

LAW OFFICES
BRYDON, SWEARENGEN & ENGLAND
PROFESSIONAL CORPORATION

DAVID V.G. BRYDON
JAMES C. SWEARENGEN
WILLIAM R. ENGLAND, III
JOHNNY K. RICHARDSON
GARY W. DUFFY
PAUL A. BOUDREAU
SONDRA B. MORGAN
CHARLES E. SMARR

312 EAST CAPITOL AVENUE
P.O. BOX 458
JEFFERSON CITY, MISSOURI 65102-0458
TELEPHONE (573) 635-7166
FACSIMILE (573) 635-3847
E-Mail: dcooper@brydonlaw.com

DEAN L. COOPER
MARK G. ANDERSON
GREGORY C. MITCHELL
BRIAN T. MCCARTNEY
DIANA C. FARR
JANET E. WHEELER

OF COUNSEL
RICHARD T. CIOTTONE

May 20, 2004

Mr. Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge
Missouri Public Service Commission
P.O. Box 360
Jefferson City, Missouri 65102

FILED⁴
MAY 20 2004
Missouri Public
Service Commission

RE: *In the Matter of the Application of Highway H Utilities, Inc. for a certificate of convenience and necessity authorizing it to construct, install, own, operate, control, manage and maintain water and sewer systems for the public in an unincorporated area of Pulaski County, Missouri*

Dear Mr. Roberts:

Enclosed for filing on behalf of Highway H. Utilities, Inc. are the original and eight (8) copies of its Application and Motion for Waiver.

Please do not hesitate to contact me with any questions.

Thank you for your attention to this matter.

Sincerely,

BRYDON, SWEARENGEN & ENGLAND P.C.

By:


Dean L. Cooper

DLC/jar

Enclosures

cc: Office of the General Counsel
Office of the Public Counsel

**BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI**

In the Matter of the Application of)
Highway H Utilities, Inc. for a)
certificate of convenience and necessity)
authorizing it to construct, install, own,)
operate, control, manage and maintain)
water and sewer systems for the public in)
an unincorporated area of Pulaski)
County, Missouri.)

Case No. _____

FILED⁴

MAY 20 2004

**APPLICATION AND
MOTION FOR WAIVER**

Missouri Public
Service Commission

COMES NOW Highway H Utilities, Inc. ("Highway H" or "Company"), in accordance with §393.170, RSMo (2000), 4 CSR 240-3.305, 4 CSR 240-3.600 and 4 CSR 240-2.060, and, for its application for a certificate of convenience and necessity authorizing it to construct, install, own, operate, control, manage and maintain water and sewer systems for the public in an unincorporated area of Pulaski County, Missouri, and motion for waiver, states to the Missouri Public Service Commission ("Commission") as follows:

BACKGROUND

1. Highway H is a Missouri corporation duly organized and existing under the laws of the State of Missouri with its principal office and place of business located at Post Office Box 308, H Highway East Outer Road, Waynesville, Missouri. Highway H is engaged in the provision of water and sewer service pursuant to certificates of convenience and necessity issued by this Commission in Cases Nos. WA-90-26, WA-91-127, WA-91-128. Highway H is a public utility as that term is defined in Section 386.020(32), RSMo 2000. As such, Highway H is subject to the jurisdiction, regulation, supervision, and control of the Commission insofar as it provides water and

sewer service to the public in the State of Missouri. Marked Appendix 1, attached hereto and made a part hereof for all purposes, is a certified copy of Highway H's Certificate of Corporate Good Standing as issued by the Secretary of State of the State of Missouri. Highway H has no pending action or final unsatisfied judgments or decisions against it from any state or federal agency or court which involve customer service or rates. Highway H has no annual report or assessment fees which are overdue.

2. Correspondence, communications, orders and decisions regarding this matter should be addressed to the undersigned attorney and:

Mr. Jerry Laughlin
Highway H Utilities, Inc.
P. O. Box 308
Waynesville, MO 65583
(573) 774-5300
(573) 774-5565 facsimile

APPLICATION

3. By this application, the Company seeks permission, approval and a certificate of convenience and necessity authorizing it to construct, install, own, operate, control, manage and maintain a water and sewer system for the public in an unincorporated area of Pulaski County, Missouri. The area is known as the "Northern Heights Estates Subdivision." There is no other same or similar utility service, regulated or nonregulated, available in the area which is the subject of this application.

