, render, furnish or supply water
and wastewater service to the public in Hidden Valley, PA

MEDIATION NOTICE

The parties have consented to use the mediation process in
the above-captioned matter.

A mediation session will be held as follows:

Date: Monday, August 30, 2004

Time: 10:00 a.m.

Location: Hearing Room 2
Plaza Level
Commonwealth Keystone Building
400 North Street
Harrisburg, Pennsylvania

Mediator: Herbert R. Nurick
Pennsylvania Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17105-3265
Telephone: (717) 783-5428
Fax: (717) 787-0481
Email: hnurick@state.pa.us

**DOCUMENT
FOLDER**

Mediation is an informal, non-adjudicatory process. The mediator does not give advice, represent any party, or make a decision. Instead, the mediator serves as an impartial facilitator who helps the parties resolve their disputes. In other words, mediation is a process which allows the parties to control the outcome of their dispute, as opposed to a hearing where an Administrative Law Judge and the Commission control the outcome.

Moreover, mediation is different from a settlement conference which is based on competitive negotiations. In mediation, the parties agree to work together toward a final resolution of their differences considering how any solution must address the interests of all parties. The focus is not to determine fault, assign blame, or deal with past issues. Rather, the focus is on the future and on a consensual resolution that the parties can live with.

Because mediation is not an on-the-record proceeding, there will be no court reporter. Everything that takes place at the mediation session is, and must remain, confidential, unless otherwise provided for by law. This applies to everyone who is in the room. An agreement reached between or among the parties becomes public upon submission of the mediator's brief procedural report to the Administrative Law Judge assigned to this case.

The parties must act in good faith. A page entitled "Good Faith Factors for Mediation Sessions" is enclosed. If you feel that you cannot comply with these factors, please let the mediator know well in advance of the mediation session, because it may be that the case will not be suitable for mediation at the scheduled time.

Additionally, the parties must follow the Pennsylvania Bar Association Working Rules for Professionalism regarding their conduct. A copy of the Rules is also enclosed.

In the meantime, please attempt to resolve the issues involved prior to the mediation session.

Mr. Nurick has noted that he and the staff of Office of Trial Staff ("OTS") work directly for the Pennsylvania Public Utility Commission. Additionally, he, OTS staff and the staff of the Office of Consumer Advocate ("OCA") are all employed by the Commonwealth of Pennsylvania. Mr. Nurick has also noted that he has been the mediator in other cases in which Ryan, Russell, Ogden & Seltzer LLP, OTS and OCA have participated, including persons who are participating in the instant case. He has stated that these factors will have no effect on his ability to be fair and impartial in this case. However, if you object to having Mr. Nurick serve as the mediator, please let him know promptly.

Any questions regarding the mediation should be directed to the mediator at the telephone number provided above.

If you are a person with a disability, and you wish to attend the mediation session, we may be able to make arrangements for your special needs. Please call the scheduling office at the Public Utility Commission:

- Scheduling Office: (717) 787-1399.
- For persons who are deaf or hearing-impaired, contact the AT&T Relay Service: 1-800-654-5988.

Enclosures

ALJ Corbett
Mediator Nurick
Ona Lester
Beth Plantz
Docket Section
Calendar File

A-210117 & A-230101

HIDDEN VALLEY UTILITY SERVICES LP

FOR APPROVAL TO OFFER, RENDER, FURNISH, OR SUPPLY WATER AND
WASTEWATER SERVICES TO THE PUBLIC IN HIDDEN VALLEY, PA

✓ HIDDEN VALLEY UTILITY SERVICES LP
1 CRAIGHEAD DRIVE SUITE 300
HIDDEN VALLEY PA 15502

✓ JEFFREY A FRANKLIN ESQUIRE
✓ CARL J ENGLEMAN JR ESQUIRE
RYAN RUSSELL OGDEN & SELTZER LLP
1105 BERKSHIRE BOULEVARD SUITE 330
WYOMISSING PA 19610-1222

✓ JAMES F BEENER ESQUIRE
BARBERA CLAPPER BEENER RULLO & MELVIN
146 WEST MAIN STREET
PO BOX 775
SOMERSET PA 15501-0775

✓ DAVID AND ANGIE BOYTER
3914 MAC ALPINE ROAD
ELLICOTT CITY MD 21042

✓ H DAVID & ANGELA M BOYTER
BOX 4214
354 LAKE ROAD
HIDDEN VALLEY PA 15501-0775

✓ EDWIN C MILLER ET AL
203 IMPERIAL ROAD
PO BOX 4143
HIDDEN VALLEY PA 15502

✓ CHRISTINE MALONI HOOVER ESQUIRE
OFFICE OF CONSUMER ADVOCATE
5TH FLOOR FORUM PLACE
555 WALNUT STREET
HARRISBURG PA 17101-1923

✓ CHARLES DANIEL SHIELDS PROSECUTOR
OFFICE OF TRIAL STAFF
PA PUBLIC UTILITY COMMISSION
P O BOX 2365
HARRISBURG PA 17105-3265

PBA Working Rules for Professionalism

The practice of law is a profession, a genuine calling inspired with service to the system of justice, not a common business enterprise. The quality of the profession is only as worthy as the character of the people who practice it.

