

State of Florida



Public Service Commission

CAPITAL CIRCLE OFFICE CENTER • 2540 SHUMARD OAK BOULEVARD
TALLAHASSEE, FLORIDA 32399-0850

-M-E-M-O-R-A-N-D-U-M-

DATE: September 28, 2018

TO: Office of Commission Clerk (Stauffer)

FROM: Division of Engineering (M. Watts, O. Wooten)
Division of Accounting and Finance (Sewards)
Division of Economics (Sibley)
Office of the General Counsel (Trierweiler)

Handwritten notes:
WTA
BE
ALM
WR
MATT FOR JSB

RE: Docket No. 20170151-WS – Application for authority to transfer water and wastewater Certificate Nos. 577-W and 498-S in Manatee County, from Heather Hills Estates Utilities, LLC to Heather Hills Utilities, LLC.

AGENDA: 10/11/18 – Regular Agenda – Proposed Agency Action for Issues 2 and 3 – Interested Persons May Participate

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: Brown

CRITICAL DATES: None

SPECIAL INSTRUCTIONS: None

Case Background

On July 5, 2017, an application was filed on behalf of Heather Hills Estates Utilities, LLC (HHEU or Seller) for the transfer of Certificate Nos. 577-W and 498-S to Heather Hills Utilities, LLC (Heather Hills, Utility, or Buyer). Heather Hills is a Class C utility which purchases water and wastewater treatment services from Manatee County. It is located in an area of Manatee County which is considered by the Southwest Florida Water Management District to be in one of the Southern Water Use Caution Area's most impacted areas. In its 2017 Annual Report on file with the Commission, the Utility reported annual gross revenues of \$157,765 and a net operating loss of (\$8,391).

Prior to the Commission's jurisdiction over privately-owned water and wastewater utilities in Manatee County, Florida, the Utility was established in 1967 to serve water and wastewater customers within the Heather Hills Estates (HHE) community in Bradenton, Florida. It served 353 single family residential customers, as well as a park clubhouse and a golf course clubhouse/restaurant.

In 1995, Manatee County declared the privately-owned water and wastewater utilities in Manatee County subject to the provisions of Chapter 367, Florida Statutes (F.S.).¹ Certificate Nos. 577-W and 498-S were granted to Keith & Clara Starkey d/b/a Heather Hills Estates in 1996 by Commission order.² In 2008, Docket No. 080428-WS, *In re: Joint application for transfer of water and wastewater systems from Keith & Clara Starkey d/b/a Heather Hills Estates to Ni Florida, Inc., in Manatee County*, was withdrawn by request of the joint applicants on October 13, 2008, and the Docket was voluntarily dismissed by the Commission on October 14, 2008. In 2009, Certificate Nos. 577-W and 498-S were transferred to HHEU.³

As part of this transfer case, a concern was raised regarding the territory description. In a November 18, 2017 email⁴ addressed to the Commission's consumer contact address and to the Office of Public Counsel (OPC), an HHE homeowners association (HOA) representative stated that the territory description provided in the notice included a golf course clubhouse/restaurant, which is located in Section 12, Township 35 South, Range 17 East in Manatee County, Florida. The HOA representative stated this establishment is not currently served by the Utility. HHE, which is served by the Utility, is located entirely within the adjacent section, Section 11. Staff investigated the matter, and addresses it in Issue 4.

This recommendation concerns the application to transfer filed pursuant to Section 367.071, F.S., and Rule 25-30.037, Florida Administrative Code (F.A.C.), and correction of the Utility's service territory. The Commission has jurisdiction to consider this matter pursuant to Sections 367.071 and 367.045, F.S.

¹ Order No. PSC-95-1393-FOF-WS, issued November 9, 1995, in Docket No. 19951235-WS, *In re: Resolution of the Board of County Commissioners of Manatee County declaring Manatee County subject to the provisions of Chapter 367, F.S.*

² Order No. PSC-96-0434-FOF-WS, issued March 28, 1996, in Docket No. 19951533-WS, *In re: Application for certificates to provide water and wastewater service in Manatee County by Keith & Clara Starkey d/b/a Heather Hills Estates.*

³ Order No. PSC-10-0519-FOF-WS, issued August 16, 2010, in Docket No. 20090093-WS, *In re: Application for approval of transfer of Keith & Clara Starkey d/b/a Heather Hills Estates' water and wastewater utility, holder of Certificates 577-W and 498-S, to Heather Hills Estates Utilities, LLC, in Manatee County.*

⁴ Document No. 06167-2018, filed September 20, 2018, in Docket No. 20170151-WS, *In re: Application for authority to transfer water and wastewater Certificate Nos. 577-W and 498-S in Manatee County, from Heather Hills Estates Utilities, LLC to Heather Hills Utilities, LLC.*

Discussion of Issues

Issue 1: Should the application for transfer of Certificate Nos. 577-W and 498-S in Manatee County, from Heather Hills Estate Utilities, LLC to Heather Hills Utilities, LLC be approved?

