

*David & Angie Boyter*

Box 4214 354 Lake Road  
Hidden Valley, PA 15502  
(814) 443-3290 voice (814) 443-2021 fax

Mailing Address:  
3914 Mac Alpine Road  
Ellicott City MD 21042  
(410) 465-1444 voice (410) 465-0797 fax

boyter@sprvnet.com  
March 2, 2004

DOCUMENT

James McNulty, Secretary  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
400 North Street, 2<sup>nd</sup> floor  
Harrisburg, PA 17120

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

Dear Secretary McNulty,

Enclosed for filing please find an original and three (3) copies of our petition to intervene in the above cited application.

If there are any questions, we can be contacted in Hidden Valley until March 20 and in Maryland after that date.

Very truly yours,

*Angela M. Boyter*  
Angela M. Boyter

*H. David Boyter*

H. David Boyter

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2004 MAR -4 AM 11:59

PA P.U.C. BUREAU  
SECRETARY'S BUREAU

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PA P.U.C.  
SECRETARY'S BUREAU

BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

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

PETITION TO INTERVENE

TO THE PENNSYLVANIA PUBLIC UTILITY COMMISSION

**I. INTRODUCTION**

1. Angela M. and H. David Boyter hereby submit this petition to intervene in the Application of Hidden Valley Utility Services, L. P., for approval to offer, render, furnish, or supply water and wastewater services to the public in Hidden Valley, PA, Docket Nos. A-210117 & A-230101, in accordance with 52 Pa. Code 5.72.

2. The name and address of the petitioners are:

Box 4214 354 Lake Road  
Hidden Valley, PA 15502  
(814) 443-3290 voice (814) 443-2021 fax  
Alternate address:  
3914 Mac Alpine Road  
Ellicott City MD 21042  
(410) 465-1444 voice (410) 465-0797 fax  
[boyter@sprynet.com](mailto:boyter@sprynet.com)

DOCUMENT

**II. BACKGROUND INFORMATION**

3. Since approximately 1985, Hidden Valley Resort has been providing water and wastewater service to approximately 1000 residents of the Hidden Valley community using the Hidden Valley Foundation (the homeowner association) as a billing agent. This service has been provided under terms of an agreement between the Resort and the Foundation. This agreement provides, *inter alia*, for the Resort to furnish annual financial statements and to maintain a capital reserve fund for major replacements. The Resort has not been complying with these provisions.

4. Under the provisions of the Foundation documents, the Resort has 5 of the 9 seats on the Board of the Foundation and exercises voting control.

5. Petitioners were complainants in complaint C-20028823. Hidden Valley's application was filed as a direct result of the settlement agreement signed with respect to this complaint and approved by the Commission.

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**III. ELIGIBILITY TO INTERVENE**

6. Petitioners are homeowners residing in the proposed service area for Hidden Valley Utility Services and are directly affected by the action of the Commission in the proceeding. Petitioners have been aggrieved by the existing service provided by Hidden Valley with respect to rates, water quality, and emergency communications.

7. Current rates at Hidden Valley are higher than in nearby jurisdictions. Proposed rates are significantly higher. The financial information submitted in this application does not justify these rates. Petitioner Angela Boyter received some financial information on the Hidden Valley utility in years past as a part of the Hidden Valley homeowner association audit committee and can provide evidence of the utility's history of providing unjustified, incomplete, misleading, and inaccurate information and can challenge specific elements of the financial information and the basis for rates contained in the application.

8. Water at Hidden Valley is too often full of iron to such an extent that cooking and drinking are impossible, and laundry has been ruined. This condition has been a longstanding problem. Petitioner has samples of water to offer as evidence.

9. Emergency communications to the utility are inadequate. There is no way to reach the water department after normal business hours. Even during business hours the phone is normally answered by an answering machine, and replies may not come until the next day. At times (up to 30% of the time based on the petitioners' experience) even the answering machine does not answer.

10. Hidden Valley's petition does not offer redress of any of these shortcomings. Therefore, petitioner seeks to intervene to cause the Commission to impose the necessary relief.


11. Petitioners have a special standing with respect to this application not shared by other homeowners by virtue of being complainants in complaint C-20028823. As such, petitioners have an interest in the outcome of this application that justifies intervention.

WHEREFORE, Angela M. Boyter and H. David Boyter respectfully request that the Commission allow us to intervene in the application of Hidden Valley Utility Services, L. P., for approval to offer, render, furnish, or supply water and wastewater services to the public in Hidden Valley, PA, Docket Nos. A-210117 & A-230101.

Respectfully submitted.

Dated: March 2, 2004

  
Angela M. Boyter



---

H. David 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](mailto:boyter@sprynet.com)

BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

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

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true copy of our petition to intervene upon the individuals listed below, in accordance with the requirements of 52 Pa. Code 1.54 (relating to service by a participant).

Service by first-class mail, postage prepaid, to

Jeffrey Franklin, Esquire  
Carl J. Engleman, Jr., Esquire  
Ryan, Russell, Ogden, and Seltzer, LLP  
1105 Berkshire Blvd., Suite 330  
Wyomissing, PA 19610-1222

PA Department of Environmental Protection  
Southwest Regional Office  
400 Waterfront Drive  
Pittsburgh, PA 15222-4745

James Beener, Esq.  
Barbera, Clapper, Beener, Rullo, & Melvin  
146 West Main Street  
PO Box 775  
Somerset, PA 15501-0775

Office of Trial Staff  
P. O. Box 3265  
Harrisburg, PA 17105-3265

Hidden Valley Utility Services, L. P.  
1 Craighead Drive  
Suite 300  
Hidden Valley, PA 15502

Jefferson Township  
Board of Supervisors  
1610 Glades Pike  
Somerset, PA 15501

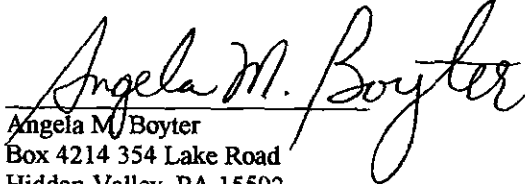
Office of the Consumer Advocate  
555 Walnut Street  
5<sup>th</sup> Floor Forum Place  
Harrisburg, PA 17101-1923

Somerset County  
Suite 500  
300 North Center Avenue  
Somerset, PA 15501

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

Somerset Planning Commission  
Suite 540  
300 North Center Avenue  
Somerset, PA 15501

Dated: March 2, 2004

  
Angela M. Boyter  
Box 4214 354 Lake Road  
Hidden Valley, PA 15502  
Mailing address: 3914 MacAlpine Road  
Ellicott City, MD 21042  
(410) 465-1444  
(410) 465-0797 fax  
[boyter@sprvnet.com](mailto:boyter@sprvnet.com)

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2004 MAR -5 AM 12:00

PA U.C.  
SECRETARY'S BUREAU

PENNSYLVANIA PUBLIC UTILITY COMMISSION

NOTICE TO BE PUBLISHED

Application of Hidden Valley Utility Services, L.P., for approval to begin to offer, render, furnish or supply wastewater service to the public in Hidden Valley, PA. Docket Number: A-230101.

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Formal protests and petitions to intervene must be filed in accordance with Title 52 of the Pennsylvania Code. All filings must be made with the Secretary of the Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265, with a copy served on the Applicant, on or before March 22, 2004. The documents filed in support of the Application are available for inspection and copying at the Office of the Secretary between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, and at the Applicant's business address.

Applicant:

Hidden Valley Utility Services, L.P.

Through and By Counsel:

Jeffrey A. Franklin, Esquire  
Carl J. Engleman, Jr.  
Ryan, Russell, Ogden and Seltzer, LLP  
Suite 330  
1105 Berkshire Boulevard  
Wyomissing, PA 19610-1222

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FOLDER

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LEGISLATIVE REFERENCE  
BUREAU

04 FEB 23 AM 10:11

PA. CODE & BULLETIN

DOCKETED

FEB 23 2004

BY THE COMMISSION

*James J. McNulty*

James J. McNulty  
Secretary

ORIGINAL

"Protest"

Pennsylvania Public Utility Commission

SECRETARY'S BUREAU

2004 MAR -4 AM 3:13

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Docket Numbers A-210117 and A-230101

1. Your name, mailing address, and telephone number.

Edwin C Miller, et al

203 Imperial Road, PO Box 4143, Hidden Valley, Pa. 15502 Somerset County.  
814-444-8161

2. Name of company your complaint concerns.

Hidden Valley Resort, L.P.

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3. What is your complaint.

For a number of years, Hidden Valley Resort (HVR) has been operating a *de facto* public utility, supplying water and wastewater service to approximately 1000 residents of Hidden Valley Resort using The Hidden Valley Foundation (Foundation) as a billing agent. Under the provision of the Foundation documents, the developer, HVR, has 5 of the 9 seats on the Board of the Foundation and exercises voting control. A resort employee reads the water meters and sends the billing information to the Foundation which issues the bills.

The water and waste water service is provided to the public for compensation in violation of 66 Pa. C.S. Sec 1101, by not obtaining a certificate of public convenience to provide these services. HVR has recently entered in an agreement with the Public Utility Commission to apply for this certificate. Docket numbers A-210117 and A-230101. Under 66 Pa. C.S. Sec 1301, the rates charged for these services are considered unjust and unreasonable.

4. What do you want the Public Utility Commission to do about your complaint.

We request refunds pursuant to Section 1312, on the grounds that the company collected rates while it was operating without a Certificate of Public Convenience to provide service.

DOCUMENT  
FOLDER

50

5. You must sign and date your complaint below.

Eric S. Wiley  
Signature

2/27/04  
Date

Jack Martin J  
Signature

2/27/04  
Date

John R. Brown  
Signature

2/27/04  
Date

Robert J. [unclear]  
Signature

2/27/04  
Date

Ribbon [unclear]  
Signature

3/1/04  
Date

Edward [unclear]  
Signature

3/1/04  
Date

# DOCUMENT

COMMONWEALTH OF PENNSYLVANIA

DATE: March 9, 2004

SUBJECT: A-210117  
A-230101

TO: Bureau of Fixed Utility Services

FROM: James J. McNulty, Secretary *KB*

**DOCKETED**  
MAR 12 2004

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

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Attached is a copy of a Petition to Intervene filed by H. David and Angela M. Boyter, in connection with the above docketed proceeding.