Self-esteem, shared respect for each other, the clients we serve, the judges and the officers with whom we work, are essential to it.

Civility is a virtue, not a shortcoming. Willingness to temper zeal with respect for society's interest in preserving responsible judicial process will help to preserve it.

Unwritten rules of professional courtesy have long sustained us. Since they are sometimes forgotten, or sometimes ignored, we should set them down again and conscientiously observe them.

1 Treat with civility the lawyers, clients, opposing parties, the Court, and all the officials with whom we work. Professional courtesy is compatible with vigorous advocacy and zealous representation.

2 Communications are lifelines. Keep the lines open. Telephone calls and correspondence are a two-way channel; respond to them promptly.

3 Respect other lawyers' schedules as your own. Seek agreement on meetings, depositions, hearings and trial dates. A reasonable request for a scheduling accommodation should never be unreasonably refused.

4 Be punctual in appointments, communications and in honoring scheduled appearances. Neglect and tardiness are demeaning to others and to the judicial system.

5 Procedural rules are necessary to judicial order and decorum. Be mindful that pleadings, discovery processes and motions cost time and money. They should not be heedlessly used. If an adversary is entitled to something, provide it without unnecessary formalities.

6 Grant extensions of time when they are reasonable and when they will not have a material, adverse effect on your client's interest.

7 Resolve differences through negotiation, expeditiously and without needless expense.

8 Enjoy what you are doing and the company you keep. You and the world will be better for it.

Beyond all this, the respect of our peers and the society which we serve is the ultimate measure of responsible professional conduct.

GOOD FAITH FACTORS FOR MEDIATION SESSIONS

GOOD FAITH INCLUDES, AMONG OTHER THINGS:

1. GIVING THE PARTICIPANTS, PRIOR TO THE FIRST SESSION, ALL THE INFORMATION THEY NEED TO KNOW IN ORDER TO RESOLVE THE CASE. (The Commission believes "that formal discovery procedures are not appropriate in the informal [mediation] process." *Pa. Bul., Vol. 25, No. 20*, May 20, 1995, p. 1996. Therefore, discoverable information should be discovered informally.)

2. BEING FULLY PREPARED WITH FULL KNOWLEDGE OF THE CASE AND WITH POSSIBLE SOLUTIONS FOR RESOLVING THE CASE.

3. BEING WILLING TO CREATE OPTIONS TO RESOLVE A MATTER, CONSIDERING HOW THE SOLUTION MUST ADDRESS THE INTERESTS OF ALL THE PARTIES, AS OPPOSED TO TAKING AN UNYIELDING POSITION.

4. HAVING THE PERSON WITH THE AUTHORITY TO APPROVE THE TERMS FOR RESOLUTION ATTEND THE MEDIATION SESSION, OR, AT LEAST, BE AVAILABLE TO CONFER WITH THE PARTY'S REPRESENTATIVE DURING THE MEDIATION REGARDING APPROVAL OF TERMS.

5. DEMONSTRATING A WILLINGNESS TO LISTEN AND TO UNDERSTAND THE PERSPECTIVES OF THE OTHER PARTIES.

6. BEING WILLING TO SPEND THE ENTIRE DAY, IF NECESSARY, AT THE SESSION.

LAW OFFICES
RYAN, RUSSELL, OGDEN & SELTZER LLP

SUITE 330
1105 BERKSHIRE BOULEVARD
WYOMISSING, PENNSYLVANIA 19610-1222
TELEPHONE: (610) 372-4761
FACSIMILE: (610) 372-4177
WWW.RYANRUSSELL.COM

HARRISBURG OFFICE
SUITE 101
800 NORTH THIRD STREET
HARRISBURG, PENNSYLVANIA
17102-2025
TELEPHONE: (717) 236-7714
FACSIMILE: (717) 236-7816

August 18, 2004

Via UPS Overnight

James J. McNulty, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, 2nd Floor
Harrisburg, Pennsylvania 17120

RECEIVED
AUG 18 2004
PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

In Re: Application of Hidden Valley Utility Services, L.P.
Application Docket Nos. A-210117 and A-230101

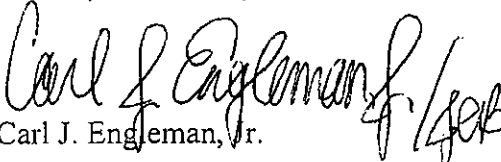
Dear Secretary McNulty:

Enclosed for filing by Hidden Valley Utility Services, L.P. ("Hidden Valley") are an original and three (3) copies of a Certificate of Service at each of the above-referenced docket numbers evidencing Hidden Valley's service of Responses to (i) the Office of Consumer Advocate's Interrogatories Set II and (ii) the Office of Trial Staff's Interrogatories Set I. The Certificate of Service has also been served on all the parties of record.

If you have any questions, please contact me.

Very truly yours,

RYAN, RUSSELL, OGDEN & SELTZER LLP


Carl J. Engleman, Jr.