Recommendation: Yes. The transfer of the water and wastewater systems and Certificate Nos. 577-W and 498-S is in the public interest and should be approved effective the date of the Commission's vote. The resultant order should serve as the Buyer's certificate and should be retained by the Buyer. The existing rates and charges should remain in effect until a change is authorized by the Commission in a subsequent proceeding. The tariffs reflecting the transfer should be effective for services rendered or connections made on or after the stamped approval date on the tariffs, pursuant to Rule 25-30.475, F.A.C. The Seller paid all Regulatory Assessment Fees (RAFs) through December 31, 2017. The Buyer should be responsible for paying RAFs after December 31, 2017, and all future years. The Buyer has filed the 2017 Annual Report, and should be responsible for filing all future annual reports. (M. Watts, Sibley, Sowards)

Staff Analysis: On July 5, 2017, Heather Hills filed an application for the transfer of Certificate Nos. 577-W and 498-S from HHEU to Heather Hills in Manatee County. The application is in compliance with Section 367.071, F.S., and Commission rules concerning applications for transfer of certificates. The sale to Heather Hills occurred on April 7, 2017, contingent upon Commission approval, pursuant to Section 367.071(1), F.S.

Noticing, Territory, and Land Ownership

The application contains the description of the water and wastewater service territory which was approved when the Commission originally granted Certificate Nos. 577-W and 498-S to Keith & Clara Starkey d/b/a Heather Hills Estates in 1996. As discussed in Issue 4, the territory description originally approved inadvertently included water service territory served by Manatee County, and the corrected service territory description is appended to this recommendation as Attachment A. The systems are consecutive, meaning bulk water service and bulk wastewater treatment is purchased, in this instance, from Manatee County. Thus, no proof that the Utility owns or has access to the land on which the treatment facilities are located is required.

Heather Hills provided notice of the application pursuant to Section 367.071, F.S., and Rule 25-30.030, F.A.C. In its notice published on November 19, 2017, and in its notice mailed to customers and other required entities, on November 21, 2017, the Utility incorrectly stated the issuance date. Therefore, the Utility was required to reissue the notices with the issuance date corrected. The second notice was issued on December 5, 2017, and published in a local newspaper on December 6, 2017. Thus, the protest period expired January 5, 2018. No requests for an administrative hearing were made; however, several objections were filed, as discussed below.

One customer, having read the draft notice filed with the application, contacted OPC via email with objections to the transfer on October 24, 2017. OPC forwarded the email to staff on October 25, 2017. Subsequently, two additional customers filed objections to the transfer in October, 2017, prior to the issuance of the first notice. Between the issuance of the first notice and the expiration date of the protest period of the second notice, three more customers filed objections.

The first three customers objected primarily on the basis of the inclusion of a copy of a 1967 document entitled, “Heather Hills Rules & Regulations, Restrictions, Reservations, Easements, Rules And Regulations Of Heather Hills Estates, As Per Plat Thereof, Recorded Among The Public Records Of Manatee County, Florida,” (the 1967 Restrictions) in the application. The other three objected based on “new customer deposit” charges that were included in the notice. Staff explained that the requested administrative charges, which were actually initial customer deposits, would only apply to customers who applied for new service, not for existing customers, thus addressing their concerns.

The primary basis for objection was the aforementioned 1967 Restrictions. According to information provided by two of the customers, the HHE residents had long had issues with the deed restrictions and other aspects of the 1967 Restrictions in disputes with the previous utility owners, each of whom also had an interest in the property. The customers stated that, although the terms of the 1967 Restrictions expired in 2000, the previous owners still tried to assess charges and file liens against properties. The customers also stated that they pursued litigation that resulted in the judge in the case finding in their favor in 2014, declaring the document null and void.

The Buyer included the 1967 Restrictions in its application for transfer in an effort to comply with Rule 25-30.037(2)(s), F.A.C., which requires the utility to provide proof of access to the land under which the treatment facilities are located. The language in the 1967 Restrictions regarding utility easements was highlighted in the application. Because the systems are consecutive, with no treatment facilities involved in the transaction, this was unnecessary. The Buyer, unlike the previous owners, does not have an interest in the HHE property itself, and is not attempting to resurrect the terms of the 1967 Restrictions.