This matter is assigned to your Bureau for appropriate action.

Attachment

cc: LAW

ksb

ORIGINAL

March 17, 2004

**Subject:** Applications of Hidden Valley Utility Services  
at Docket Nos. A-210117 & A-230101

**To:** James J. McNulty  
Secretary

**From:** Robert A. Rosenthal, Director  
Bureau of Fixed Utility Services



DOCUMENT

The above referenced Applications for Certification were filed on February 12, 2004. In the interim period, a Petition to Intervene and a Protest have been filed by residents of the development served by the subject systems.

In light of the aforementioned, please reassign this Application to the Office of Administrative Law Judge for appropriate adjudication.

cc: Judith Koch Carlson  
Ed Rodrock  
Stanley E. Brown  
Larry Lash  
Ralph Wax  
Kerry Klinefelter  
Scott Rhodes, Secretary's Bureau

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2004 MAR 17 PM 1:44

SECRETARY'S BUREAU

45

COMMONWEALTH OF PENNSYLVANIA

DATE: March 18, 2004

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SUBJECT: A-210117 & A-230101

TO: Office of Administrative Law Judge

FROM:  James J. McNulty, Secretary

Hidden Valley Utility Services

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DOCKETED  
APR 05 2004

Per memo dated March 17, 2004,  
from Robert A. Rosenthal, Director, Bureau of Fixed  
Utility Services, the above docketed proceeding is  
being reassigned to your Office for appropriate  
action.

jih

pc: FUS



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

ORIGINAL

IN REPLY PLEASE  
REFER TO OUR FILE

March 18, 2004

James J. McNulty, Secretary  
Pennsylvania Public Utility Commission  
P. O. Box 3265  
Harrisburg, PA 17105-3265

DOCUMENT  
FOLDER

Re: Application of Hidden Valley Utility Services, L. P.  
for approval to begin to offer, render, furnish or supply  
wastewater service to the public in Hidden Valley,  
Pennsylvania

Docket No. ~~A-00230101~~

A-230101

Dear Secretary McNulty:

Enclosed for filing please find an original and three (3) copies of the  
**Protest of the Office of Trial Staff (OTS)** in the above-captioned proceeding.

Copies are being served on all active parties of record.

Sincerely,

Charles Daniel Shields  
Prosecutor  
Office of Trial Staff

CDS:em

Enclosure

c: Parties of Record  
Director Walker-Davis

SECRETARY'S BUREAU

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BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

DOCUMENT  
FOLDER

Application of Hidden Valley Utility :  
Services, L. P. for approval to begin :  
to offer, render, furnish or supply :  
wastewater service to the public in :  
Hidden Valley, Pennsylvania :

Docket No. A-00230101

A-230101

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PROTEST OF THE  
OFFICE OF TRIAL STAFF

---

The Office of Trial Staff ("OTS") of the Pennsylvania Public Utility Commission ("Commission"), by and through its Acting Chief Prosecutor Johnnie E. Simms and Prosecutor Charles Daniel Shields, hereby files this Protest pursuant to 52 Pa. Code §3.502, entitled "Protests to applications for certificate of public convenience as a water supplier or wastewater collection, treatment and disposal supplier" and respectfully requests that OTS be allowed to participate in the proceeding as a party intervenor.

**Introduction**

The filing of the instant wastewater service application was required by the terms and conditions of a settlement entered into by OTS, Complainants Angie and David Boyter, and the present applicant on June 19, 2003. The Commission's Order entered November 14, 2003, at Docket Nos. C-20028823 and C-20039320, approved said settlement as submitted to the presiding Administrative Law Judge. As noted on page 4

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of the Order, the settlement required the applicant to file separate applications for certificates of public convenience to provide water and wastewater service within ninety days of the entry of a final Order approving the Settlement Stipulation. OTS is filing a companion Protest against the applicant's water application, docketed at A-00210117.

On February 12, 2004, the instant water service application was filed with the Secretary of the Commission. Said filing was made within the required ninety (90) days established by the settlement given the November 14, 2003, entrance date of the Commission's final Order.

The Office of Trial Staff Prosecutor in this proceeding is Charles Daniel Shields. All correspondence directed to the Office of Trial Staff regarding this application proceeding should be addressed as follows:

**Charles Daniel Shields, Prosecutor  
Office of Trial Staff  
Pennsylvania Public Utility Commission  
Post Office Box 3265  
Harrisburg, Pennsylvania 17105-3265**

The OTS fax number is (717) 772-2677. Prosecutor Shields can be reached directly during normal business hours by telephone at (717) 783-6151 and by electronic mail at *chshields@state.pa.us*.

## Statement of OTS Interest in the Application

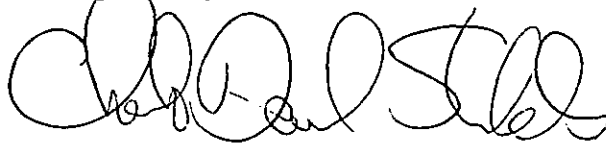
OTS hereby represents that a formal proceeding before an assigned Administrative Law Judge on the instant application is necessary to allow for development of a record sufficient to establish that the granting of the application (either in its present form or as modified as a result of the proceeding) is in the public interest. Consistent with this assertion, OTS further represents that additional time is needed for the assigned OTS Technical Staff Experts to, inter alia, take the following actions:

- a. determine whether the proposed capital structure is appropriate;
- b. investigate the source of financing of the assets including the industrial revenue bonds and the loans from the parent company, Kettler Brothers, Inc.;
- c. investigate whether there is, or needs to be, an affiliated interest agreement between Hidden Valley Utility Services, L. P. and Hidden Valley Resort, L. P.;
- d. determine whether all affiliated revenue is reflected in the instant application;
- e. examine the legitimacy and appropriateness of **rate-related matters** including:
  - (1) Rate Base,
  - (2) Depreciation,
  - (3) Operating Expenses,
  - (4) Rate Structure, e.g., the development of the proposed customer and usage charges,
  - (5) Operating Revenues, including the current number and class of customers, current usage and an updated bill frequency analysis.
- f. examine the customer base, i.e., the number of full-time vs. seasonal customers;
- g. consider the appropriateness of an availability charge as an additional source of appropriate revenue.

**Conclusion**

For the foregoing reasons, OTS requests a formal proceeding be established to ensure that any final application that might be approved by the Commission is in the public interest and further that OTS be allowed to participate in said proceeding as a party intervenor.

Respectfully submitted,



---

Charles Daniel Shields  
Prosecutor

Office of Trial Staff  
Pennsylvania Public Utility Commission  
Post Office Box 3265  
Harrisburg, PA 17105-3265

Dated: March 18, 2004

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SECRETARY'S BUREAU

BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Application of Hidden Valley Utility Services, L.P. :  
for approval to begin to offer, render, furnish or supply : Docket No.  
wastewater service to the public in Hidden Valley, : A-00230101  
Pennsylvania :

**CERTIFICATE OF SERVICE**

I hereby certify that I am serving the foregoing **Protest of the Office of Trial Staff**, dated March 18, 2004, either personally, by first class mail, electronic mail, express mail, or by fax upon the persons listed below:

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  
P.O. Box 775  
Somerset, PA 15501-0775

Irwin A. Popowsky, Esquire  
Office of Consumer Advocate  
555 Walnut Street  
Forum Place - 5<sup>th</sup> Floor  
Harrisburg, PA 17101-1923

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William R. Lloyd, Jr., Esquire  
Small Business Advocate  
Suite 1102, Commerce Bldg.  
300 North Second Street  
Harrisburg, PA 17101

Honorable Robert A. Christianson  
Chief Administrative Law Judge  
Pa. Public Utility Commission  
P.O. Box 3265  
Harrisburg, PA 17105-3265



---

Charles Daniel Shields  
Prosecutor  
Office of Trial Staff

Dated: March 18, 2004  
Docket No. A-00230101



ORIGINAL

## OFFICE OF CONSUMER ADVOCATE

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

IRWINA. POPOWSKY  
 Consumer Advocate

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

DOCUMENT  
FOLDER

March 19, 2004

DOCKETED  
MAR 24 2004

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 wastewater service to the  
 public in Hidden Valley, Pennsylvania  
 Docket No. A-230101

Dear Secretary McNulty:

Enclosed please find for filing an original and three (3) copies of the Office of Consumer Advocate's Protest 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

Enclosures

cc: All parties of record  
 78471.doc;1/CMH/smn

SECRETARY'S BUREAU  
 2004 MAR 19 PM 4:10  
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BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

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

SECRETARY'S BUREAU

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PROTEST OF THE  
OFFICE OF CONSUMER ADVOCATE

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The Office of Consumer Advocate (OCA) files this Protest in the above-captioned Application pursuant to the notice in the Pennsylvania Bulletin and the provisions of the Rules of Practice and Procedure of the Pennsylvania Public Utility Commission (PUC or Commission), 52 Pa. Code §§5.51-5.53, and Chapter 11 of the Public Utility Code. Through this Application, Hidden Valley Utility Services (Hidden Valley or Applicant) seeks Commission approval for the right to offer, render, furnish or supply wastewater service, as a public utility in a portion of Jefferson Township, Somerset County.

The OCA files this Protest in order to ensure that the application is approved only if (1) it is found to be in the public interest; (2) applicant is found to have the requisite technical, managerial and financial fitness; (3) it provides substantial, affirmative benefits to the ratepayers, and (4) it is in accordance with the Public Utility Code.

Specifically, the OCA avers as follows:

1. The Protestant is Irwin A. Popowsky, Consumer Advocate, 555 Walnut Street, 5<sup>th</sup> Floor, Forum Place, Harrisburg, PA 17101-1923. Protestant's attorney for the purpose of receiving

service of all documents in this proceeding is Christine Maloni Hoover, Senior Assistant Consumer Advocate.