Enclosures
CJE:jab

c: As per Certificate of Service

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

In re: Application of Hidden Valley Utility :
Services, L.P. for approval to begin to offer, : Application Docket
render, furnish or supply water service to the: No. A-210117
public in Hidden Valley, Pennsylvania :

CERTIFICATE OF SERVICE

I hereby certify that I have this day served copies of Hidden Valley Utility Services, L.P.'s Responses to (i) the Office of Consumer Advocate's Interrogatories Set II and (ii) the Office of Trial Staff's Interrogatories Set I in the above-captioned matter upon the individuals listed below, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant).

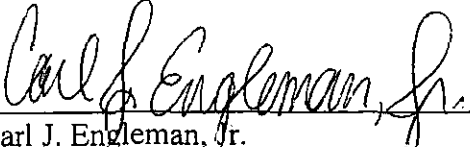
Service by UPS Overnight, postage prepaid, as follows:

Angie and David Boyter
3914 MacAlpine Road
Ellicott City, MD 21042

Christine Maloni Hoover, Esquire
Erin Gannon, Esquire
Office of Consumer Advocate
555 Walnut Street
5th Floor, Forum Place
Harrisburg, PA 17101-1923

Charles Daniel Shields, Esquire
Office of Trial Staff
Commonwealth Keystone Bldg.
400 North Street
Harrisburg, PA 17120

Dated: August 18, 2004



Carl J. Engleman, Jr.
RYAN, RUSSELL, OGDEN & SELTZER LLP
1105 Berkshire Boulevard, Suite 330
Wyomissing, Pennsylvania 19610-1222
(610) 372-4761

Attorneys for
Hidden Valley Utility Services, L.P.

RECEIVED
AUG 18 2004
PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

In re: Application of Hidden Valley Utility :
Services, L.P. for approval to begin to offer, : Application Docket
render, furnish or supply wastewater service : No. A-230101
to the public in Hidden Valley, Pennsylvania:

CERTIFICATE OF SERVICE

I hereby certify that I have this day served copies of Hidden Valley Utility Services, L.P.'s Responses to (i) the Office of Consumer Advocate's Interrogatories Set II and (ii) the Office of Trial Staff's Interrogatories Set I in the above-captioned matter upon the individuals listed below, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant).

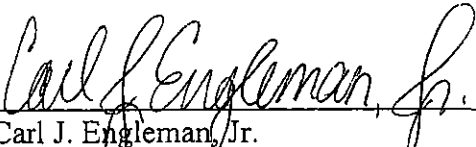
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Erin Gannon, Esquire
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Harrisburg, PA 17101-1923

Charles Daniel Shields, Esquire
Office of Trial Staff
Commonwealth Keystone Bldg.
400 North Street
Harrisburg, PA 17120

Dated: August 18, 2004



Carl J. Engleman, Jr.
RYAN, RUSSELL, OGDEN & SELTZER LLP
1105 Berkshire Boulevard, Suite 330
Wyomissing, Pennsylvania 19610-1222
(610) 372-4761

Attorneys for
Hidden Valley Utility Services, L.P.

RECEIVED

AUG 18 2004

PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU



OFFICE OF CONSUMER ADVOCATE

555 Walnut Street, 5th Floor, Forum Place
Harrisburg, Pennsylvania 17101-1923
(717) 783-5048
800-684-6560 (in PA only)

ORIGINAL

FAX (717) 783-7152
consumer@paoca.org

IRWINA. POPOWSKY
Consumer Advocate

August 18, 2004

RECEIVED

2004 AUG 18 PM 4: 01

PA PUC
SECRETARY'S BUREAU

**DOCUMENT
FOLDER**

James J. McNulty, Secretary
PA Public Utility Commission
Commonwealth Keystone Bldg.
400 North Street
Harrisburg, PA 17120

Re: Application of Hidden Valley Utility
Services, L.P. for approval to begin to offer,
render, furnish or supply water and
wastewater service to the public in Hidden
Valley, Pennsylvania
Docket Nos. A-210117 & A-230101

Dear Secretary McNulty:

Enclosed please find for filing an original and three (3) copies of the Motion of
the Office of Consumer Advocate to Join Hidden Valley Resort, L.P. in the above-captioned
proceeding.

Copies have been served upon all parties of record as shown on the attached
Certificate of Service.

Very truly yours,

Christine Maloni Hoover
Senior Assistant Consumer Advocate

Erin L. Gannon
Assistant Consumer Advocate

Enclosures

cc: Office of Administrative Law Judge
All parties of record

78472.doc;1/CMH/smn

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

ORIGINAL

RECEIVED

2004 AUG 18 PM 4:01

PA PUC
SECRETARY'S BUREAU

Application of Hidden Valley Utility Services, L.P. :
For approval to begin to offer, render, furnish or : A-210117 & A-230101
supply water and wastewater service to the public :
in Hidden Valley, Pennsylvania. :

DOCKETED
SEP 22 2004

NOTICE OF THE OFFICE OF CONSUMER ADVOCATE
TO JOIN HIDDEN VALLEY RESORT, L.P.