On December 4, 2017, OPC filed a letter in the instant docket file outlining its concerns arising from its communications with the customers.⁵ OPC’s concerns were:

1. failure to include a copy of an “Exhibit A” referenced in the “Contract for Sale” in the application for transfer;
2. the impact of the litigation regarding the 1967 Restrictions and the Utility’s right to access the land where its facilities are located; and
3. the possibility that customers may be made responsible for fees and/or assessments relating to the Utility’s right to access and continued use of the land that may be the subject of any future proceeding.

The Utility engaged in discussions with OPC, and filed a response on February 9, 2018, that explained the matter of the “missing” Exhibit A to its Contract for Sale (it was unnecessary because it referred to real property, of which there was none because there are no water or wastewater treatment facilities), and provided a copy of the deed restrictions and recorded plat

⁵ Document No. 10298-2017, filed December 4, 2017, in Docket No. 20170151-WS, *In re: Application for authority to transfer water and wastewater Certificate Nos. 577-W and 498-S in Manatee County, from Heather Hills Estates Utilities, LLC to Heather Hills Utilities, LLC.*

maps for Heather Hills Estates. On February 14, 2018, OPC filed a letter⁶ with the Commission stating that the Utility's February 9, 2018 filing⁷ alleviated its primary concerns regarding the Utility's "Right to Access." However, it also stated that because this issue is one of continued dispute and the subject of litigation, it maintains its objection to any attempt to make the customers responsible for costs, legal fees, and/or assessments that relate to the Utility's right to access in future proceedings before the Commission. It appears that the disputes and litigation regarding the 1967 Restrictions are governed by Chapter 712, F.S., Marketable Record Titles To Real Property, over which the Commission does not have jurisdiction and can provide no relief. Thus, approval of the transfer of Certificate Nos. 577-W and 498-S has no effect on the status of the 1967 Restrictions.

Purchase Agreement and Financing

Pursuant to Rule 25-30.037(2)(i), and (j), F.A.C., the application contains a statement regarding financing and a copy of the Purchase Agreement, which includes the purchase price, terms of payment, and a list of the assets purchased. Customer advances were credited to the customers' accounts. There are no customer deposits, guaranteed revenue contracts, developer agreements, leases, or debt of Heather Hills that must be disposed of with regard to the transfer. According to the Purchase Agreement, the total purchase price for the assets is \$141,900. According to the Buyer, the sale took place on April 7, 2017, subject to Commission approval, pursuant to Section 367.071(1), F.S.

Facility Description and Compliance

Heather Hills is a consecutive system that purchases bulk water and wastewater service from Manatee County Utilities for resale to its customers. The Utility does not own or operate any treatment facilities. Heather Hills maintains and operates the water distribution and wastewater collection systems and files monthly operating reports with the Florida Department of Environmental Protection (DEP). DEP conducts periodic inspections of the water distribution system. The most recent inspection report from DEP, dated July 24, 2018, indicated that the Utility was substantially compliant with its regulations and requirements with the exception of on-site operation and maintenance procedures, manuals, and logs. The Utility provided a response to DEP's inspection report on September 17, 2018, and is working with DEP on a resolution.

Technical and Financial Ability

Pursuant to Rule 25-30.037(2)(l), F.A.C., the application contains statements describing the technical and financial ability of the Buyer to provide service to the proposed service area. As referenced in the transfer application, the Buyer was appointed to the Citrus County Water and Wastewater Authority, the local regulatory body for Citrus County, where he served for seven years. The Buyer also served as the "Class C" representative for the Legislative Study Committee for Investor-Owned Water and Wastewater Utility Systems in 2013. He attends

⁶ Document No. 01201-2018, filed February 14, 2018, in Docket No. 20170151-WS, *In re: Application for authority to transfer water and wastewater Certificate Nos. 577-W and 498-S in Manatee County, from Heather Hills Estates Utilities, LLC to Heather Hills Utilities, LLC.*

⁷ Document No. 01091-2018, filed February 9, 2018, in Docket No. 20170151-WS, *In re: Application for authority to transfer water and wastewater Certificate Nos. 577-W and 498-S in Manatee County, from Heather Hills Estates Utilities, LLC to Heather Hills Utilities, LLC.*

yearly training classes through the Florida Rural Water Association and completed the NARUC Utility Rate School in 2001. The Buyer is the owner and manager of a total of 10 Class C water and wastewater facilities that are regulated by the Commission.