2. The OCA is authorized by law to represent the interests of utility ratepayers in all proceedings before the Commission. 71 P.S. §§ 309-1, *et seq.* This Protest is filed by the OCA to ensure that the interests of Applicants' customers are protected.

3. The Application must be examined pursuant to Chapter 11 of the Public Utility Code.

4. Section 1102 of the Public Utility Code requires that the Commission issue a Certificate of Public Convenience as a legal prerequisite to an entity offering service, abandoning service and certain property transfers by public utilities or their affiliated interests. 66 Pa.C.S. §1102(a)(1)-(3).

5. The Code further requires that a certificate shall only be granted upon findings that the granting of such certificate is "necessary or proper for the service, accommodation, convenience or safety of the public." 66 Pa.C.S. §1103(a).

6. Section 1101 of the Public Utility Code states that, upon application of any proposed public utility and the approval of such application by the commission, it shall be lawful for any such proposed public utility to begin to offer, render, furnish or supply service within the Commonwealth. 66 Pa. C.S. § 1101.

7. Additionally, Section 1103 explicitly allows the Commission to impose conditions upon the issuance of a Certificate of Public Convenience. 66 Pa.C.S. §1103(a). Section 1103(a) of the Code provides: "The Commission, in granting such a certificate, may impose such conditions as it may deem to be just and reasonable." The OCA submits that the Commission may wish to consider the imposition of conditions in order to ensure that the public interest standard is met.

8. Preliminarily, the OCA has identified the following areas that require further consideration by the Commission and must be resolved prior to Commission approval of this Application.

a. Rate-making Issues: The Applicant has included a proposed initial wastewater tariff, including rates. The Applicant proposes to charge \$96 per month for a customer using 5,000 gallons of water per month. The OCA is concerned about the proposed rates, including whether the proposed initial rates are higher than the rates Hidden Valley has been charging. To the best of the OCA's knowledge and belief, the Applicant has not provided notice to its customers of a proposed rate increase. In addition, it does not appear that the Applicant has met the filing requirements for information to be provided with a general rate increase filing.

b. Prior Uncertificated Service: It appears that Applicant may have been operating without a Certificate of Public Convenience. The Applicant or a related corporate entity may have been charging and collecting rates without a lawfully approved tariff. The Commission therefore must determine whether refunds are appropriate for any prior service. In addition, the Applicant may be required, by Chapter 21 of the Public Utility Code, to file an Affiliated Interest Agreement.

c. Fitness: The Commission must ensure that the applicant currently has and will continue to have the requisite technical, financial and managerial fitness to receive a Certificate of Public Convenience.

9. The OCA reserves the right to raise additional issues as the case proceeds and further information is obtained from the Company.

WHEREFORE, the Office of Consumer Advocate respectfully requests that the Pennsylvania Public Utility Commission investigate and hold full hearings, including public input hearings in Applicant's service territory, regarding the Application and requested rates of Hidden Valley Utility Services. The OCA further requests that the Commission not approve this Application at this time due to the issues raised above and the need for additional information.

Respectfully submitted,

Christine Maloni Hoover

Christine Maloni Hoover  
Senior Assistant Consumer Advocate

Counsel for:  
Irwin A. Popowsky  
Consumer Advocate

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

Dated: March 19, 2004  
00078461.WPD

CERTIFICATE OF SERVICE

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

I hereby certify that I have this day served a true copy of the foregoing document, the Office of Consumer Advocate's Protest, 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 19th day of March, 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

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

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

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

Christ Maloni Hoover  
Christine Maloni Hoover  
Senior 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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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

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2004 MAR 26 AM 9:19

SECRETARY'S BUREAU

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

March 24, 2004

James J. McNulty, Secretary  
Pennsylvania Public Utility Commission  
P.O. Box 3265  
Harrisburg, Pennsylvania 17105-3265

ORIGINAL

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

DOCUMENT  
FOLDER

Dear Secretary McNulty:

Enclosed please find the Proofs of Publication in the above-referenced docket numbers. The two notices were advertised in the Tribune – Democrat, Johnstown, Pennsylvania on March 3 and March 10, 2004.

Copies of these Proofs of Publication have been served upon other parties to this proceeding as per the attached Certificate of Service.

If you have any questions, please feel free to contact me at any time.

Very truly yours,

RYAN, RUSSELL, OGDEN & SELTZER LLP



Carl J. Engleman, Jr.  
Counsel for Hidden Valley Utility Services, L.P.

CJE:jab  
Enclosures

c: As per Certificate of Service

4

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:

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 a copy of the Proofs of Publication in the above-captioned matters upon the individuals listed below, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant).

Service by First Class Mail, postage prepaid, addressed as follows:

Office of Trial Staff  
P.O. Box 3265  
Harrisburg, PA 17105-3265

Angie Boyter  
3914 MacAlpine Road  
Ellicott City, MD 21042

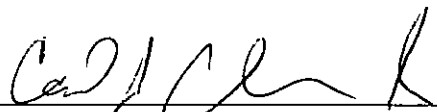
Office of Consumer Advocate  
555 Walnut Street  
5<sup>th</sup> Floor, Forum Place  
Harrisburg, PA 17101-1923

SECRETARY'S BUREAU

2004 MAR 26 AM 9:19

RECEIVED

Dated: March 24, 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.

COMMONWEALTH OF PENNSYLVANIA }  
 County of Cambria } SS

PENNSYLVANIA PUBLIC UTILITY COMMISSION  
 Application of Hidden Valley Utility Services, L.P., for approval to begin to offer, render, furnish or supply wastewater service to the public in Hidden Valley, PA. Docket Number: A-230101.

Formal protests and petitions to intervene must be filed in accordance with Title 52 of the Pennsylvania Code. All filings must be made with the Secretary of the Pennsylvania Public Utility Commission, P.O. Box 3265, Harrisburg, PA 17105-3265, with a copy served on the Applicant, on or before March 22, 2004. The documents filed in support of the Application are available for inspection and copying at the Office of the Secretary between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, and at the Applicant's business address.

published continu...  
 that the annexed i...  
 of The Johnstown...  
 interested in the s...  
 character of said j...  
 Applicant:  
 Hidden Valley Utility Services, L.P.

Through and By Counsel:  
 Jeffrey A. Franklin, Esquire  
 Carl J. Engleman, Jr.  
 Ryan, Russell, Ogden and Seitzer, LLP  
 Suite 330  
 1105 Berkshire Boulevard  
 Wyomissing, PA 19610-1222

Sworn and Subscr. 10th day of March  
 BY THE COMMISSION  
 James J. McNulty  
 Secretary

On this 10th day of March A.D. 2004 before me, the subscriber, a Notary Public in and for said County and State, personally appeared Christine Pringle, who being duly sworn according to law, deposes and says as Classified Advertising Manager of the Tribune-Democrat, Johnstown, PA, a newspaper of general circulation as defined by the "Newspaper Advertising Act", a merger September 8, 1952, of the Johnstown Tribune, established December 7, 1853; and of the Johnstown Democrat, established March 5, 1863,

in the County of Cambria, and Commonwealth of Pennsylvania and in the above matter published in said publication in the regular issues of Johnstown, PA, on March 3, 10, 2004; and that the Affiant is not in notice or advertising and that all of the allegations as to time, place and

*Christine M. Pringle*

STATEMENT OF ADVERTISING COSTS

46 Lines @ \$1.85 per line	\$170.20
0 Inches @ \$18.50 per inch	\$000.00
Probating Same	\$ 2.00
<b>Total Cost</b>	<b>\$172.20</b>

*[Signature]*  
 (Notary Public)

Notarial Seal  
 Vivian Ohs, Notary Public  
 City of Johnstown, Cambria County  
 My Commission Expires Dec. 6, 2004  
 Member, Pennsylvania Association of Notaries

To The Tribune-Democrat, Johnstown, PA  
 For publishing the notice or publication attached hereto on the above stated dates.

PUBLISHER'S RECEIPT FOR ADVERTISING COSTS

Vivian Ohs for publisher of The Tribune-Democrat  
 a newspaper of general circulation, hereby acknowledges receipt of the aforesaid  
 and publication costs and certifies that the same has been duly paid.

The Tribune-Democrat, Johnstown, PA  
 (Name of Newspaper)

By *[Signature]*

**DOCKETED**  
 JUN 15 2004

**DOCUMENT FOLDER**

COMMONWEALTH OF PENNSYLVANIA }  
 County of Cambria } SS

PENNSYLVANIA PUBLIC  
 UTILITY COMMISSION  
 Application of Hidden Valley  
 Utility Services, L.P.,  
 for approval to begin to offer,  
 render, furnish or supply water  
 service to the public in Hidden Valley,  
 PA. Docket Number: A-210117.

Formal protests and petitions to  
 intervene must be filed in accordance  
 with Title 52 of the Pennsylvania  
 Code. All filings must be made with  
 the Secretary of the Pennsylvania  
 Public Utility Commission, P.O. Box  
 3265, Harrisburg, PA 17105-3265,  
 with a copy served on the Applicant,  
 on or before March 22, 2004. The  
 documents filed in support of the  
 Application are available for inspection  
 and copying at the Office of the  
 Secretary between the hours of 8:00  
 a.m. and 4:30 p.m., Monday through  
 Friday, and at the Applicant's  
 business address.