The Office of the Consumer Advocate (OCA) pursuant to Section 5.103 of the Public Utility Commission's Rules of Practice and Procedure moves to join Hidden Valley Resort, L.P. (HVR) as a party to the above captioned proceeding. 52 Pa. Code § 5.103. In support thereof, the OCA submits the following:

1. On February 12, 2004, the Applicant, Hidden Valley Utility Services, L.P. (HVUS) filed applications for Certificates of Public Convenience to become a public utility for the provision of water and wastewater service (Certificates) and a proposal to set initial base rates. If approved, HVUS would then be the certified utility providing service to the Intervenors, David and Angela Boyter.

2. Through their Intervention, Mr. and Mrs. Boyter allege that they reside in the proposed service territory and have been aggrieved by the excessive rates and substandard water and wastewater service offered by the current provider, HVR, which uses the Hidden Valley Foundation, Inc. (HVF) as a billing agent. HVUS also states in its Answer and New Matter to the Complaint of Edwin C. Miller, *et al.* of June 22, 2004 that "for a number of years, Hidden Valley Resort was supplying water and wastewater service to approximately 1000 people through the Hidden Valley Foundation, a bona fide homeowners association."

**DOCUMENT
FOLDER**

3. Any party to a proceeding can move for the joinder of an indispensable party. Minick v. General Telephone Co. of Pa., 51 Pa. P.U.C. 526, 529 (1978). The OCA is a party in this proceeding since its Protest was filed on March 19, 2004.

4. "In Pennsylvania, an indispensable party is one whose rights are so directly connected with and affected by litigation that he must be a party of record to protect such rights, and his absence renders any order or decree of court null and void for want of jurisdiction." Scherbick v. Community College of Allegheny County, 479 Pa. 216, 220 (1978).

5. Based on its best information and belief, the OCA submits that HVR is an indispensable party to this proceeding because HVR has owned, operated and controlled the water and wastewater plant that continues to provide service in HVUS' proposed service territory for approximately twenty-three years. Therefore, HVR will be directly affected by the above-captioned proceeding and should be a party to the case.

Additionally, because the Applicant, HVUS, does not currently own, operate or control the plant serving customers in its proposed service area, HVUS may not possess critical information about the quality of service that is being provided to customers by HVR.

6. Moreover, courts have ruled that for a party to be indispensable, at least the following must be true: 1) there is jurisdiction over the party, 2) absent parties have a right or interest related to the claim, and 3) the right or interest is essential to the merits of the issue and justice cannot be afforded without violating the due process rights of absent parties. See Trucco v. PPL Electric Utilities Corporation, 2002 Pa. P.U.C. LEXIS 21, Mechanicsburg Area School District v. Kline, 494 Pa. 476 (1981). The OCA submits that each of the elements necessary to establish HVR as an indispensable party has been satisfied.

First, the PUC has jurisdiction over complaints brought against entities providing service as utilities. There is evidence to show that HVR is the owner and operator and exercises complete control over water and wastewater service in the proposed service territory and has done so for twenty-three years. In addition, pursuant to the terms of settlement of the complaint proceeding at Docket No. C-20028823, “HVR or one of its affiliates agrees to apply to the Commission for a Certificate of Public Convenience to become a public utility for the provision of water and wastewater service within ninety (90) days of a final Commission Order approving this Stipulation.” Pa. P.U.C. v. Hidden Valley Resort, L.P., Docket Nos. C-20028823, C-20039320, Initial Decision of June 20, 2003, Appendix A (Stipulation).

Second, HVR has an interest in the claim and a right to be a party to this proceeding because the Intervenors allege that current service is inadequate and rates are excessive. The OCA has raised the issue of refunds for uncertificated service in its Protest. The Intervenors also state that the present Applications by HVUS fail to redress excessive rates and substandard services supplied by HVR. Additionally, there is a common ownership between HVUS and HVR, which presents an affiliate issue. If the relief sought by the Intervenors and the OCA is granted, it would have an impact upon HVR.

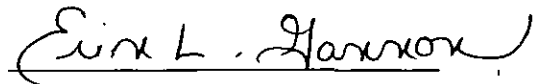
Last, the right or interest is essential to the merits of this case, and justice cannot be afforded without violating the due process rights of the absent party. Given the affiliate relationship between HVUS and HVR, and the possibility of refunds being granted, the participation of HVR is necessary. In Nelson v. Duquesne, the court stated that “[u]nder any pertinent standard, someone who is to be assigned an obligation to pay money should

be viewed as an indispensable party to the proceeding in question.” Nelson v. Duquesne,
1990 Pa. P.U.C. LEXIS 24.

Also, because the OCA has raised the issue of refunds for rates paid for service by residents of HVUS’ proposed service territory, HVR should be joined because a judgment for or against them cannot be rendered without their involvement.

WHEREFORE, the OCA moves that Hidden Valley Resort, L.P. be joined as a party to this proceeding.