Staff reviewed the personal financial statements of the Buyer, as well as the financial statements of Florida Utility Services 1, LLC.⁸ Based on the above, the Buyer has demonstrated the technical and financial ability to provide service to the existing service territory.

Rates and Charges

The Utility's rates and charges were approved in a staff assisted rate case in 2011.⁹ The rates were subsequently amended through six price index and pass through rate adjustments. The Utility's late payment charge was approved in 2009¹⁰ and miscellaneous service charges were approved in 2010.¹¹ The Utility is built out and has no approved service availability charges. The Utility's existing rates and charges are shown on Schedule No. 3. Rule 25-9.044(1), F.A.C., provides that, in the case of a change of ownership or control of a Utility, the rates, classifications, and regulations of the former owner must continue unless authorized to change by this Commission. Therefore, staff recommends that the Utility's existing rates and charges remain in effect until a change is authorized by this Commission in a subsequent proceeding.

Regulatory Assessment Fees and Annual Reports

Staff has verified that the Utility is current with respect to annual reports and RAFs through December 31, 2017. The Buyer will be responsible for filing annual reports and paying RAFs for 2018 and all future years.

Conclusion

Based on the foregoing, staff recommends that the transfer of the water and wastewater systems and Certificate Nos. 577-W and 498-S is in the public interest and should be approved effective the date of the Commission vote. The resultant order should serve as the Buyer's certificate and should be retained by the Buyer. The existing rates and charges should remain in effect until a change is authorized by the Commission in a subsequent proceeding. The tariffs reflecting the transfer should be effective for services rendered or connections made on or after the stamped approval date on the tariffs, pursuant to Rule 25-30.475, F.A.C. The Buyer should be responsible for paying RAFs after December 31, 2017, and all future years. The Buyer should also be responsible for filing all future annual reports.

⁸ Document No. 08737-2017.

⁹ Order No. PSC-11-0436-PAA-WS, issued August 29, 2011, in Docket No. 20100472-WS, *In re: Application for staff-assisted rate case in Manatee County by Heather Hills Estates Utilities LLC.*

¹⁰ Order No. PSC-10-0014-TRF-WS, issued January 4, 2010, in Docket No. 20090500-WS, *In re: Request for approval of late payment charge by Heather Hills Estates Utilities, LLC, in Manatee County.*

¹¹ Order No. PSC-10-0699-TRF-WS, issued November 29, 2010, in Docket No. 20100396-WS, *In re: Request for approval of increase in miscellaneous service charges by Heather Hills Estates Utilities, LLC.*

Issue 2: What is the appropriate net book value for the Heather Hills Utilities, LLC water and wastewater systems for transfer purposes and should an acquisition adjustment be approved?

Recommendation: For transfer purposes, the net book value (NBV) of the water system for is \$40,553, and for the wastewater system is \$389, as of April 7, 2017. An acquisition adjustment should not be included in rate base. Within 90 days of the date of the final order, Heather Hills should be required to notify the Commission in writing, that it has adjusted its books in accordance with the Commission's decision. The adjustments should be reflected in the 2018 Annual Report when filed. (Sewards)

Staff Analysis: Rate base was last established as of September 29, 2011.¹² The purpose of establishing net book value for both the water and wastewater systems for transfers is to determine whether an acquisition adjustment should be approved. The NBV does not include normal ratemaking adjustments for non-used and useful plant and working capital. The NBV has been updated to reflect balances as of April 7, 2017. Staff's recommended NBV, as described below, is shown on Schedule No. 1.

Utility Plant in Service (UPIS)

The Utility's general ledger reflected water and wastewater UPIS balances of \$94,196 and \$72,152, respectively, as of April 7, 2017. Staff reviewed UPIS additions since the last rate case proceeding and as a result, has decreased UPIS for water by \$4,332. Staff notes, in response to the staff audit report, Heather Hills stated that \$1,106 was recorded incorrectly in Account 331 – Hydrants, and should be reclassified to Account 335 – Transmission and Distribution Mains. Staff agrees with this reclassification. There were no adjustments to wastewater UPIS. Therefore, staff recommends that the Utility's water and wastewater UPIS balances as of April 7, 2017, should be \$89,864 and \$72,512, respectively.