4. The proposed certificated area is located just north of Waynesville and east of Missouri Highway 17, in Pulaski County, in portions of Section 12 and 13 of Township 36 North, Range 12 West. The area encompasses approximately 187 acres which will be developed into 120

single family home lots (117 lots will be buildable). Attached hereto as **Appendix 2** is a description of the entire area proposed to be served. Attached hereto as **Appendix 3** is map of the area proposed to be served.

5. Marked as **Appendix 4**, attached hereto, and made a part hereof for all purposes, is a feasibility study for the sewer system containing specifications for the utility system and the estimated cost of the construction during the first three years of construction; plans for financing; proposed rates and charges; and an estimate of the number of customers, revenues and expenses during the first three (3) years of operations.

6. Marked as **Appendix 5**, attached hereto, and made a part hereof for all purposes, is a feasibility study for the water system containing specifications for the utility system and the estimated cost of the construction during the first three years of construction; plans for financing; proposed rates and charges; and an estimate of the number of customers, revenues and expenses during the first three (3) years of operations.

7. Highway H is qualified to manage the proposed water and sewer system. Highway H has actual experience in this area as it has operated regulated utility systems in Pulaski County, Missouri subject to the Commission's jurisdiction since 1990.

8. As described in the feasibility study, there are plans for construction of facilities to establish the proposed systems.

9. The names and addresses of all residents and/or land owners in the area proposed to be served is attached hereto as **Appendix 6**.

10. There are no municipalities located within the proposed service area. No consent by franchise from a county is required for the completion of this project. Thus, no approval from

affected governmental bodies is required. Highway H does have construction applications pending with the Missouri Department of Natural Resources for both the water and sewer systems.

11. The granting of this application is in the public interest because it will present an opportunity for the public in the area proposed to be served to obtain and utilize safe and adequate water and sewer service regulated by the Commission.

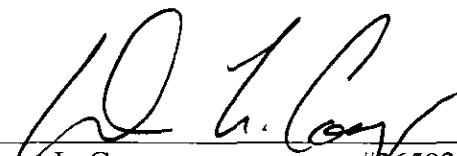
MOTION FOR WAIVER

12. Commission Rules 4 CSR 240-3.305(1)(A)5 and 4 CSR 240-3.600(1)(A)5 each require that “plans . . . for the utility system” be provided with an application for a certificated area. The plans that Highway H has available for review are “blue prints” that are large, unwieldy and not conducive to either making multiple copies or filing in electronic format. These plans are available for review by Commission Staff, the Office of Public Counsel or other intervenors at counsel’s office in Jefferson City. Accordingly, Highway H hereby requests a waiver from Commission Rules 4 CSR 240-3.305(1)(A)5 and 4 CSR 240-3.600(1)(A)5 such that it is not required to file the “plans . . . for the utility system” with this application.

WHEREFORE, Highway H Utilities, Inc. respectfully requests that the Commission issue its order:

- (a) Granting the waiver requested herein;
- (b) Granting Highway H Utilities, Inc. permission, approval and a certificate of convenience and necessity authorizing it to construct, install, own, operate, control, manage and maintain water and sewer systems for the public in an unincorporated area of Pulaski County, Missouri, as is more particularly described herein; and,
- (c) Granting such further relief as the Commission deems appropriate.

Respectfully submitted,



Dean L. Cooper

#06593

BRYDON, SWEARENGEN & ENGLAND P.C.

P.O. Box 456

Jefferson City, MO 65102-0456

(573) 635-7166

(573) 635-3847 fax


dcooper@brydonlaw.com

ATTORNEYS FOR HIGHWAY UTILITIES, INC.