Respectfully Submitted,



Christine Maloni Hoover
Senior Assistant Consumer Advocate
Erin L. Gannon
Assistant Consumer Advocate

Counsel for: Irwin A. Popowsky
Consumer Advocate

Office of Consumer Advocate
555 Walnut Street, 5th Floor, Forum Place
Harrisburg, PA 17101-1923
(717) 783-5048

Dated: August 18, 2004
*80576

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Application of Hidden Valley Utility Services, L.P. :
For approval to begin to offer, render, furnish or : A-210117 & A-230101
supply water and wastewater service to the public :
in Hidden Valley, Pennsylvania. :

AFFIDAVIT

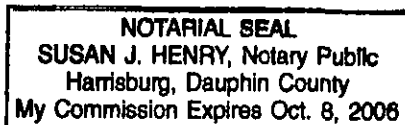
I, Marilyn J. Kraus, Senior Regulatory Analyst, being duly sworn according to law, depose and say that the facts contained in the foregoing Motion of the Office of Consumer Advocate to Join Hidden Valley Resort, L.P. in the above referenced proceeding, are true and correct to the best of my knowledge, information and belief.



Marilyn J. Kraus
Senior Regulatory Analyst

Sworn and subscribed
before me this 18th day
of August 2004

My Commission
Expires _____



Signature of Official
Administering Oath

CERTIFICATE OF SERVICE

Re: Application of Hidden Valley Utility Services, L.P. for approval to begin to offer, render, furnish or supply water and wastewater service to the public in Hidden Valley, Pennsylvania
Docket Nos. A-210117 & A-230101

I hereby certify that I have this day served a true copy of the foregoing document, the Motion of the Office of Consumer Advocate to Join Hidden Valley Resort, L.P., upon parties of record in this proceeding in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant), in the manner and upon the persons listed below:

Dated this 18th day of August, 2004.

SERVICE BY INTER-OFFICE MAIL

Charles Daniel Shields, Esq.
Office of Trial Staff
PA Public Utility Commission
P. O. Box 3265
Harrisburg, PA 17105-3265

Bureau of Fixed Utility Services
PA Public Utility Commission ;
P. O. Box 3265
Harrisburg, PA 17105-3265

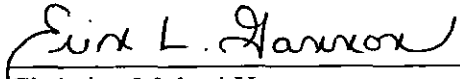
SERVICE BY FIRST CLASS MAIL, POSTAGE PREPAID

Jeffrey A. Franklin, Esq.
Carl J. Engleman, Jr., Esq.
Ryan, Russell, Ogden & Seltzer LLP
Suite 330
1105 Berkshire Boulevard
Wyomissing, PA 19610

Office of Small Business Advocate
Suite 1102, Commerce Building
300 North Second Street
Harrisburg, PA 17101

Edwin C. Miller, *et al.*
203 Imperial Road
P. O. Box 4143
Hidden Valley, PA 15502

David & Angie Boyter
Box 4214
354 Lake Road
Hidden Valley, PA 15502


Christine Maloni Hoover
Senior Assistant Consumer Advocate

Erin L. Gannon
Assistant Consumer Advocate

Counsel for
Office of Consumer Advocate
555 Walnut Street 5th Floor, Forum Place
Harrisburg, PA 17101-1923
(717) 783-5048
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OFFICE OF CONSUMER ADVOCATE

555 Walnut Street, 5th Floor, Forum Place
 Harrisburg, Pennsylvania 17101-1923
 (717) 783-5048
 800-684-6560 (in PA only)

ORIGINAL

IRWINA. POPOWSKY
 Consumer Advocate

FAX (717) 783-7152
 consumer@paoca.org

August 18, 2004

**DOCUMENT
 FOLDER**

James J. McNulty, Secretary
 PA Public Utility Commission
 Commonwealth Keystone Bldg.
 400 North Street
 Harrisburg, PA 17120

Re: Application of Hidden Valley Utility
 Services, L.P. for approval to begin to offer,
 render, furnish or supply water and
 wastewater service to the public in Hidden
 Valley, Pennsylvania
 Docket Nos. A-210117 & A-230101

Dear Secretary McNulty:

Enclosed please find for filing an original and three (3) copies of the Motion of the Office of Consumer Advocate to Join Hidden Valley Foundation, Inc. in the above-captioned proceeding.

Copies have been served upon all parties of record as shown on the attached Certificate of Service.

Very truly yours,

Christine Maloni Hoover
 Senior Assistant Consumer Advocate

Erin L. Gannon
 Assistant Consumer Advocate

Enclosures

cc: Office of Administrative Law Judge
 All parties of record

78472.doc:1/CMH/smn

SECRETARY'S BUREAU
 2004 AUG 18 PM 4: 02
RECEIVED

ORIGINAL

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Application of Hidden Valley Utility Services, L.P. :
For approval to begin to offer, render, furnish or : A-210117 & A-230101
supply water and wastewater service to the public :
in Hidden Valley, Pennsylvania. :

PA PUC
SECRETARY'S BUREAU

2004 AUG 18 PM 4:02

RECEIVED

DOCKETED
SEP 22 2004

MOTION OF THE OFFICE OF CONSUMER ADVOCATE
TO JOIN HIDDEN VALLEY FOUNDATION, INC.