Applicant:  
 Hidden Valley Utility Services,  
 L.P.  
 Through and By Counsel:  
 Jeffrey A. Franklin, Esquire  
 Carl J. Engleman, Jr.  
 Ryan, Russell, Ogden and Seltzer,  
 LLP  
 Suite 330  
 1105 Berkshire Boulevard  
 Wyomissing, PA 19610-1222

BY THE COMMISSION  
 James J. McNulty  
 Secretary

published continu  
 that the annexed;  
 of The Johnstown  
 interested in the s  
 character of said,

. in the County of Cambria, and Commonwealth of Pennsylvania and  
 e in the above matter published in said publication in the regular issues  
 hnstown, PA, on March 3, 10, 2004; and that the Affiant is not  
 tice or advertising and that all of the allegations as to time, place and

On this 10th day of March A. D. 2004  
 before me, the subscriber, a Notary  
 Public in and for said County and  
 State, personally appeared  
 Christine Pringle, who being duly  
 sworn according to law, deposes and  
 says as Classified Advertising  
 Manager of the Tribune-Democrat,  
 Johnstown, PA, a newspaper of  
 general circulation as defined by the  
 "Newspaper Advertising Act", a  
 merger September 8, 1952, of the  
 Johnstown Tribune, established  
 December 7, 1853; and of the  
 Johnstown Democrat, established  
 March 5, 1863,

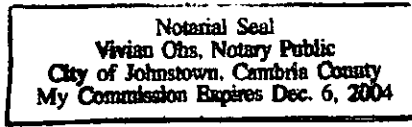
*Christine M. Pringle*

STATEMENT OF ADVERTISING COSTS

46 Lines @ \$1.85 per line \$170.20  
 0 Inches @ \$18.50 per inch \$000.00  
 Probating Same \$ 2.00  
 Total Cost \$172.20

Sworn and Subscr:  
 10th day of March

*[Signature]*  
 (Notary Public)



Member, Pennsylvania Association of Notaries

To The Tribune-Democrat, Johnstown, PA  
 For publishing the notice or publication  
 attached hereto on the above stated dates.

PUBLISHER'S RECEIPT FOR ADVERTISING COSTS

Vivian Ohs for publisher of The Tribune-Democrat  
 a newspaper of general circulation, hereby acknowledges receipt of the aforesaid  
 and publication costs and certifies that the same has been duly paid.

The Tribune-Democrat, Johnstown, PA  
 (Name of Newspaper)

By *[Signature]*

DOCKETED  
 JUN 15 2004

DOCUMENT  
 FOLDER

DOCUMENT  
FOLDER

CERTIFICATE OF SERVICE

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

I hereby certify that I have this day served a true copy of the foregoing document, the Office of Consumer Advocate's Responses to Hidden Valley Utility Services, L.P. Interrogatories, Set I, 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 12th day of May, 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

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

James F. Beener, Esq.  
Barbera, Clapper, Beener, Rullo & Melvin  
146 West Main Street  
P. O. Box 775  
Somerset, PA 15501-0775

William R. Lloyd, Jr., Esq.  
Small Business Advocate  
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

RECEIVED  
2004 MAY 12 PM 4: 07  
SECRETARY'S BUREAU

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

Christine Maloni Hoover

Christine Maloni Hoover  
Senior Assistant Consumer Advocate

Counsel for  
Office of Consumer Advocate  
555 Walnut Street 5th Floor, Forum Place  
Harrisburg, PA 17101-1923  
(717) 783-5048  
78469.doc;1/CMH/smn

RECEIVED  
2004 APR -5 11:57  
SECRETARY'S BUREAU

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

April 2, 2004

James J. McNulty, Secretary  
Pennsylvania Public Utility Commission  
P.O. Box 3265  
Harrisburg, Pennsylvania 17105-3265

**DOCUMENT  
FOLDER**

Re: Applications 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  
PaPUC Docket Nos. A-00210117 and A-00230101

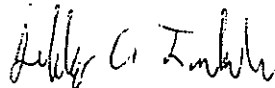
Dear Secretary McNulty:

Enclosed please find an original and three (3) copies of a Certificate of Service for Hidden Valley Utility Services, L.P.'s Interrogatories and Request for Production of Documents Set I to Angie and David Boyter in the above-referenced matters served upon all parties of record as of this date.

If you have any questions, please contact us.

Very truly yours,

RYAN, RUSSELL, OGDEN & SELTZER LLP



Carl J. Engleman, Jr.  
Jeffrey A. Franklin

Counsel for Hidden Valley Utility Services, L.P.

CJE:jag

c: As per Certificate of Service

224

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:

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 :

04 APR -5 PM 3:03  
SECRETARY'S BUREAU

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a copy of the Hidden Valley Utility Services, L.P.'s Interrogatories and Request for Production of Documents Set I to Angie and David Boyter in the above-captioned matters upon the individuals listed below, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant).

Service by First Class Mail, postage prepaid, as follows:

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

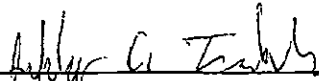
Hidden Valley Resort  
1 Craighead Drive, Suite 300  
Hidden Valley, PA 15502

Office of Trial Staff  
P.O. Box 3265  
Harrisburg, PA 17105-3265

Office of Consumer Advocate  
555 Walnut Street  
5<sup>th</sup> Floor, Forum Place  
Harrisburg, PA 17101-1923

James F. Beener, Esquire  
Barbera, Clapper, Beener, Rullo & Melvin  
146 West Main Street  
P.O. Box 775  
Somerset, PA 15501-0775

Dated: April 2, 2004

  
\_\_\_\_\_  
Carl J. Engleman, Jr.  
Jeffrey A. Franklin  
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.

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

DOCUMENT  
FOLDER

April 15, 2004

RECEIVED

APR 15 2004

PA PUBLIC UTILITY COMMISSION  
SECRETARY'S BUREAU

James J. McNulty, Secretary  
Pennsylvania Public Utility Commission  
P.O. Box 3265  
Harrisburg, Pennsylvania 17105-3265

Re: Applications 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  
PaPUC Docket Nos. A-00210117 and ~~A-00230101~~

A-230101

Dear Secretary McNulty:

Enclosed please find an original and three (3) copies of a Certificate of Service for Hidden Valley Utility Services, L.P.'s Interrogatories and Request for Production of Documents Set I to the Office of Consumer Advocate and the Office of Trail Staff in the above-referenced matters served upon all parties of record as of this date.

If you have any questions, please contact us.

Very truly yours,

RYAN, RUSSELL, OGDEN & SELTZER LLP



Carl J. Engleman, Jr.  
Jeffrey A. Franklin

Counsel for Hidden Valley Utility Services, L.P.

CJE:jag

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 wastewater service : No. A-230101  
to the public in Hidden Valley, Pennsylvania:

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 a copy of the Hidden Valley Utility Services, L.P.'s Interrogatories and Request for Production of Documents Set I to the Office of Consumer Advocate and the Office of Trial Staff in the above-captioned matters upon the individuals listed below, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant).

Service by First Class Mail, postage prepaid, as follows:

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


Hidden Valley Resort  
1 Craighead Drive, Suite 300  
Hidden Valley, PA 15502

Charles David Shields  
Office of Trial Staff  
P.O. Box 3265  
Harrisburg, PA 17105-3265

Christine Maloni Hoover  
Office of Consumer Advocate  
555 Walnut Street  
5<sup>th</sup> Floor, Forum Place  
Harrisburg, PA 17101-1923

James F. Beener, Esquire  
Barbera, Clapper, Beener, Rullo & Melvin  
146 West Main Street  
P.O. Box 775  
Somerset, PA 15501-0775

Dated: April 15, 2004

  
\_\_\_\_\_  
Carl J. Engleman, Jr.  
Jeffrey A. Franklin  
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.

**David & Angie Boyter**

3914 MacAlpine Road  
Ellicott City, MD 21042  
(410)465-1444 Fax: (410) 465-0797

boyter@sprynet.com

April 19, 2004

RECEIVED  
2004 APR 23 PM 9:42

SECRETARY'S BUREAU

James McNulty, Secretary  
Pennsylvania Public Utility Commission  
P. O. Box 3265  
Harrisburg, PA 17105-3265

**DOCUMENT  
FOLDER**

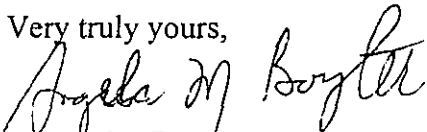
Re: Response to interrogatories and requests for production of documents (Set I) from Hidden Valley Utility Services, L.P re Application of Hidden Valley Utility Services, L.P., for Approval to offer, render, furnish, or supply water and wastewater service to the public in Hidden Valley, Pennsylvania Pa PUC Docket Nos. A-~~00~~210117 and A-~~00~~230101

Dear Secretary McNulty,

Enclosed please find an original and three (3)copies of a Certificate of Service for David and Angela Boyter's responses to Hidden Valley Utility Services, L.P.'s, Interrogatories and Request for Production of Documents Set I in the above-referenced matters served upon all parties of record as of this time.

If you have any questions, please contact us.

Very truly yours,



Angela M. Boyter

C: As per Certificate of Service

BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

RECEIVED

In re: Application of Hidden Valley Utility :  
Services, L.P., for approval to offer, render, furnish, or supply wastewater service to the public in Hidden Valley, Pennsylvania : Application Docket No.A-230101 2004 APR 23 PM 9:42

SECRETARY'S BUREAU

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

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a copy of the Boyters' response to the to Hidden Valley Utility Services, L.P.'s, Interrogatories and Request for Production of Documents Set I in the above-referenced matters upon the individuals listed below.