Land

In Order No. PSC-11-0436-PAA-WS, the Commission established the value of the land to be \$389 for water and \$389 for wastewater. The Utility's general ledger reflected a land balance of \$389 for water and \$389 for wastewater. There have been no additions to land purchased since that order was issued. Therefore, staff recommends a land balance of \$389 for water and \$389 for wastewater, as of April 7, 2017.

Accumulated Depreciation

The Utility's general ledger reflected water and wastewater accumulated depreciation balances of \$48,443 and \$72,262, respectively, as of April 7, 2017. Staff auditors reviewed UPIS additions since the last rate case proceeding and calculated an accumulated depreciation balance of \$51,895 for water and \$72,512 for wastewater. In response to the staff audit report, Heather Hills stated that accumulated depreciation incorrectly reflected a full year of depreciation expense for 2017. After recalculating accumulated depreciation for 2017, staff agrees with the Utility. However, staff believes Heather Hills did not correctly calculate accumulated depreciation for 2017. As such, accumulated depreciation should be adjusted based on the reclassification in UPIS discussed earlier, as well as to reflect the correct accumulated

¹² Order No. PSC-11-0436-PAA-WS, issued September 29, 2011, in Docket No. 20100472-WS, *In re: Application for staff-assisted rate case in Manatee County by Heather Hills Estates Utilities LLC.*

depreciation for 2017. The Utility agreed with the staff auditor's adjustment to increase wastewater accumulated depreciation by \$250. Staff calculated the appropriate accumulated depreciation balance to be \$49,700 for water and \$72,512 for wastewater. As a result, accumulated depreciation should be increased by \$1,257 for water and \$250 for wastewater to reflect accumulated depreciation balances of \$49,700 for water and \$72,512 for wastewater, as of April 7, 2017.

Contributions-in-Aid-of-Construction (CIAC) and Accumulated Amortization of CIAC

As of April 7, 2017, the Utility's general ledger reflected a fully amortized CIAC balance of \$26,625 for the water plant. No CIAC was recorded for the wastewater plant. Staff reviewed the CIAC balances and has no adjustments. Therefore, staff recommends a CIAC balance of \$26,625 for water and \$0 for wastewater and accumulated amortization of CIAC balance of \$26,625 for water and \$0 for wastewater, as of April 7, 2017.

Net Book Value

The Utility's general ledger reflected NBV of \$46,142 for water and \$639 for wastewater. Based on the adjustments described above, staff recommends that the NBV as of April 7, 2017, for the Utility's water system is \$40,553, and for the wastewater system is \$389, for a total NBV of \$40,942. Staff's recommended NBV and the National Association of Regulatory Utility Commissioners, Uniform System of Accounts (NARUC USOA) balances for UPIS and accumulated depreciation are shown on Schedule Nos. 1 and 2, as of April 7, 2017.

Acquisition Adjustment

An acquisition adjustment results when the purchase price differs from the NBV of the assets at the time of the acquisition. The Utility and its assets were purchased for \$141,900. As stated above, staff has determined the appropriate NBV total to be \$40,942. Pursuant to Rule 25-30.0371, F.A.C., a positive acquisition adjustment may be appropriate when the purchase price is greater than the NBV, and a negative acquisition adjustment may be appropriate when the purchase price is less than NBV. However, pursuant to Rule 25-30.0371(2), F.A.C., a positive acquisition adjustment shall not be included in rate base unless there is proof of extraordinary circumstances. The Buyer did not request a positive acquisition adjustment. As such, staff recommends that no positive acquisition adjustment be approved.

Conclusion

Based on the above, staff recommends that the NBV for transfer purposes is \$40,553 for the water system and for the wastewater system is \$389, as of April 7, 2017. No acquisition adjustment should be included in rate base. Within 90 days of the date of the final order, the Buyer should be required to notify the Commission in writing, that it has adjusted its books in accordance with the Commission's decision. The adjustments should be reflected in the Utility's 2018 Annual Report when filed.

Issue 3: Should the requested initial customer deposits for Heather Hills Utilities, LLC be approved?

Recommendation: Yes. The appropriate initial customer deposits for the residential 5/8 inch x 3/4 inch meter size meter size are approximately \$78 for water and \$124 for wastewater. The initial customer deposit for all other residential meter sizes and all general service meter sizes should be two times the average estimated quarterly bill for water and wastewater. The approved initial customer deposits should be effective for connections made on or after the stamped approval date on the tariff sheets pursuant to Rule 25-30.475, F.A.C. The Utility should be required to collect the approved initial customer deposits until authorized to change them by the Commission in a subsequent proceeding. (Sibley)

Staff Analysis: Rule 25-30.311, F.A.C., contains criteria for collecting, administering, and refunding customer deposits. Rule 25-30.311(1), F.A.C., requires that each company's tariff shall contain its specific criteria for determining the amount of initial deposits. Currently, Heather Hills is not authorized to collect initial customer deposits. Customer deposits are designed to minimize the exposure of bad debt expense for the Utility and, ultimately, the general body of rate payers. In addition, collection of customer deposits is consistent with one of the fundamental principles of rate making—ensuring that the cost of providing service is recovered from the cost causer.

