

FLORIDA PUBLIC SERVICE COMMISSION  
Fletcher Building, 101 East Gaines Street  
Tallahassee, Florida 32399-0850

M E M O R A N D U M

November 9, 1994

TO: DIRECTOR, DIVISION OF RECORDS AND REPORTING (BAYO)

FROM: DIVISION OF WATER & WASTEWATER (TOMLINSON, REDEMANN)  
DIVISION OF LEGAL SERVICES (CROSBY)

RE: DOCKET NO. 940453-WU - LAKE GRIFFIN UTILITIES, INC. -  
APPLICATION FOR TRANSFER OF CERTIFICATE NO. 522-W FROM  
LAKE GRIFFIN UTILITIES, INC. TO HARBOR HILLS UTILITIES,  
L.P.

COUNTY: LAKE

AGENDA: NOVEMBER 22, 1994 - REGULAR AGENDA - PROPOSED AGENCY ACTION  
- INTERESTED PERSONS MAY PARTICIPATE

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: I:\PSC\WAW\WP\940453-WU.RCM

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**CASE BACKGROUND**

Lake Griffin Utilities, Inc. (Lake Griffin) is a Class C utility in Lake County which provided water service to approximately 88 customers in 1991. According to the 1991 Annual Report, Lake Griffin's Annual Revenues were \$104,822 and its Net Operating Loss was \$24,381. In 1992, all property belonging to Mr. John McNamara, including Lake Griffin Utilities, Inc., was confiscated by the United States through a Decree of Forfeiture and Order Appointing a Special Trustee, in Civil Action No. 92-2070. The United States has been in possession of the property from 1992 to present and will retain possession until the Commission provides authorization to transfer the utility to Harbor Hill Utilities, L.P. On May 5, 1994, an application was filed for the transfer of Lake Griffin Utilities, Inc. to Harbor Hills Utilities, L.P. (Harbor Hills).

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**DISCUSSION OF ISSUES**

**ISSUE 1:** Should the transfer of Water Certificate No. 522-W from Lake Griffin Utilities, Inc. to Harbor Hills Utilities, L.P. be approved?

**RECOMMENDATION:** Yes, the transfer should be approved. In addition, the utility should be ordered to file the Annual Reports and regulatory assessment fees for 1992 and 1993. (TOMLINSON, REDEMANN)

**STAFF ANALYSIS:** The application is in compliance with the governing statute, Section 367.071, Florida Statutes, and other pertinent statutes and administrative rules concerning an application for transfer of certificate. The application contains a check in the amount of \$1,500, which is the correct filing fee pursuant to Rule 25-30.020, Florida Administrative Code. The applicant has provided evidence that the utility owns the land upon which the utility's facilities are located as required by Rule 25-30.037(1)(o), Florida Administrative Code.

In addition, the application contains proof of compliance with the noticing provisions set forth in Rule 25-30.030, Florida Administrative Code, including notice to the customers of the system to be transferred. No objections to the notice of application have been received and the time for filing objections has expired.

A description of the territory served by the utility is appended to this memorandum as Attachment A.

With regard to the purchaser's technical ability, the purchaser has stated that it will retain the utility's existing staff, including a certified operator, and will employ three additional individuals. Harbor Hills also intends to retain the services of Mr. Tom Felton, a systems and operations engineer, as an independent contractor to advise Harbor Hills in the management and operations of the utility. Mr. Felton is currently working with Lake Griffin, as a independent contractor, in managing and running the utility.

The purchaser has provided a statement that the utility currently is not in compliance with DEP's regulations relating to chlorine contact tanks. The tanks have been taken off line with

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plans to replace the tanks with one 15,000 gallon capacity tank. The estimated cost for replacement is approximately \$41,000. The purchaser has indicated that he will assume all responsibility for the costs associated with the replacement.

With regard to the purchaser's financial ability, a statement was provided stating that the limited partner has adequate funds to fulfill the commitments and obligations related to the operation of the utility and to make improvements in the facility as they may be needed in the future. In addition, the purchaser provided the appropriate financial statements. The utility is being acquired by Harbor Hills for an allocated portion of the total purchase price of \$1,450,000. The acquisition is being funded and financed through the limited partner, Signature Properties International, L.P. The investment by the general partner and limited partner was in cash and no debt was assumed. The general partner will assume all management responsibilities of the utility and the limited partner will assume financial responsibility.