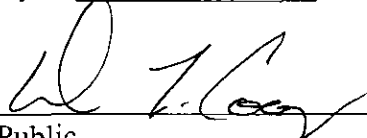
AFFIDAVIT


State of Missouri)
) ss
County of Cole)

I, Jerry Laughlin, having been duly sworn upon my oath, state that I am the Ag + Manager of Highway H Utilities, Inc., that I am duly authorized to make this affidavit on behalf of the Highway H Utilities, Inc. and that the matters and things stated in the foregoing Application and appendices thereto are true and correct to the best of my information, knowledge and belief.


Jerry Laughlin

Subscribed and sworn before me this 11th day of MAY, 2004.


Notary Public

My Commission Expires:
 DEAN L. COOPER
Cole County
My Commission Expires
November 13, 2006

STATE OF MISSOURI



Matt Blunt
Secretary of State


**CORPORATION DIVISION
CERTIFICATE OF GOOD STANDING**

I, MATT BLUNT, Secretary of the State of Missouri, do hereby certify that the records in my office and in my care and custody reveal that

**HIGHWAY H UTILITIES, INC.
00330631**

was created under the laws of this State on the 27th day of July, 1989, and is in good standing, having fully complied with all requirements of this office.

IN TESTIMONY WHEREOF, I have set my hand and imprinted the GREAT SEAL of the State of Missouri, on this, the 19th day of May, 2004


Secretary of State



Certification Number: 6718512-1 Page 1 of 1 Reference:
Verify this certificate online at <http://www.sos.mo.gov/businessentity/verification>

APPENDIX 2

LEGAL DESCRIPTION OF AREA TO BE CERTIFICATED

The following described lots, tracts or parcels of land, lying, being and situate in the County of Pulaski and State of Missouri, to wit:

All of the West half of the Southwest quarter of Section 12, Township 36 North, Range 12 West of 5th P.M.

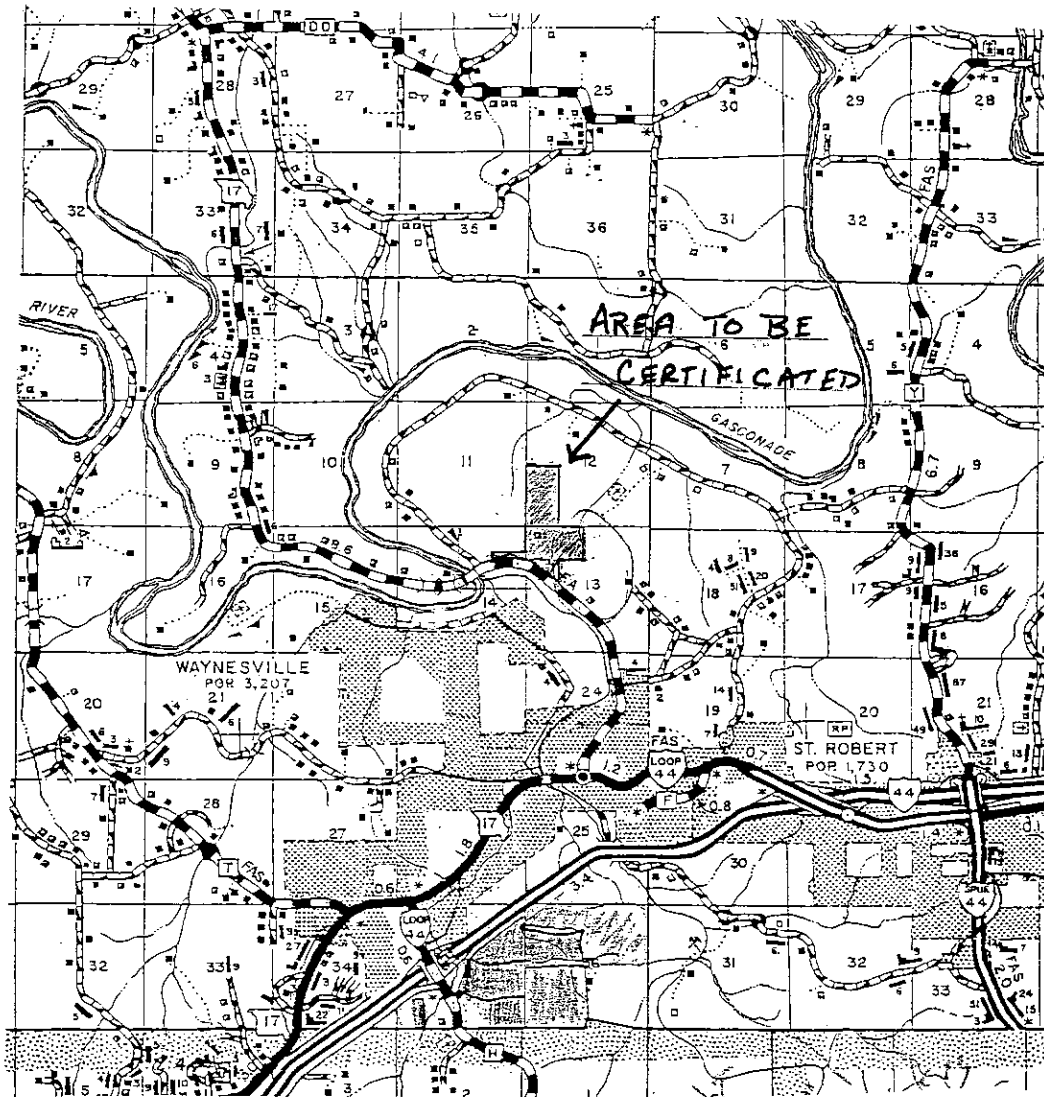
ALSO All of the North half of the Northwest quarter, and all that part of the Southwest quarter of Northwest quarter lying North and East of Missouri Highway #17, in Section 13, Township 36 North, Range 12 West of 5th P.M.