The Office of the Consumer Advocate (OCA) pursuant to Section 5.103 of the Public Utility Commission's Rules of Practice and Procedure moves to join Hidden Valley Foundation, Inc. (HVF) as a party to the above captioned proceeding. 52 Pa. Code § 5.103. In support thereof, the OCA submits the following:

1. On February 12, 2004, the Applicant, Hidden Valley Utility Services, L.P. (HVUS) filed applications for Certificates of Public Convenience to become a public utility for the provision of water and wastewater service (Certificates) and a proposal to set initial base rates. If approved, HVUS would then be the certified utility providing service to the Intervenor, David and Angela Boyter.

2. Through their Intervention, Mr. and Mrs. Boyter allege that they reside in the proposed service territory and have been aggrieved by the excessive rates and substandard water and wastewater service offered by the current provider, Hidden Valley Resort, L.P. (HVR), which uses HVF as a billing agent. HVUS also states in its Answer and New Matter to the Complaint of Edwin C. Miller of June 22, 2004 that "for a number of years, Hidden Valley Resort was supplying water and wastewater service to approximately 1000 people through the Hidden Valley Foundation, a bona fide homeowners association."

**DOCUMENT
FOLDER**

3. Any party to a proceeding can move for the joinder of an indispensable party. Minick v. General Telephone Co. of Pa., 51 Pa. P.U.C. 526, 529 (1978). The OCA is a party in this proceeding since its Protest was filed on March 19, 2004.

4. "In Pennsylvania, an indispensable party is one whose rights are so directly connected with and affected by litigation that he must be a party of record to protect such rights, and his absence renders any order or decree of court null and void for want of jurisdiction." Scherbick v. Community College of Allegheny County, 479 Pa. 216, 220 (1978).

5. The OCA submits that HVF is an indispensable party to this proceeding because HVF has been billing and receiving payments for utility service provided by HVR in HVUS' proposed service territory for approximately twenty-three years. Therefore, HVF will be directly affected by the above-captioned proceeding and should be a party to the case.

6. Moreover, courts have ruled that for a party to be indispensable, at least the following must be true: 1) there is jurisdiction over the party, 2) absent parties have a right or interest related to the claim, and 3) the right or interest is essential to the merits of the issue and justice cannot be afforded without violating the due process rights of absent parties. *See* Trucco v. PPL Electric Utilities Corporation, 2002 Pa. P.U.C. LEXIS 21, Mechanicsburg Area School District v. Kline, 494 Pa. 476 (1981). The OCA submits that each of the elements necessary to establish HVR as an indispensable party has been satisfied.

First, the PUC has jurisdiction over complaints brought against entities providing service as utilities. There is evidence to show that HVF has collected rates for providing utility service for approximately twenty-three years. In addition, HVF was joined as an indispensable party to the complaint proceeding against HVR at Docket Nos. C-20028823 and C-20039320, which required "HVR or one of its affiliates" to file the Applications at issue here.

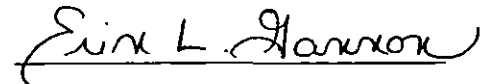
Second, HVF has an interest in the claim and a right to be a party to this proceeding because the Intervenor's allege that the rates being collected for service by HVF are excessive. Intervenor's further state that the present Applications by HVUS fail to redress the excessive rates charged by HVF. Also, the OCA has raised the issue of refunds for uncertificated service. Additionally, HVR exercises voting control of HVF. See Application of Hidden Valley Utility Services, L.P., Docket No. A-210227, Exhibit 5, Appendix 1, at 5. As HVR and HVUS share common ownership, this presents an affiliate issue with regard to HVF. If the relief sought by the Intervenor's and the OCA is granted, it would have an impact upon HVF.

Last, the right or interest is essential to the merits of this case, and justice cannot be afforded without violating the due process rights of the absent party. Given the affiliate relationship between HVUS and HVF, and the possibility of refunds being granted, the participation of HVF is necessary. In Nelson v. Duquesne, the court stated that "[u]nder any pertinent standard, someone who is to be assigned an obligation to pay money should be viewed as an indispensable party to the proceeding in question." Nelson v. Duquesne, 1990 Pa. P.U.C. LEXIS 24.

Also, because the OCA has raised the issue of refunds for rates paid to HVF for utility service, HVF should be joined because a judgment for or against them cannot be rendered without their involvement.

WHEREFORE, the OCA moves that Hidden Valley Foundation, Inc. be joined as a party to this proceeding.