The application contains a copy of the contract for sale and a statement which includes the purchase price, terms of payment and a list of the assets purchased and the liabilities assumed. Harbor Hills provided a statement in its application that it will fulfill the commitments, obligations and representations of Lake Griffin. Therefore, it is our recommendation that Harbor Hills should be required to file the Annual Reports for 1992 and 1993, which currently have not been filed. In addition, Harbor Hills will be responsible for filing regulatory assessment fees for 1992 and 1993, pursuant to Section 367.145, Florida Statutes. The appropriate regulatory assessment fee will be based on 4.5% of the gross revenues collected in 1992 and 1993 plus penalties and interest.

Based on the above, staff believes the transfer of Water Certificate No. 522-W from Lake Griffin Utilities, Inc. to Harbor Hills Utilities, L.P. is in the public interest and should be approved.

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**ATTACHMENT A**

**Lake Griffin Utilities, Inc.**

**TERRITORY DESCRIPTION**

The following described lands located in portions of Sections 13 & 14, Township 18 S, Range 24 E, and Sections 7 & 18, Township 18 S, Range 25 E, Lake County, Florida:

Begin at the SE corner of Section 12, Township 18 S, Range 24 E, for the POB; thence run N 00°07'21" W, along the E boundary of said Section 12 a distance of 66.62 feet to the centerline of Lake Griffin Road and a point on a curve having a radial bearing of N 27°13'16" W, said curve being concave Northwesterly having a radius of 615.63 feet; thence run Easterly along said centerline an arc distance of 228.02 feet, said arc having a delta of 21°13'18", a tangent distance of 115.33 feet, a chord bearing of N 52°10'04" E and a chord distance of 226.72 feet to a point of tangency; thence run N 41°33'27" E along said centerline a distance of 403.94 feet to a point of curvature, said curve being concave Northwesterly having a radius of 1730.29 feet; thence run Northeasterly along said centerline an arc distance of 240.35 feet, said arc having a delta of 07°57'32", a tangent distance of 120.37 feet, a chord bearing of N 37°34'41" E and a chord distance of 240.16 feet to a point of tangency; thence run N 33°35'55" E along said centerline a distance of 88.27 feet to a point of curvature, said curve being concave Southeasterly having a radius of 234.54 feet; thence run Easterly along said centerline an arc distance of 307.05 feet, said arc having a delta of 75°00'30", a tangent distance of 180.00 feet, a chord bearing of N 71°06'10" E and a chord distance of 285.59 feet to a point of tangency; thence run S 71°23'35" E along said centerline a distance of 606.85 feet to a point of curvature, said curve being concave Northeasterly having a radius of 919.44 feet; thence run Easterly along said centerline an arc distance of 249.03 feet, said arc having a delta of 15°31'06", a tangent distance of 125.28 feet, a chord bearing of S 79°09'08" E and a chord distance of 248.27 feet to a point of tangency; thence run S 86°54'41" E along said centerline of Lake Griffin Road a distance

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of 1406.31' to the intersection of the East line of the Southwest 1/4 of the Southwest 1/4 of Section 7, Township 18 S, Range 25 E; thence run S 00°08'17" W along said East line a distance of 72.64 feet to a point on the North boundary of the NW 1/4 of Section 18, Township 18 S, Range 25 E, thence run N 89°14'04" E along the North boundary of said Section 18 a distance of 207.76 feet, thence run S 09°02'54" W a distance of 1000 feet, thence run Easterly to the waters edge of Lake Griffin to point, said point to be known as Point "A"; return to the SE corner of said Section 12 and the point of reference, thence run S 89°40'50" W along the North boundary of the NE 1/4 of said Section 13 a distance of 278.32 feet; thence continue S 89°40'50" along said line a distance of 2374.36 feet to the N 1/4 corner of said Section 13; thence run S 89°50'32" W along the N boundary of the NW 1/4 of said Section 13, a distance of 1959.26 feet; thence run S 01°05'13" E along the West line of the E 1/2 of the NW 1/4 of the NW 1/4 of said Section 13 a distance of 1324.76 feet; thence run S 89°50'18" W along the South line of said NW 1/4 of the NW 1/4 of said Section 13 a distance of 329.42 feet; thence run S 01°15'47" E along the West line of the East 30 acres of the SW 1/4 of the NW 1/4 of said Section 13 a distance of 1324.85 feet; thence run N 89°50'05" E along the South line of said SW 1/4 of the NW 1/4 of said Section 13, a distance of 986.58 feet to the SE corner of said SW 1/4 of the NW 1/4 of said Section 13; thence run S 01°07'54" E along the West line of the E 1/2 of the SW 1/4 of said Section 13 a distance of 2426.57 feet; thence run S 89°54'49" E a distance of 210.00 feet; thence run S 01°07'54" E a distance of 210.00 feet to the South boundary of said Section 13; thence run N 89°54'49" W along said Southerly boundary a distance of 210.00 feet; thence run S 00°18'48" E along the West line of the E 1/2 of the NW 1/4 of Section 24, Township 18 S, Range 24 E, a distance of 2676.64 feet to a point on the East-West mid-section line of said Section 24; thence run S 89°55'50" E along said mid-section line a distance of 663.16 feet; thence run N 00°06'52" W a distance of 669.10 feet; thence run S 89°55'35" E a distance of 665.48 feet; thence run N 00°05'03" a distance of 9.04 feet; thence run S 89°55'19" E a distance of 660 feet; thence run N 00°05'03" E a distance of 1997.99 feet to a point on the North boundary of said Section 24; thence run S 89°54'49" E along said North boundary line a distance of 613.85 feet; thence continue Easterly along said line to the waters edge