ALSO All that part of the Southeast quarter of Northeast quarter of Section 14, Township 36 North, Range 12 West of 5th P.M. described as follows: Beginning at the Northwest corner of said Southeast quarter of Northeast quarter; thence East 673.2 feet along the North line of said Southeast quarter of Northeast quarter to the true point of beginning of the tract herein described; thence South to the North right-of-way of Missouri Highway #17; thence in a southeasterly direction along the North right-of-way of said Highway to the East line of said Southeast quarter of Northeast quarter; thence North along the East line of said Southeast quarter of Northeast quarter to the Northeast corner of said Southeast quarter of Northeast quarter; thence West along the North line of said Southeast quarter of Northeast quarter to the true point of beginning of the tract herein described.

All subject to any easements of record and subject to any existing roads and utilities.

APPENDIX 3

MAP OF THE AREA TO BE CERTIFICATED



APPENDIX 4

FEASIBILITY STUDY

SEWER SYSTEM

1. Specifications for the utility system - See the attached Exhibit A.
2. Estimated cost of the construction during the first three years of construction - \$217,465.00.
3. Plans for financing - Loan from Four J Land And Cattle Company.
4. Proposed rates and charges - Highway H initially plans to provide service in accordance with its currently approved tariffs, which are on file with the Public Service Commission. However, as Highway H has not sought an increase since these rates were put into effect in 1991, it is likely that Highway H will request a rate increase at some point in the future.
5. Estimate of the number of customers, revenues and expenses during the first three (3) years of operations -
 - A. Highway H believes that the 117 "buildable" lots will be sold within four (4) years and that homes will be built, and a customer on each of those 117 lots within four (4) years.
 - B. At Highway H's current rates, this will result in \$15.46 per customer per month, or, annual revenues of \$21,705.84 for the area proposed to be certificated on a going forward basis.
 - C. Estimated annual operating expenses for the area proposed to be certificated are as follows:

<u>Category</u>	<u>Amount</u>
Reading & Billing	\$2,160.00 (\$1.50 per read)
Electric	\$4,000.00
Office Expenses	\$2,000.00
Taxes & Insurance	\$2,000.00
Labor	\$5,000.00

D. Revenues v. Expenses for the first three years:

	Year 1	Year 2	Year 3
REVENUES	\$7,420.80	\$14,841.60	\$21,705.84
EXPENSES			
Operating Expenses	\$9,720.00	\$13,940.00	\$14,606.00
Property Tax	\$500.00	\$500.00	\$500.00
TOTAL EXPENSE	\$10,220.00	\$14,440.00	\$15,106.00