Respectfully Submitted,



Christine Maloni Hoover
Senior Assistant Consumer Advocate
Erin L. Gannon
Assistant Consumer Advocate

Counsel for: Irwin A. Popowsky
Consumer Advocate

Office of Consumer Advocate
555 Walnut Street, 5th Floor, Forum Place
Harrisburg, PA 17101-1923
(717) 783-5048

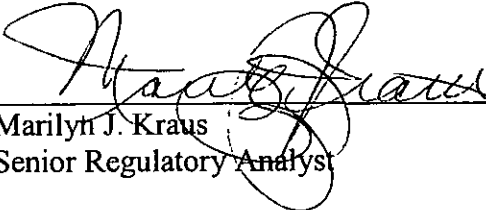
Dated: August 18, 2004
*80577

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Application of Hidden Valley Services, L.P. :
For approval to begin to offer, render, furnish or : A-210117 & A-230101
supply water and wastewater service to the public :
in Hidden Valley, Pennsylvania. :

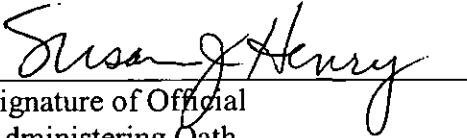
AFFIDAVIT

I, Marilyn J. Kraus, Senior Regulatory Analyst, being duly sworn according to law, depose and say that the facts contained in the foregoing Motion of the Office of Consumer Advocate to Join Hidden Valley Foundation, Inc. in the above referenced proceeding, are true and correct to the best of my knowledge, information and belief.


Marilyn J. Kraus
Senior Regulatory Analyst

Sworn and subscribed
before me this 18th day
of August 2004

My Commission
Expires _____


Signature of Official
Administering Oath

NOTARIAL SEAL
SUSAN J. HENRY, Notary Public
Harrisburg, Dauphin County
My Commission Expires Oct. 8, 2006

CERTIFICATE OF SERVICE

Re: Application of Hidden Valley Utility Services, L.P. for approval to begin to offer, render, furnish or supply water and wastewater service to the public in Hidden Valley, Pennsylvania
Docket Nos. A-210117 & A-230101

I hereby certify that I have this day served a true copy of the foregoing document, the Motion of the Office of Consumer Advocate to Join Hidden Valley Foundation, Inc., upon parties of record in this proceeding in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant), in the manner and upon the persons listed below:

Dated this 18th day of August, 2004.

SERVICE BY INTER-OFFICE MAIL

Charles Daniel Shields, Esq.
Office of Trial Staff
PA Public Utility Commission
P. O. Box 3265
Harrisburg, PA 17105-3265

Bureau of Fixed Utility Services
PA Public Utility Commission
P. O. Box 3265
Harrisburg, PA 17105-3265

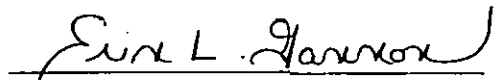
SERVICE BY FIRST CLASS MAIL, POSTAGE PREPAID

Jeffrey A. Franklin, Esq.
Carl J. Engleman, Jr., Esq.
Ryan, Russell, Ogden & Seltzer LLP
Suite 330
1105 Berkshire Boulevard
Wyomissing, PA 19610

Office of Small Business Advocate
Suite 1102, Commerce Building
300 North Second Street
Harrisburg, PA 17101

Edwin C. Miller, *et al.*
203 Imperial Road
P. O. Box 4143
Hidden Valley, PA 15502

David & Angie Boyter
Box 4214
354 Lake Road
Hidden Valley, PA 15502



Christine Maloni Hoover
Senior Assistant Consumer Advocate

Erin L. Gannon
Assistant Consumer Advocate

Counsel for
Office of Consumer Advocate
555 Walnut Street 5th Floor, Forum Place
Harrisburg, PA 17101-1923
(717) 783-5048
78470.doc;1/CMH/smn

David & Angie Boyter

3914 MacAlpine Road

Ellicott City, MD 21042

(410)465-1444 Fax: (410)465-0797

Box 4214 354 Lake Road

Hidden Valley, PA 15502

(814) 443-3290 Fax: (814) 443-2021

boyter@sprynet.com

August 20, 2004

James J. McNulty, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, 2d. Floor
Harrisburg, PA 17120

**DOCUMENT
FOLDER**

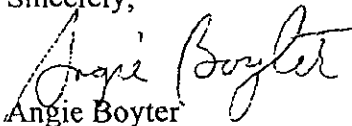
Re: Application of Hidden Valley Utility
Services for approval to offer,
render, furnish, or supply water and
wastewater service to the public in
Hidden Valley, PA
Docket Nos. A-210117 & A-230101

Dear Secretary McNulty;

Enclosed find for filing an original and three (3) copies of our Answers in Support of the OCA's Motions to join Hidden Valley Resort, L.P., and Hidden Valley Foundation, Inc., in the above-captioned proceeding.

Copies have been served on all parties of record as shown on the attached Certificate of Service.

Sincerely,


Angie Boyter

Enclosures: a/s

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

RECEIVED
2004 AUG 31 PM 4:04
SECRETARY'S BUREAU

In re: Application of Hidden Valley Utility :
Services, L.P., for approval to offer, render, : Application
furnish, or supply water and wastewater service to : Docket Nos. A-210117 & 230101
the public in Hidden Valley, Pennsylvania :

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true copy of 1) our Answer in support of the OCA's motion to join the Hidden Valley Resort in the subject cases, and 2) our Answer in support of the OCA's motion to join the Hidden Valley Foundation in the subject cases upon the individuals listed below, in accordance with the requirements of 52 Pa. Code 1.54 (relating to service by a participant). Service was by e-mail followed by first-class mail.