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of Lake Griffin; thence Northeasterly along the waters edge to said Point "A".

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**ISSUE 2:** What is the rate base of Lake Griffin at the time of transfer?

**RECOMMENDATION:** The rate base, which for transfer purposes reflects the net book value, is \$ 404,862.00 for the water system as of June 1, 1994. (TOMLINSON)

**STAFF ANALYSIS:** According to the application, the net book value of the system being transferred as of the date of the proposed transfer is \$1,450,000. Rate base was previously established by this Commission in Docket No. 890554-WU, which was an application for an original certificate. According to Order No. 23039, issued on June 6, 1990, rate base at that time was \$345,408.

Staff conducted an audit of the books and records of the utility to determine the rate base (net book value) at the time of transfer. Upon review of the books and records, it was discovered that the Company has not maintained general ledgers at the utility, and therefore does not comply with National Association of Regulatory Utility Commissioners (NARUC) Uniform System of Accounts. All books and records were seized by the United States government in 1992 and have been stored in New York under the possession of the Special Trustee. Staff made all attempts to travel to New York to inspect the books and records that were seized by the government, but the utility refused to pay for travel expenses. Therefore, since there are no general ledgers recorded at the utility for 1992 or 1993, the only classification of accounts have been in the 1990 and 1991 Annual Reports. As stated in Issue 1, the Annual Reports for 1992 and 1993 could not be located or were not compiled. There is evidence that the required information to compile the 1992 and 1993 Annual Reports may be among the books and records seized by the United States government. Upon approval of the transfer, these records will be released to the new owners who can then compile the required 1992 and 1993 Annual Reports.

The utility recorded a plant total of \$1,280,045 in its 1991 Annual Report. The utility was not able to provide documentation for the breakdown of each account balance reported in its 1991 Annual Report. Therefore, Staff compiled plant values from invoices provided by the utility. Based on the information provided by the utility, a plant value of \$820,481 was calculated, reflecting a negative adjustment of \$459,203.

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Based on a deed for the transfer of land from 347 Corporation of Florida, Inc. to Lake Griffin Utilities, Inc., it appears that the land was sold for \$12,500. The land value as reported in the 1991 Annual Report amounted to \$26,039. Since the utility failed to provide appropriate documentation to support the amount as reflected in the 1991 Annual Report, Staff made adjustments to reflect the original value of \$12,500.

The utility did not prepare a ledger for 1992 or 1993, therefore, no depreciation or amortization had been recorded since the 1991 Annual Report. In 1991, the accumulated depreciation amounted to \$59,911. Staff computed the accumulated depreciation pursuant to Rule 25-30.140, F.A.C. The adjusted accumulated depreciation totaled \$137,712, resulting in an increase of \$77,801. The CIAC and related Amortization were calculated by Staff based on the Company's Application and Agreement for Service. Based on the information provided, Staff calculated CIAC totalling \$208,528 and Amortization of Accumulated CIAC totalling \$37,587.

Staff's calculation of rate base is shown on Schedule No. 1 for the water system. Adjustments to rate base are itemized on Schedule No. 2. Based on the adjustments set forth herein, Staff recommends that rate base for Lake Griffin be established as \$404,862 for the water system as of June 1, 1994. This rate base calculation is used purely to establish the net book value of the property being transferred and does not include the normal ratemaking adjustments of working capital calculations and used and useful adjustments.