Service by First Class mail, postage prepaid, as follows:


James Beener , Esq.  
Barbera, Clapper, Beener, Rullo, & Melvin  
145 W.Main Street  
PO Box 775  
Somerset, PA 15501

Christine Maloni Hoover  
Office of Consumer Advocate  
555 Walnut Street  
5thFloor, Forum Place  
Harrisburg, PA 17101-1923

Jeffrey Franklin, Esq.  
Carl J. Engleman, Jr., Esq.  
Ryan, Russell, Ogden & Seltzer LLP  
100 Berkshire Boulevard, Suite 301  
Wyomissing, PA 19610-1221

Service via e-mail to:  
Charles Daniel Shields  
Office of Trial Staff  
P. O. Box 3265  
Harrisburg, PA 17105-3265

Dated : April 19, 2004

  
\_\_\_\_\_  
Angela M. Boyter  
3914 MacAlpine Road  
Ellicott City, MD 21042

**David & Angie Boyter**

3914 MacAlpine Road

Ellicott City, MD 21042

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

[boyter@sprynet.com](mailto:boyter@sprynet.com)

April 19, 2004

RECEIVED

2004 APR 23 PM 9:42

SECRETARY'S BUREAU

James Beener , Esq.  
Barbera, Clapper, Beener, Rullo, & Melvin  
145 W.Main Street  
PO Box 775  
Somerset, PA 15501

Jeffrey Franklin, Esq.  
Carl J.Engleman, Jr., Esq.  
Ryan, Russell, Ogden & Seltzer LLP  
100 Berkshire Boulevard,Suite 301  
Wyomissing, PA 19610-1221

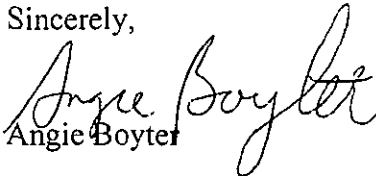
Re: Response to interrogatories and requests for production of documents (Set I) from Hidden Valley Utility Services, L.P re Application of Hidden Valley Utility Services, L.P., for Approval to offer, render, furnish, or supply water and wastewater service to the public in Hidden Valley, Pennsylvania Pa PUC Docket Nos. A-00210117 and A-00230101

Dear Counsel,

Enclosed are our responses to Hidden Valley's Interrogatories dated April 2, which we received April 5, 2003.

We have also provided a copy to Charles Daniel Shields of the Office of Trial Staff (via e-mail) and to Christine Maloni Hoover of the Office of Consumer Advocate.

Sincerely,

  
Angie Boyter

Cc: Hidden Valley Foundation

RESPONSE OF ANGIE AND DAVID BOYTER TO THE  
INTERROGATORIES AND REQUESTS FOR PRODUCTION OF  
DOCUMENTS OF HIDDEN VALLEY UTILITY SERVICES, LP  
(SET I)

Docket No. A-00230101 & Docket No. A-00210117

1. Identify persons answering the interrogatories.

These interrogatories are being answered by David and Angie Boyter.

**DOCKETED**  
JUN 08 2004

**DOCUMENT  
FOLDER**

RECEIVED  
2004 APR 23 PM 9:42  
CLERK'S BUREAU  
SECRETARY'S BUREAU

RESPONSES OF ANGIE AND DAVID BOYTE TO THE  
INTERROGATORIES AND REQUESTS FOR PRODUCTION OF  
DOCUMENTS OF HIDDEN VALLEY UTILITY SERVICES, LP  
(SET I)

Docket No. A-00230101 & Docket No. A-00210117

2. Identify, describe, and provide all documents addressing how any agreement between Hidden Valley Resort and the Hidden Valley Foundation is relevant to, or has any bearing on the above-referenced Applications.

Any and all documents, testimony, or other evidence relevant to this assertion will be submitted with the Boyters' direct testimony that will be distributed in due course when the formal litigation dates are established by the presiding Administrative Law Judge. The Boyters are amenable to providing ample time in the litigation schedule for the applicant to analyze any and all documents accompanying the distributed testimony before the required date of distribution of applicant's response testimony.

RECEIVED

2004 APR 23 PM 9:42

SECRETARY'S BUREAU

**RESPONSES OF ANGIE AND DAVID BOYTER TO THE  
INTERROGATORIES AND REQUESTS FOR PRODUCTION OF  
DOCUMENTS OF HIDDEN VALLEY UTILITY SERVICES, LP  
(SET I)**

**Docket No. A-00230101 & Docket No. A-00210117**

3. Identify, describe, and provide any and all documents addressing how the financial information submitted in support of the above-referenced applications does not justify Hidden Valley's proposed rates.

Any and all documents, testimony, or other evidence relevant to this assertion will be submitted with the Boyters' direct testimony that will be distributed in due course when the formal litigation dates are established by the presiding Administrative Law Judge. The Boyters are amenable to providing ample time in the litigation schedule for the applicant to analyze any and all documents accompanying the distributed testimony before the required date of distribution of applicant's response testimony.

**RESPONSES OF ANGIE AND DAVID BOYTER TO THE  
INTERROGATORIES AND REQUESTS FOR PRODUCTION OF  
DOCUMENTS OF HIDDEN VALLEY UTILITY SERVICES, LP  
(SET I)**

**Docket No. A-00230101 & Docket No. A-00210117**

4. Identify, describe, and provide all documents pertaining to:
- a. how Angela Boyter “can challenge specific elements of the financial information and the basis for rates contained in the application” as asserted in your petition to intervene; and
  - b. each specific element of the financial information and/or rate basis that Angela Boyter can challenge.

Any and all documents, testimony, or other evidence relevant to this assertion will be submitted with the Boyters’ direct testimony that will be distributed in due course when the formal litigation dates are established by the presiding Administrative Law Judge. The Boyters are amenable to providing ample time in the litigation schedule for the applicant to analyze any and all documents accompanying the distributed testimony before the required date of distribution of applicant’s response testimony.

**RESPONSES OF ANGIE AND DAVID BOYTER TO THE  
INTERROGATORIES AND REQUESTS FOR PRODUCTION OF  
DOCUMENTS OF HIDDEN VALLEY UTILITY SERVICES, LP  
(SET I)**

**Docket No. A-00230101 & Docket No. A-00210117**

5. Identify, describe, and provide all documents pertaining to:
- a. the iron content of the water provided by Hidden Valley;
  - b. the "samples of water" that you intend to offer as evidence as described in Paragraph 8 of your Petition to Intervene;
  - c. who collected the samples or water
  - d. the method of collection
  - e. whether a chain of custody exists
  - f. the method of analysis
  - g. the time between sample collection and sample analysis
  - h. the person or entity that performed the analysis
  - i. all lab reports or analyses for each sample.

Angela Boyter collected the samples from her kitchen faucet. A chain of custody exists. Any and all additional documents, testimony, or other evidence relevant to this assertion will be submitted with the Boyters' direct testimony that will be distributed in due course when the formal litigation dates are established by the presiding Administrative Law Judge. The Boyters are amenable to providing ample time in the litigation schedule for the applicant to analyze any and all documents accompanying the distributed testimony before the required date of distribution of applicant's response testimony.

**RESPONSES OF ANGIE AND DAVID BOYTER TO THE  
INTERROGATORIES AND REQUESTS FOR PRODUCTION OF  
DOCUMENTS OF HIDDEN VALLEY UTILITY SERVICES, LP  
(SET I)**

**Docket No. A-00230101 & Docket No. A-00210117**

6. Identify, describe, and provide all documents pertaining to your assertion that emergency communications to the utility are inadequate.

Any and all documents, testimony, or other evidence relevant to this assertion will be submitted with the Boyters' direct testimony that will be distributed in due course when the formal litigation dates are established by the presiding Administrative Law Judge. The Boyters are amenable to providing ample time in the litigation schedule for the applicant to analyze any and all documents accompanying the distributed testimony before the required date of distribution of applicant's response testimony.

**RESPONSES OF ANGIE AND DAVID BOYTER TO THE  
INTERROGATORIES AND REQUESTS FOR PRODUCTION OF  
DOCUMENTS OF HIDDEN VALLEY UTILITY SERVICES, LP  
(SET I)**

**Docket No. A-00230101 & Docket No. A-00210117**

7. Identify and describe any and all issues you intend to raise in the hearing of this proceedings.

Any and all documents, testimony, or other evidence relevant to this subject will be submitted with the Boyters' direct testimony that will be distributed in due course when the formal litigation dates are established by the presiding Administrative Law Judge. The Boyters are amenable to providing ample time in the litigation schedule for the applicant to analyze any and all documents accompanying the distributed testimony before the required date of distribution of applicant's response testimony.

**RESPONSES OF ANGIE AND DAVID BOYTER TO THE  
INTERROGATORIES AND REQUESTS FOR PRODUCTION OF  
DOCUMENTS OF HIDDEN VALLEY UTILITY SERVICES, LP  
(SET I)**

Docket No. A-00230101 & Docket No. A-00210117

8. Identify, describe, and provide all documents pertaining to of [sic] each and every conversation between the Boyters and any representative of the Pennsylvania Public Utility Commission Office of Trial Staff or Pennsylvania Public Utility Commission Office of Consumer Advocate from January 1, 2004, to the present, including:

- a. the identities of the parties;
- b. the dates;
- c. the subject matter, unless it is privileged;
- d. a summary of the conversation;
- e. copies of all documents concerning each conversation; and
- f. if any claim of privilege is asserted, specifically identify the privilege.

Since January, 2004, the Boyters have had no communication with the Office of Trial Staff except via e-mail. The memory of the laptop on which the e-mail from the period before approximately March 15 was stored was destroyed during an electrical storm, and no hard copies exist in our files. The only e-mail the Boyters can remember was an e-mail from Charles Daniel Shields acknowledging receipt of a copy of the Boyters' petition to intervene. The Boyters received an e-mail from Charles Daniel Shields on March 18, 2004 at 11:58 AM transmitting a copy the OTS Protest to Hidden Valley's application. The applicant has that protest, and there was no additional narrative.

The Boyters have never to their knowledge had any conversation or communication with the Office of Consumer Advocate.

RESPONSES OF ANGIE AND DAVID BOYTER TO THE  
INTERROGATORIES AND REQUESTS FOR PRODUCTION OF  
DOCUMENTS OF HIDDEN VALLEY UTILITY SERVICES, LP  
(SET I)

Docket No. A-00230101 & Docket No. A-00210117

9. Describe all witnesses you plan to call other than expert witnesses.

At this time, Angela and/or David Boyter would be the only witnesses.