Rule 25-30.311(7), F.A.C., authorizes utilities to collect new or additional deposits from existing customers not to exceed an amount equal to the average actual charge for water and/or wastewater service for two billing periods for the 12-month period immediately prior to the date of notice. The two billing periods reflect the lag time between the customer's usage and the Utility's collection of the revenues associated with that usage. Commission practice has been to set initial customer deposits equal to two billing periods based on the average consumption for a 12-month period for each class of customers.¹³ The Utility's average monthly residential usage is 1,166 gallons per customer. Heather Hills bills on a quarterly basis; therefore, the average residential bill for two billing periods is approximately \$78 for water and \$124 for wastewater.

Based on the above, the appropriate initial customer deposits for the residential 5/8 inch x 3/4 inch meter size are approximately \$78 for water and \$124 for wastewater. The initial customer deposit for all other residential meter sizes and all general service meter sizes should be two times the average estimated quarterly bill for water and wastewater. The approved initial customer deposits should be effective for connections made on or after the stamped approval date on the tariff sheets pursuant to Rule 25-30.475, F.A.C. The Utility should be required to collect the approved initial customer deposits until authorized to change them by the Commission in a subsequent proceeding.

¹³ Order Nos. PSC-2017-0428-PAA-WS, issued November 7, 2017, in Docket No. 20160195-WS, *In re: Application for staff-assisted rate case in Lake County by Lakeside Waterworks, Inc.* and PSC-17-0113-PAA-WS, issued March 28, 2017, in Docket No. 20130105-WS, *In re: Application for certificates to provide water and wastewater service in Hendry and Collier Counties, by Consolidated Services of Hendry & Collier, LLC.*

Issue 4: Should the corrected legal description of the original Heather Hills water and wastewater service territory shown in Attachment A be approved?

Recommendation: Yes. The corrected legal description of the original Heather Hills water and wastewater service territory shown in Attachment A, which removes the golf course clubhouse/restaurant, should be approved. The resulting order should serve as Certificate Nos. 577-W and 498-S and should be retained by Heather Hills Utilities, LLC. (M. Watts, Trierweiler)

Staff Analysis: The Commission approved the legal description of the Heather Hills water and wastewater service territory in Docket No. 951533-WS¹⁴ (the grandfather docket) in 1996 after Manatee County turned jurisdiction over to the Commission in 1995.¹⁵ While investigating an issue raised by a customer of Heather Hills in the instant docket, staff learned that a portion of the territory description provided by the applicant in the grandfather docket was in error. The original territory description includes the following:

Section 12, Township 35S, Range 17E

From the NW corner of the SW 1/4 of the SW 1/4 of the NW 1/4 run due East 170.0 feet to the Point of Beginning;

thence due North 50.0 feet; thence due East 100.0 feet; thence due South 100.0 feet; thence due West 100.0 feet; thence due North 50.0 feet to the Point of Beginning.

This is a 100-square-foot parcel across the street from the Heather Hills subdivision on which a golf course clubhouse/restaurant is located. The clubhouse is cited in the grandfather docket as one of the applicant's water customers, but is currently served by Manatee County.

Staff contacted Manatee County regarding the matter, and received the following response clarifying the situation from the Manatee County Water Division Manager:

Per the 'grandfather certificate' document from the PSC (Docket No. 951533-WS, Order No. PSC-96-0434-FOF-WS, Issued March 28, 1996) you provided, a copy of which is attached, the questions seem to originate from the description of the 'Heather Hills Utility' as included in the BACKGROUND section of the document. That description (top of second page) states:

"Keith and Clara Starkey d/b/s Heather Hills Estates (Heather Hills or utility) was established in 1967 to serve water and wastewater customers within the Heather Hills Estates in Manatee County, Florida. Heather Hills, a Class C utility serves 353 single family

¹⁴ Order No. PSC-96-0434-FOF-WS, issued March 28, 1996, in Docket No. 19951533-WS, *In re: Application for certificates to provide water and wastewater service in Manatee County by Keith & Clara Starkey d/b/a Heather Hills Estates*

¹⁵ Order No. PSC-95-1393-FOF-WS, issued November 9, 1995, in Docket No. 19951235-WS, *In re: Resolution of the Board of County Commissioners of Manatee County Declaring Manatee County Subject to the Provisions of Chapter 367, F.S.*

residential customers, a club house, and a golf course clubhouse/restaurant for an approximate total of 355 water customers and 354 wastewater customers. The golf course furnishes its own wastewater service."