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SCHEDULE NO. 1

Lake Griffin Utilities, Inc.

SCHEDULE OF WATER RATE BASE

As of June 1, 1994

<u>DESCRIPTION</u>	<u>BALANCE PER UTILITY</u>	<u>STAFF ADJUSTMENTS</u>	<u>BALANCE PER STAFF</u>
Utility Plant in Service	\$1,280,045 (\$459,203)	\$ 820,842	
Land	\$ 26,039 (\$ 13,539)	\$ 12,500	
Accumulated Depreciation	(\$ 59,911)	(\$ 77,801)	(\$137,712)
Contributions-in- aid-of-Construction	(\$ 124,500)	(\$208,528)	(\$333,028)
Amortization of Accumulated CIAC	\$ 4,673	\$ 37,587	\$ 42,260
<b>TOTAL</b>	<u>\$1,126,346 (\$721,484)</u>	<u>\$ 404,862</u>	

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SCHEDULE NO. 2

Lake Griffin Utilities, Inc.

SCHEDULE OF WATER RATE BASE ADJUSTMENTS

<u>EXPLANATION</u>	<u>ADJUSTMENT</u>
<b>Utility Plant in Service</b>	
To remove undocumented plant additions.	(\$459,203)
<b>Land</b>	
To remove undocumented land additions.	(\$ 13,539)
<b>Accumulated Depreciation</b>	
To record depreciation associated with the undocumented plant and depreciation of these amounts from 1992 to June 1, 1994.	(\$ 77,801)
<b>Contributions-in-aid-of-Construction</b>	
To record unrecorded CIAC additions.	(\$ 208,528)
<b>Amortization of Accumulated CIAC</b>	
To record accumulated amortization of CIAC additions.	\$ 37,587

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**ISSUE 3:** Should a positive acquisition adjustment be approved?

**RECOMMENDATION:** No, a positive acquisition adjustment should not be included in the calculation of rate base for transfer purposes.  
(TOMLINSON)

**STAFF ANALYSIS:** An acquisition adjustment results when the purchase price differs from the rate base for transfer purposes calculation. The acquisition adjustment resulting from the transfer of Lake Griffin would be calculated as follows:

Purchase Price:	\$1,450,000
Staff Calculated Rate Base:	\$ 404,862
Positive Acquisition Adjustment:	\$1,045,138

In the absence of extraordinary circumstances it has been Commission policy that a subsequent purchase of a utility system at a premium or discount shall not affect the rate base calculation. The circumstances in this exchange do not appear to be extraordinary. An acquisition adjustment was not requested by the applicant. Therefore, Staff recommends that a positive acquisition adjustment should not be included in the calculation of rate base.

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**ISSUE 4:** Should Harbor Hills Utilities, L.P. adopt and use the rates and charges approved by this Commission for Lake Griffin Utilities, Inc.?

**RECOMMENDATION:** Yes, Harbor Hills Utilities, L.P. should continue charging the rates and charges approved for this utility system. The tariff reflecting the change in ownership should be effective for services provided or connections made on or after the stamped approval date. (TOMLINSON)

**STAFF ANALYSIS:** The utility's current approved rates and charges were effective June 28, 1990 pursuant to Order No. 23039 issued in Docket No. 890554-WU. The Commission approved these rates when Lake Griffin was granted it's original certificate.

Rule 25-9.044(1), Florida Administrative Code, provides that:

"In cases of change of ownership or control of a utility which places the operation under a different or new utility...the company which will thereafter operate the utility business must adopt and use the rates, classification and regulations of the former operating company (unless authorized to change by the Commission)..."

Harbor Hills has not requested a change in the rates and charges of the utility. Accordingly, Staff recommends that the utility continue operations under the existing tariff and apply the approved rates and charges. The utility has filed a tariff reflecting the transfer of ownership. Staff will approve the tariff filing effective for services provided or connections made on or after the stamped approval date.

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**ISSUE 5:** Should this docket be closed?

**RECOMMENDATION:** Yes, this docket should be closed if no timely protests are filed to the proposed agency action issues. (CROSBY)

**STAFF ANALYSIS:** If there are no timely protests to the proposed agency action issues (Issues Nos. 2 and 3), no further action will be required and the docket should be closed.