**RESPONSES OF ANGIE AND DAVID BOYTER TO THE  
INTERROGATORIES AND REQUESTS FOR PRODUCTION OF  
DOCUMENTS OF HIDDEN VALLEY UTILITY SERVICES, LP  
(SET I)**

Docket No. A-00230101 & Docket No. A-00210117

10. Identify expert witnesses.

None planned at this time

**RESPONSES OF ANGIE AND DAVID BOYTER TO THE  
INTERROGATORIES AND REQUESTS FOR PRODUCTION OF  
DOCUMENTS OF HIDDEN VALLEY UTILITY SERVICES, LP  
(SET I)**

Docket No. A-00230101 & Docket No. A-00210117

11. Describe qualifications of experts.

Not Applicable.

**RESPONSES OF ANGIE AND DAVID BOYTER TO THE  
INTERROGATORIES AND REQUESTS FOR PRODUCTION OF  
DOCUMENTS OF HIDDEN VALLEY UTILITY SERVICES, LP  
(SET I)**

Docket No. A-00230101 & Docket No. A-00210117

12. Identify and provide copies of all documents or other objects you intend to present as exhibits at the hearing in this matter.

Any and all documents, testimony, or other evidence relevant to this assertion will be submitted with the complainants' direct testimony that will be distributed in due course when the formal litigation dates are established by the presiding Administrative Law Judge. The complainants are amenable to providing ample time in the litigation schedule for the Respondent to analyze any and all documents accompanying the distributed Complainant testimony before the required date of distribution of Respondent's response testimony.

**David & Angie Boyter**  
3914 MacAlpine Road  
Ellicott City, MD 21042  
(410)465-1444 Fax: (410) 465-0797

DOCUMENT

[boyter@sprynet.com](mailto:boyter@sprynet.com)

April 20, 2004

James McNulty, Secretary  
Pennsylvania Public Utility Commission  
P. O. Box 3265  
Harrisburg, PA 17105-3265

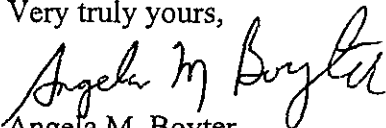
Re: Supplementary Response to interrogatories and requests for production of documents (Set I) from Hidden Valley Utility Services, L.P re Application of Hidden Valley Utility Services, L.P., for Approval to offer, render, furnish, or supply water and wastewater service to the public in Hidden Valley, Pennsylvania Pa PUC Docket Nos. A-00210117 and A-00230101

Dear Secretary McNulty,

Enclosed please find an original and three (3) copies of a Certificate of Service for David and Angela Boyter's supplementary responses to Hidden Valley Utility Services, L.P.'s, Interrogatories and Request for Production of Documents Set I in the above-referenced matters served upon all parties of record as of this time. We are sending this supplementary information pursuant to a phone conversation we had with Carl Engleman, Jr., Esq. on April 19, 2004,

If you have any questions, please contact us.

Very truly yours,



Angela M. Boyter

C: As per Certificate of Service

RECEIVED  
PA. P.U.C.  
SECRETARY'S BUREAU  
04 APR 26 AM 9:46

BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

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

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

DOCKETED  
MAY 13 2004

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a copy of the Boyters' supplementary response to the to Hidden Valley Utility Services, L.P.'s, Interrogatories and Request for Production of Documents Set I in the above-referenced matters upon the individuals listed below.

Service by First Class mail, postage prepaid, as follows:

James Beener , Esq.  
Barbera, Clapper, Beener, Rullo, & Melvin  
145 W.Main Street  
PO Box 775  
Somerset, PA 15501


Christine Maloni Hoover  
Office of Consumer Advocate  
555 Walnut Street  
5thFloor, Forum Place  
Harrisburg, PA 17101-1923

Jeffrey Franklin, Esq.  
Carl J. Engleman, Jr., Esq.  
Ryan, Russell, Ogden & Seltzer LLP  
100 Berkshire Boulevard, Suite 301  
Wyomissing, PA 19610-1221

DOCUMENT

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

Dated : April 20, 2004

  
Angela M. Boyter  
3914 MacAlpine Road  
Ellicott City, MD 21042

LAW OFFICES  
RYAN, RUSSELL, OGDEN & SELTZER LLP

ORIGINAL

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

DOCUMENT  
FOLDER

May 7, 2004

James J. McNulty, Secretary  
Pennsylvania Public Utility Commission  
P.O. Box 3265  
Harrisburg, Pennsylvania 17105-3265

Re: Responses of Hidden Valley Utility Services, L.P. to OCA's  
Interrogatories and Request for Production of Documents  
Docket Nos. A-210117 and A-230101

RECEIVED  
MAY 10 AM 9:13  
SECRETARY'S BUREAU

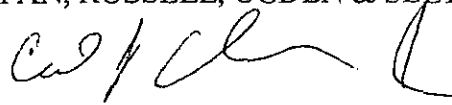
Dear Secretary McNulty:

Enclosed please find an original and three (3) copies of a Certificate of Service for the Responses of Hidden Valley Utility Services, L.P.'s to the Interrogatories and Request for Production of Documents propounded by the Office of Consumer Advocate in the above-referenced matters served upon all parties of record as of this date.

If you have any questions, please contact us.

Very truly yours,

RYAN, RUSSELL, OGDEN & SELTZER LLP



Carl J. Engleman, Jr.  
Jeffrey A. Franklin

Counsel for Hidden Valley Utility Services, L.P.

CJE:jag

c: As per Certificate of Service

BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

ORIGINAL

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:

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 :

SECRETARY'S OFFICE  
MAY 10 AM 9:33  
HARRISBURG, PA

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a copy of the Responses of Hidden Valley Utility Services, L.P. to the Interrogatories and Requests for Production of Documents of the Office of Consumer Advocate in the above-captioned matters upon the individuals listed below, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant).

Service by First Class Mail, postage prepaid, as follows:

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


Hidden Valley Resort  
1 Craighead Drive, Suite 300  
Hidden Valley, PA 15502

Charles David Shields  
Office of Trial Staff  
P.O. Box 3265  
Harrisburg, PA 17105-3265

Christine Maloni Hoover  
Office of Consumer Advocate  
555 Walnut Street  
5<sup>th</sup> Floor, Forum Place  
Harrisburg, PA 17101-1923

James F. Beener, Esquire  
~~Barbera, Clapper, Beener, Rullo & Melvin~~  
146 West Main Street  
P.O. Box 775  
Somerset, PA 15501-0775

Dated: May 7, 2004



Carl J. Engleman, Jr.  
Jeffrey A. Franklin  
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.



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

IN REPLY PLEASE  
REFER TO OUR FILE

June 15, 2004

In Re: A-210117 & A-230101

(SEE ATTACHED LIST)

**Application of Hidden Valley Utility Services, LP**

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

**NOTICE**

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

Type: Initial Prehearing Conference  
Date: Monday, August 9, 2004  
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

DOCUMENT  
FOLDER

**DOCKETED**  
JUN 18 2004

DOCUMENT  
FOLDER

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  
Dawn Reitenbach  
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

LAW OFFICES  
RYAN, RUSSELL, OGDEN & SELTZER LLP

ORIGINAL

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

June 22, 2004

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JUN 22 2004

PA PUBLIC UTILITY COMMISSION  
SECRETARY'S BUREAU

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

Re: Answer of Hidden Valley Utility Services, L.P. to the Complaint  
of Edwin C. Miller et al and Hidden Valley Utility Services, L.P.'s  
Motion to Dismiss the Complaint of Edwin C. Miller et al  
Docket Nos. A-230101 and A-210117

Dear Secretary McNulty:

Enclosed please find an original and three (3) copies of the Answer and  
New Matter of Hidden Valley Utility Services, L.P. to the Complaint of Edwin C. Miller  
et al. and Hidden Valley Utility Services, L.P.'s Motion to Dismiss the Complaint of  
Edwin C. Miller et al. Copies of each of these documents have been served upon all  
parties of record as evidenced in the attached Certificate of Service.

If you have any questions, please feel free to contact us at any time.

Very truly yours,

RYAN, RUSSELL, OGDEN & SELTZER LLP

*Carl J. Engleman, Jr.*

Carl J. Engleman, Jr.  
Counsel for Hidden Valley Utility Services, L.P.

CJE:jag

Enclosures

c: As per Certificate of Service  
Administrative Law Judge Corbett

DOCUMENT  
FOLDER

47

BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

In re: Application of Hidden Valley Utility :  
Services, L.P. for approval to begin to offer, :  
render, furnish or supply wastewater service :  
to the public in Hidden Valley, Pennsylvania:

Application Docket  
No. A-230101

RECEIVED

JUN 22 2004

In re: Application of Hidden Valley Utility :  
Services, L.P. for approval to begin to offer, :  
render, furnish or supply water service to the :  
public in Hidden Valley, Pennsylvania :

Application Docket  
No. A-210117

PA PUBLIC UTILITY COMMISSION  
SECRETARY'S BUREAU

CERTIFICATE OF SERVICE

I hereby certify that I have this day served copies of the Answer and New Matter of Hidden Valley Utility Services, L.P. to the Complaint of Edwin C. Miller et al. and Hidden Valley Utility Services, L.P. Motion to Dismiss the Complaint of Edwin C. Miller et al. in the above-captioned matters upon the individuals listed below, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant).

Service by First Class Mail, postage prepaid, as follows:

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

Hidden Valley Resort  
1 Craighead Drive, Suite 300  
Hidden Valley, PA 15502

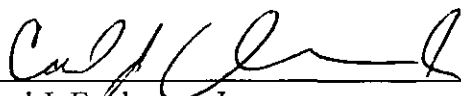
Charles David Shields  
Office of Trial Staff  
P.O. Box 3265  
Harrisburg, PA 17105-3265

Christine Maloni Hoover  
Office of Consumer Advocate  
555 Walnut Street  
5<sup>th</sup> Floor, Forum Place  
Harrisburg, PA 17101-1923

James F. Beener, Esquire  
Barbera, Clapper, Beener, Rullo & Melvin  
146 West Main Street  
P.O. Box 775  
Somerset, PA 15501-0775

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

Dated: June 22, 2004

  
\_\_\_\_\_  
Carl J. Engleman, Jr.  
Jeffrey A. Franklin  
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.