It appears that this description of the original 1967 configuration of the Heather Hills Utility was erroneously used in the 1996 application to the PSC for a Grandfather Certificate for Heather Hills. In 1967, the Manatee County Utilities System was just being formed and water service was likely not yet available to Heather Hills. There were various privately owned utilities that provided water to area residents at that time. These primarily consisted of groundwater wells, storage systems and chlorination systems. In 1967 Heather Hills Utilities may have received bulk water from one of these or may have had a well system of its own to serve the residences, the clubhouse and the golf course clubhouse restaurant. However, by the time of 1995 application to the PSC the golf course clubhouse/restaurant had been served directly by Manatee County Utilities for over 10 years. The single family residences and the clubhouse were being, and still are, provided bulk water from Manatee County through a separate master meter.¹⁶

Since neither the Utility nor its predecessors has been serving the affected customer since the water certificate for the system was first issued by the Commission in 1996, and since Manatee County has in fact been serving this customer throughout this time period, staff believes that the original territory description submitted in the grandfather docket erroneously included the golf course clubhouse/restaurant.

Based on the above, staff recommends that the corrected legal description of the original Heather Hills water and wastewater service territory shown in Attachment A, which removes the golf course clubhouse/restaurant, should be approved. The resulting order should serve as Certificate Nos. 577-W and 498-S and should be retained by Heather Hills Utilities, LLC.

¹⁶ Document No. 10823-2017, filed on December 21, 2017, in Docket No. 20170155-WS, *In re: Application for authority to transfer water and wastewater Certificate Nos. 577-W and 498-S in Manatee County, from Heather Hills Estates Utilities, LLC to Heather Hills Utilities, LLC.*

Issue 5: Should this docket be closed?

Recommendation: If no protest to the proposed agency action is filed by a substantially affected person within 21 days of the date of the issuance of the order, a consummating order should be issued and the docket should be closed administratively upon Commission staff's verification that the revised tariff sheets have been filed and the Buyer has notified the Commission in writing that it has adjusted its books in accordance with the Commission's decision. (Trierweiler)

Staff Analysis: If no protest to the proposed agency action is filed by a substantially affected person within 21 days of the date of the issuance of the order, a consummating order should be issued and the docket should be closed administratively upon Commission staff's verification that the revised tariff sheets have been filed and the Buyer has notified the Commission in writing that it has adjusted its books in accordance with the Commission's decision.

TERRITORY DESCRIPTION
Heather Hills Utilities, LLC
Manatee County
Water and Wastewater Service

Township 35 South, Range 17 East
Section 11

The NE 1/4 of the SE 1/4 and the South 1/2 of the SE 1/4 of the NE 1/4.

**FLORIDA PUBLIC SERVICE COMMISSION
authorizes
Heather Hills Utilities, LLC
pursuant to
Certificate Number 577-W**

to provide water service in Manatee County in accordance with the provisions of Chapter 367, Florida Statutes, and the Rules, Regulations, and Orders of this Commission in the territory described by the Orders of this Commission. This authorization shall remain in force and effect until superseded, suspended, cancelled or revoked by Order of this Commission.

<u>Order Number</u>	<u>Date Issued</u>	<u>Docket Number</u>	<u>Filing Type</u>
PSC-96-0434-FOF-WU	04/29/97	951533-WS	Grandfather
PSC-10-0519-FOF-WS	08/16/10	090093-WS	Transfer
*	*	20170151-WS	Transfer

***Order Number and date to be provided at time of issuance**

FLORIDA PUBLIC SERVICE COMMISSION
authorizes
Heather Hills Utilities, LLC
pursuant to
Certificate Number 498-S

to provide wastewater service in Manatee County in accordance with the provisions of Chapter 367, Florida Statutes, and the Rules, Regulations, and Orders of this Commission in the territory described by the Orders of this Commission. This authorization shall remain in force and effect until superseded, suspended, cancelled or revoked by Order of this Commission.