Administrative Law Judge John H. Corbett, Jr.
1103 Pittsburgh State Office Building
300 Liberty Avenue
Pittsburgh, PA 15222

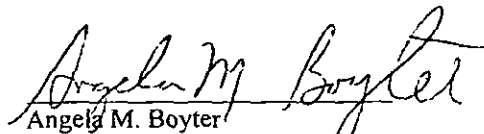
James Beener
Barbera, Clapper, Beener, Rullo, & Melvin
146 West Main Street
PO Box 175
Somerset, PA 15501-0775

Carl Engleman, Jr., Esquire
Ryan, Russell, Ogden, and Seltzer, LLP
1105 Berkshire Boulevard, Suite 330
Wyomissing, Pennsylvania 19610-1222

Charles Daniel Shields, Esquire
Office of Trial Staff
Commonwealth Keystone Building
400 North Street
Harrisburg, PA 17120

Christine Maloni Hoover, Esquire
Erin Gannon, Esquire
Office of Consumer Advocate
555 Walnut Street
5th Floor, Forum Place
Harrisburg, PA 17101-1923

Dated: August 19, 2004


Angela M. Boyter
354 Lake Road
Hidden Valley, PA 15502
Mailing address: 3914 MacAlpine Road
Ellicott City, MD 21042
(410) 465-1444
(410) 465-0797 fax
boyter@sprynet.com

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Application of Hidden Valley Utility Services, L.P. :
For approval to begin to offer, render, furnish or : A-210117 & A-230101
supply water and wastewater service to the public :
in Hidden Valley, Pennsylvania. :

ANSWER IN SUPPORT OF
THE MOTION OF THE OFFICE OF CONSUMER ADVOCATE
TO JOIN HIDDEN VALLEY RESORT, L.P.

DOCKETED
OCT 12 2004

Angela and David Boyter (Boyers), pursuant to Section 5.103 of the Public Utility Commission's Rules of Practice and Procedure support the motion of the Office of the Consumer Advocate (OCA) to join Hidden Valley Resort, L.P. (HVR) as a party to the above captioned proceeding. 52 Pa. Code § 5.103. In support thereof, Boyters submits the following:

1. On February 12, 2004, the Applicant, Hidden Valley Utility Services, L.P. (HVUS) filed applications for Certificates of Public Convenience to become a public utility for the provision of water and wastewater service (Certificates) and a proposal to set initial base rates. If approved, HVUS would then be the certified utility providing service to the Intervenors, David and Angela Boyter.

2. Through their Intervention, Boyters allege that they reside in the proposed service territory and have been aggrieved by the excessive rates and substandard water and wastewater service offered by the current provider, HVR, which uses the Hidden Valley Foundation, Inc., (HVF), an entity over which HVR exercises control by means of its majority on HVF's Board of Directors, as a billing agent. HVUS also states in its Answer and New Matter to the Complaint of Edwin C. Miller, *et al.* of June 22, 2004 that "for a number of years, Hidden Valley Resort

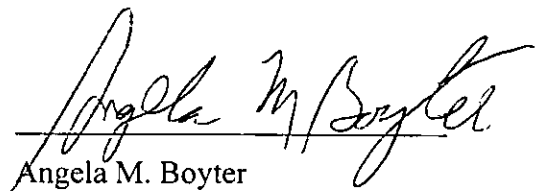
was supplying water and wastewater service to approximately 1000 people through the Hidden Valley Foundation, a bona fide homeowners association.”

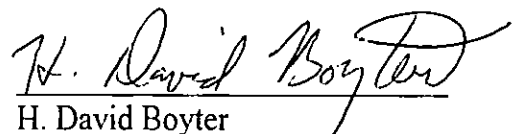
3. Any party to a proceeding can move for the joinder of an indispensable party. Minick v. General Telephone Co. of Pa., 51 Pa. P.U.C. 526, 529 (1978). Boyters and OCA are parties in this proceeding.

4. Boyters support the argument of the OCA for joining HVR. Furthermore, evidence about HVR submitted by HVUS in their application and in response to interrogatories, e.g., continuity of employees, past HVR electric bills, notes showing the indebtedness of HVR, shows that HVR information is relevant and even essential to the establishment of an appropriate rate base for HVUS. Full access to needed information is best assured by joining HVR as a party.

WHEREFORE, David and Angela Boyter support the motion of the Office of the Consumer Advocate (OCA) to join Hidden Valley Resort, L.P. (HVR) as a party to this proceeding.

Respectfully Submitted,


Angela M. Boyter


H. David Boyter

3914 MacAlpine Road
Ellicott City, MD 21042

Dated: August 19, 2004

DATE: August 24, 2004

SUBJECT: A-210117, A-230101

TO: Office of Administrative Law Judge

FROM: James J. McNulty
Secretary
nvl

DOCUMENT

DELETED
AUG 26 2004

APPLICATION OF HIDDEN VALLEY UTILITY SERVICES, L.P.

The attached is assigned to your Bureau to prepare the case for consideration at a future Public Meeting

nvl