ORIGINAL

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BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

JUN 22 2004

PA PUBLIC UTILITY COMMISSION  
SECRETARY'S BUREAU

EDWIN C. MILLER *et al.*

v.

HIDDEN VALLEY RESORT, L.P.

Docket Nos. A-210117  
A-230101

**ANSWER AND NEW MATTER OF HIDDEN VALLEY UTILITY SERVICES,  
L.P. TO THE COMPLAINT OF EDWIN C. MILLER ET AL.**

TO THE PENNSYLVANIA PUBLIC UTILITY COMMISSION:

AND NOW, Hidden Valley Utility Services, L.P. ("HVUS"), by and through its counsel, Jeffrey A. Franklin, Carl J. Engleman, Jr. and Ryan, Russell, Ogden & Seltzer LLP, answers the above Complaint pursuant to Section 5.61 of this Commission's regulations, 52 Pa. Code § 5.61, as follows:

1. Admitted in part and denied in part. It is admitted that Edwin C. Miller's address is 203 Imperial Road, PO Box 4143, Hidden Valley, PA. It is denied that all signatories of the filing reside at Mr. Miller's address.

2. Denied. Hidden Valley Resort, L.P. ("HVR") is not a party to this proceeding.

3. For purposes of this Answer, the several sentences of this paragraph have been restated and answered as they appear as follows:

- 1) For a number of years, Hidden Valley Resort, (HVR) has been operating a *de facto* public utility, supplying water and wastewater service to approximately 1000 residents of Hidden Valley Resort using the Hidden Valley Foundation (Foundation) as a billing agent.

**DOCKETED**  
JUL 19 2004

**DOCUMENT  
FOLDER**

Admitted in part and denied in part. It is admitted 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. It is specifically denied that Hidden Valley Resort is a *de facto* public utility or that Hidden Valley Resort operated as such at any time.

- 2) **Under the provision of the Foundation documents, the developer, HVR, has 5 of the 9 seats on the Board of the foundation and exercises voting control.**

Denied. This sentence contains no averment of fact or allegation of a violation of any applicable law, regulation or tariff to which a responsive answer is required. By way of further answer, any "Foundation documents" speak for themselves.

- 3) **A resort employee reads the water meters and sends billing information to the Foundation which issues the bills.**

Denied. This sentence contains no averment of fact or allegation of a violation of any applicable law, regulation or tariff to which a responsive answer is required.

- 4) **The water and waste water service is provided to the public for compensation in violation of 66 Pa. C.S. Sec 1101, by not obtaining a certificate of public convenience to provide these services.**

Denied. This sentence contains a conclusion of law to which no responsive answer is required. To the extent any answer is required, any allegations in this sentence are denied.

- 5) **HVR has recently entered in an agreement with the Public Utility Commission to apply for this certificate. Docket numbers A-210117 and A-230101.**

Denied as stated. It is specifically denied that HVR is applying for any certificate in the proceedings at docket numbers A-210117 and A-230101. By way of further answer, the Applicant in the referenced proceeding is HVUS.

**6) Under 66 Pa. C.S. Sec 1301, the rates charged for these services are considered unjust and unreasonable.**

Denied. This paragraph contains a conclusion of law to which no responsive answer is required. To the extent any answer is required, any allegations in this sentence are denied.

4. The allegations in this paragraph constitute a prayer for relief to which no responsive pleading is required.

**NEW MATTER**

5. Edwin C. Miller and a number of other individuals who are not listed by name, only by their signature, filed a Formal Complaint that referenced Docket numbers A-210117 and A-230101.

6. HVUS was never served with the Formal Complaint by the Commission or the Complainants. HVUS was informed of Complainants' filing by the Pennsylvania Public Utility Commission Office of Consumer Advocate ("OCA"). The OCA provided counsel for HVUS with a copy of the Complaint.

7. The Applicant at Docket Numbers A-210117 and A-230101 is HVUS, a Pennsylvania Limited Partnership that seeks to provide water and wastewater service as a public utility.

8. The Complainants' Formal Complaint alleges specific conduct by Hidden Valley Resort, L.P., a wholly distinct and separate entity from HVUS and an entity not part of this proceeding.

9. Contemporaneous with the filing of this Answer and New Matter, HVUS is filing a Motion to Dismiss this Formal Complaint, which is incorporated herein by reference.

WHEREFORE, Hidden Valley Utility Services, L.P. hereby requests that the Complaint of Edwin C. Miller *et al* be dismissed with prejudice.

Respectfully submitted,

Dated: June 22, 2004



Carl J. Engleman, Jr.  
Attorney I.D. 82070  
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.

BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

EDWIN C. MILLER *et al.*

v.

HIDDEN VALLEY RESORT, L.P.

:  
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:  
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Docket Nos. A-210117  
A-230101

**HIDDEN VALLEY UTILITY SERVICES, L.P. MOTION TO DISMISS  
THE COMPLAINT OF EDWIN C. MILLER ET AL.**

TO THE PENNSYLVANIA PUBLIC UTILITY COMMISSION:

AND NOW, Hidden Valley Utility Services, L.P. ("HVUS"), by and through its counsel, Jeffrey A. Franklin, Carl J. Engleman, Jr. and Ryan, Russell, Ogden & Seltzer LLP, files this Motion to Dismiss the Complaint of Edwin C. Miller *et al* ("Complainants") pursuant to Section 5.101 of this Commission's regulations, 52 Pa. Code § 5.101, as follows:

**Background**

1. Complainants commenced this action by filing a Formal Complaint at the above-referenced docket numbers against Hidden Valley Resort, L.P. ("HVR"). A copy of the Complaint is attached hereto as Exhibit A.
2. The Applicant in the proceedings at the above-referenced docket numbers is HVUS.
3. HVUS is a Pennsylvania Limited Partnership formed for the purpose of providing water and wastewater services to the public under the regulation of the Pennsylvania Public Utility Commission ("Commission").
4. HVUS is an entirely separate entity from HVR.

5. HVR is not a party to this proceeding.

**Legal Standard**

6. It is well-settled law in the Commonwealth of Pennsylvania that “[A] motion to dismiss a complaint with challenges the sufficiency of the complaint is similar to a preliminary objection in the nature of a demurrer. Yesteryear Corporation, d/b/a Angelo’s Restaurant v. Philadelphia Electric Company, 1992 Pa. PUC LEXIS 106 at 8 (1992).

7. A judge may only grant a motion to dismiss “if the complaint is clearly insufficient to establish the complainant’s right to relief.” Id.

8. To test the legal sufficiency of a complaint, “all well-pleaded, material, relevant facts, and every inference deducible from those facts” are admitted as true. Id.

9. Conclusions or averments of law are not admitted as true by a demurrer. Id.

10. A motion to dismiss should be sustained “only in cases that clearly and without a doubt fail to state a claim for which relief may be granted. Id.

**Motion to Dismiss**

11. Complainants do not cite or allege any violation by HVUS of any tariff or the Public Utility Code. Complainants also do not set forth any conduct by HVUS in violation or claimed violation of any statute or regulation which the Commission has jurisdiction to enforce as required by 66 Pa. C.S.A. § 701 and 52 Pa. Code § 5.22(a)(4).

12. Complainants do not purport to be customers of HVUS and have no relationship with HVUS.

13. Indeed, Complainants' filing alleges conduct by HVR, a non-party to this proceeding, and raises issues outside the scope of this proceeding.

14. If this Commission accepts all of Complainants' well pleaded, material, relevant facts, and every inference deducible from those facts as true, it is clear that Complainants' filing is wholly insufficient to establish any right of relief from HVUS.

15. Complainants' filing clearly and without a doubt fails to state a claim against HVUS for which relief may be granted.

WHEREFORE, Hidden Valley Utility Services, L.P. hereby requests that the Complaint of Edwin C. Miller *et al* be dismissed with prejudice.

Respectfully submitted,

Dated: June 22, 2004



Carl J. Engleman, Jr.  
Attorney I.D. 82070  
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.

**EXHIBIT A**

ORIGINAL

"Protest"

Pennsylvania Public Utility Commission

SECRETARY'S BUREAU

2004 MAR -4 AM 3:13

RECEIVED

Docket Numbers A-210117 and ~~A-230101~~

1. Your name, mailing address, and telephone number.

Edwin C Miller, *et al*  
203 Imperial Road, PO Box 4143, Hidden Valley, Pa. 15502 Somerset County.  
814-444-8161

2. Name of company your complaint concerns.

Hidden Valley Resort, L.P.

**DOCKETED**  
MAR 12 2004

3. What is your complaint.

For a number of years, Hidden Valley Resort (HVR) has been operating a *de facto* public utility, supplying water and wastewater service to approximately 1000 residents of Hidden Valley Resort using The Hidden Valley Foundation (Foundation) as a billing agent. Under the provision of the Foundation documents, the developer, HVR, has 5 of the 9 seats on the Board of the Foundation and exercises voting control. A resort employee reads the water meters and sends the billing information to the Foundation which issues the bills.

The water and waste water service is provided to the public for compensation in violation of 66 Pa. C.S. Sec 1101, by not obtaining a certificate of public convenience to provide these services. HVR has recently entered in an agreement with the Public Utility Commission to apply for this certificate. Docket numbers A-210117 and A-230101. Under 66 Pa. C.S. Sec 1301, the rates charged for these services are considered unjust and unreasonable.

4. What do you want the Public Utility Commission to do about your complaint.

We request refunds pursuant to Section 1312, on the grounds that the company collected rates while it was operating without a Certificate of Public Convenience to provide service.