<u>Order Number</u>	<u>Date Issued</u>	<u>Docket Number</u>	<u>Filing Type</u>
PSC-96-0434-FOF-WU	04/29/97	951533-WS	Grandfather
PSC-10-0519-FOF-WS	08/16/10	090093-WS	Transfer
*	*	20170151-WS	Transfer

***Order Number and date to be provided at time of issuance**

Heather Hills Utilities, LLC
Water System
Net Book Value as of April 7, 2017

Description	Balance Per Utility	Adjustments	Staff Recommendation
Utility Plant in Service	\$94,196	(\$4,332)	\$89,864
Land & Land Rights	389	0	389
Accumulated Depreciation	(48,443)	(1,257)	(49,700)
CIAC	(26,625)	0	(26,625)
Amortization of CIAC	<u>26,625</u>	<u>0</u>	<u>26,625</u>
Total	<u>\$46,142</u>	<u>(\$5,589)</u>	<u>\$40,553</u>

**Explanation of Staff's Recommended
Adjustments to Net Book Value as of April 7, 2017
Water System**

Explanation	Amount
A. Utility Plant In Service To reflect appropriate amount of utility plant in service.	<u>(\$4,332)</u>
B. Accumulated Depreciation To reflect appropriate amount of accumulated depreciation.	<u>(\$1,257)</u>

Heather Hills Utilities, LLC
Water System
Schedule of Staff Recommended Account Balances as of April 7, 2017

Account			Accumulated
No.	Description	UPIS	Depreciation
309	Supply Mains	\$11,188	(\$2,769)
331	Transmission & Distribution Lines	62,663	(40,541)
334	Meters & Meter Installations	<u>16,013</u>	<u>(6,389)</u>
	Total	<u>\$89,864</u>	<u>(\$49,700)</u>

Heather Hills Utilities, LLC
Wastewater System
Net Book Value as of April 7, 2017

Description	Balance Per Utility	Adjustments	Staff Recommendation
Utility Plant in Service	\$72,512	\$0	\$72,512
Land & Land Rights	389	0	389
Accumulated Depreciation	(72,262)	(250)	(72,512)
CIAC	0	0	0
Amortization of CIAC	0	0	0
Total	<u>\$639</u>	<u>(\$250)</u>	<u>\$389</u>

**Explanation of Staff's Recommended
Adjustments to Net Book Value as of April 7, 2017
Wastewater System**

Explanation	Amount
A. Accumulated Depreciation To reflect appropriate amount of accumulated depreciation.	<u>(\$250)</u>

Heather Hills Utilities, LLC
Wastewater System
Schedule of Staff Recommended Account Balances as of April 7, 2017

Account			Accumulated
No.	Description	UPIS	Depreciation
361	Collection Sewers - Gravity	<u>\$72,512</u>	<u>(\$72,512)</u>
	Total	<u>\$72,512</u>	<u>(\$72,512)</u>

**Heather Hills Utilities, LLC
Quarterly Water Rates**

Residential & General Service

Base Facility Charge by Meter Size

5/8" x 3/4"	\$27.84
3/4"	\$41.77
1"	\$69.61
1 1/2"	\$139.22
2"	\$222.75
3"	\$445.51
4"	\$696.10
6"	\$1,392.21
Charge Per 1,000 gallons	\$3.19

Miscellaneous Service Charges

	Normal hours	After Hours
Initial Connection Charge	\$26.00	\$40.00
Normal Reconnection Charge	\$26.00	\$40.00
Violation Reconnection Charge	\$31.00	\$42.00
Premises Visit Charge (in lieu of disconnection)	\$14.00	\$27.00
Late Payment Charge		\$5.00

**Heather Hills Utilities, LLC
 Quarterly Wastewater Rates**

Residential Service

Base Facility Charge – All Meter Sizes	\$36.79
Charge Per 1,000 gallons 6,000 gallon cap	\$7.19

General Service

Base Facility Charge by Meter Size	
5/8" x 3/4"	\$36.79
1"	\$55.18
1 1/2"	\$91.97
2"	\$183.94
3"	\$294.30
4"	\$588.60
6"	\$919.69
8"	\$1,839.38
Charge Per 1,000 gallons	\$8.49

Miscellaneous Service Charges

	Normal hours	After Hours
Initial Connection Charge	\$26.00	\$40.00
Normal Reconnection Charge	\$26.00	\$40.00
Violation Reconnection Charge	Actual Cost	Actual Cost
Premises Visit Charge (in lieu of disconnection)	\$14.00	\$27.00
Late Payment Charge		\$5.00