DOCUMENT  
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50

5. You must sign and date your complaint below.

[Signature]  
Signature

2/27/04  
Date

[Signature]  
Signature

2/27/04  
Date

[Signature]  
Signature

2/27/04  
Date

[Signature]  
Signature

2/27/04  
Date

[Signature]  
Signature

3/1/04  
Date

[Signature]  
Signature

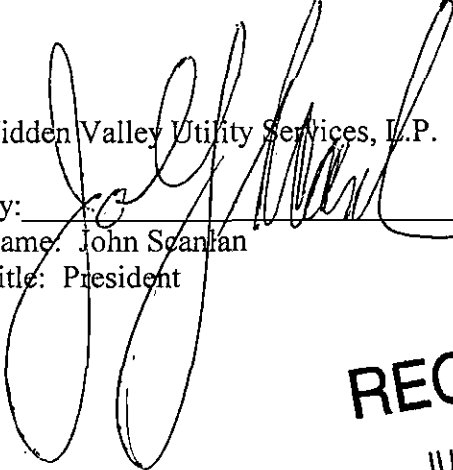
3/1/04  
Date

VERIFICATION

I hereby state that the facts set forth in the Answer and New Matter of Hidden Valley Utility Services, L.P. to the Complaint of Edwin C. Miller et al. and Hidden Valley Utility Services, L.P.'s Motion to Dismiss the Complaint of Edwin C. Miller et al. are true and correct to the best of my knowledge, information and belief and that I expect Hidden Valley Utility Services, L.P. to be able to prove the same at any hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa. C.S. § 4904 (relating to unsworn falsification to authorities).

Date: 6-14-04, 2004

Hidden Valley Utility Services, L.P.

By:   
Name: John Scanlan  
Title: President

Sworn to and subscribed before me this 18 day of JUNE, 2004.

  
Notary Public

**RECEIVED**

JUN 22 2004

PA PUBLIC UTILITY COMMISSION  
SECRETARY'S BUREAU

NOTARIAL SEAL  
WENDY S. RITZENOUR, NOTARY PUBLIC  
JEFFERSON TWP, SOMERSET COUNTY  
MY COMMISSION EXPIRES OCT. 18, 2007

ORIGINAL

LAW OFFICES

RYAN, RUSSELL, OGDEN & SELTZER LLP

SUITE 330

1105 BERKSHIRE BOULEVARD

WYOMISSING, PENNSYLVANIA 19610-1222

TELEPHONE: (610) 372-4761

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WWW.RYANRUSSELL.COM

HARRISBURG OFFICE

SUITE 101

800 NORTH THIRD STREET

HARRISBURG, PENNSYLVANIA

17102-2025

TELEPHONE: (717) 236-7714

FACSIMILE: (717) 236-7816

July 9, 2004

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JUL - 9 2004

VIA UPS OVERNIGHT

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

PA PUBLIC UTILITY COMMISSION  
SECRETARY'S BUREAU

Re: Answer and New Matter of Hidden Valley Utility Services, L.P. to  
the Complaint of Susan Ardisson and Joseph Decker  
Docket Nos. A-230101 and A-210117

Dear Secretary McNulty:

Enclosed please find an original and three (3) copies of the Answer and New Matter of Hidden Valley Utility Services, L.P. to the Complaint of Susan Ardisson and Joseph Decker. Copies of each of these documents have been served upon all parties of record as evidenced in the attached Certificate of Service.

If you have any questions, please feel free to contact us at any time.

Very truly yours,

RYAN, RUSSELL, OGDEN & SELTZER LLP



Carl J. Engleman, Jr.  
Counsel for Hidden Valley Utility Services, L.P.

CJE:jag  
Enclosures

c: As per Certificate of Service

DOCUMENT  
FOLDER

61

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:

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 the Answer and New Matter of Hidden Valley Utility Services, L.P. to the Complaint of Susan Ardisson and Joseph Decker in the above-captioned matters 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:

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

Susan Ardisson & Joseph Decker  
76 Sunnyhill Drive  
Mt. Lebanon, PA 15228

Dated: July 9, 2004



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

**RECEIVED**

JUL - 9 2004

PA PUBLIC UTILITY COMMISSION  
SECRETARY'S BUREAU

Attorneys for  
Hidden Valley Utility Services, L.P.

VERIFICATION

I hereby state that the facts set forth in the Answer and New Matter of Hidden Valley Resort, L.P. to the Complaint of Susan Ardisson and Joseph Decker are true and correct to the best of my knowledge, information and belief and that I expect Hidden Valley Resort, L.P. to be able to prove the same at any hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa. C.S. § 4904 (relating to unsworn falsification to authorities).

Date: 7-7, 2004

Hidden Valley Resort, L.P.

By: \_\_\_\_\_  
Name: John Scanlan  
Title: President

Sworn to and subscribed before  
me this 7<sup>th</sup> day of July, 2004.

Wendy S. Ritenour  
Notary Public



ORIGINAL

RECEIVED

JUL - 9 2004

BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION PA PUBLIC UTILITY COMMISSION  
SECRETARY'S BUREAU

SUSAN ARDISSON & JOSEPH DECKER :

v. :

Docket Nos. A-210117  
A-230101

HIDDEN VALLEY RESORT, L.P. :

**ANSWER AND NEW MATTER OF HIDDEN VALLEY RESORT TO THE  
COMPLAINT OF SUSAN ARDISSON & JOSEPH DECKER**

TO THE PENNSYLVANIA PUBLIC UTILITY COMMISSION:

AND NOW, Hidden Valley Resort. ("HVR"), by and through its counsel, Jeffrey A. Franklin, Carl J. Engleman, Jr. and Ryan, Russell, Ogden & Seltzer LLP, answers the above Complaint of Susan Ardisson & Joseph Decker ("Complainants") pursuant to Section 5.61 of this Commission's regulations, 52 Pa. Code § 5.61, as follows:

1. Admitted in part and denied in part. It is admitted that Susan Ardisson and Joseph Decker have an address 76 Sunnyhill Drive, Mt. Lebanon, Pennsylvania. It is denied that this address is part of HVR.

2. Denied. HVR does not provide water service directly to the Complainants. Rather, the Hidden Valley Foundation, a bona fide homeowners association, provides water service to the Complainants. HVR merely provides water to Hidden Valey Foundation.

3. For purposes of this Answer, the several sentences of this paragraph have been restated and answered as they appear as follows:

- 1) My complaint is about repeated occasions where my drinking water is brown—the color of tea.

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AUG 12 2004

**DOCUMENT  
FOLDER**

Denied. After reasonable investigation, HVR lacks knowledge necessary to form a belief as to the truth or falsity of the averments above, if any, and demands strict proof, if relevant, at hearing.

**2) This can last for days.**

Denied. After reasonable investigation, HVR lacks knowledge necessary to form a belief as to the truth or falsity of the averments above, if any, and demands strict proof, if relevant, at hearing.

**3) It is not drinkable or usable.**

Denied. After reasonable investigation, HVR lacks knowledge necessary to form a belief as to the truth or falsity of the averments above, if any, and demands strict proof, if relevant, at hearing. By way of further answer, all drinking water HVR provides to the Hidden Valley Foundation meets all applicable Federal and Commonwealth safe drinking water standards and guidelines at the point of connection to the Hidden Valley Foundation's system. Any change in the quality of water provided to the Hidden Valley Foundation is a result of activities of the Hidden Valley Foundation, not HVR.

**4) I have also been repeatedly overbilled.**

Denied. After reasonable investigation, HVR lacks knowledge necessary to form a belief as to the truth or falsity of the averments above, if any, and demands strict proof, if relevant, at hearing. By way of further answer, The Hidden Valley Foundation, not HVR is responsible for billing the Complainants.

**5) For example, this past quarter I used approximately 200 gallons and was billed for 2000 gallons.**

Denied. After reasonable investigation, HVR lacks knowledge necessary to form a belief as to the truth or falsity of the averments above, if any, and demands strict proof, if relevant, at hearing. By way of further answer, The Hidden Valley Foundation, not HVR is responsible for billing the Complainants.

4. The allegations in this paragraph constitute a prayer for relief to which no responsive pleading is required.

**NEW MATTER**

5. Susan Ardisson and Joseph Decker own property located at 2212 South Ridge Terrace, Hidden Valley, Somerset County, Pennsylvania.

6. HVR was served with the Complaint on June 17, 2004.

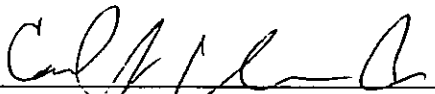
7. HVR provides bulk water service to the Hidden Valley Foundation, a bona fide homeowners association.

8. The Complainants' Formal Complaint alleges specific conduct by HVR that is more properly attributable to the Hidden Valley Foundation.

WHEREFORE, Hidden Valley Resort hereby requests that the Complaint of Susan Ardisson and Joseph Decker be dismissed with prejudice.

Respectfully submitted,

Dated: July 8, 2004

  
\_\_\_\_\_  
Carl J. Engleman, Jr.  
Attorney I.D. 82070  
RYAN, RUSSELL, OGDEN & SELTZER LLP  
1105 Berkshire Boulevard, Suite 330  
Wyomissing, Pennsylvania 19610-1222  
(610) 372-4761

Attorneys for  
Hidden Valley Resort, L.P.



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

IN REPLY PLEASE  
REFER TO OUR FILE

July 12, 2004

In Re: A-~~00~~210117  
A-~~00~~230101

(SEE LETTER OF 6-15-04)

**DOCUMENT  
FOLDER**

Application of Hidden Valley Utility Services, LP  
A-00210117 - Water Application  
A-00230101 - Wastewater Application

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

**Hearing Cancellation/Reschedule Notice**

This is to inform you that the initial pre-hearing  
conference on the above-captioned case previously scheduled for  
August 9, 2004 has been canceled.

The hearing has been rescheduled as follows:

Type: Initial Telephonic Pre-hearing Conference  
Date: Thursday, August 5, 2004  
Time: 10:00 a. m.  
Presiding: Administrative Law Judge John H. Corbett, Jr.  
1103 Pittsburgh State Office Building  
300 Liberty Avenue  
Pittsburgh, Pennsylvania 15222  
Telephone (412) 565-3550  
Fax: (412) 565-5692

**DOCKETED**  
SEP 08 2004

Call in instructions will be provided by separate letter.

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

8 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

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

3 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

5 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