

****CLK OFFICIAL DOCUMENT...****

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<input type="checkbox"/> Administrative	<input type="checkbox"/> Parties	<input checked="" type="checkbox"/> Consumer
DOCUMENT NO. 06427-08		
DISTRIBUTION:		

Kimberley Pena

From: Erik Saylor
Sent: Tuesday, September 02, 2008 12:58 PM
To: Kimberley Pena; Timolyn Henry
Cc: 'marsha@reuphlaw.com'
Subject: 080428 - Heather Hills Joint application of transfer - Starkey to Ni Florida

Attachments: FAX.TIF

080428 - Heather Hills Joint application of transfer - Starkey to Ni Florida

Hi,
Would you please add this fax to the Docket Correspondence? It's a copy of the transfer statute.
Thanks,
Erik

From: NET SatisFAXtion
Sent: None
To: Erik Saylor
Subject: , 1 page(s)

You have received a new fax. This fax was received by **NET SatisFAXtion**. The fax is attached to the message. Open the attachment to view your fax.

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Received On: 8/29/2008 11:53 AM
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From (CSID):
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Duration of Fax: 0:00:54
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Received Status: Success
Number of Errors: 0
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FAX.TIF (22 KB)

The 2005 Florida Statutes

RAILROADS AND OTHER REGULATED UTILITIES
WATER AND WASTEWATER SYSTEMS

Chapter 367

367.071 Sale, assignment, or transfer of certificate of authorization, facilities, or control.—

(1) No utility shall sell, assign, or transfer its certificate of authorization, facilities or any portion thereof, or majority organizational control without determination and approval of the commission that the proposed sale, assignment, or transfer is in the public interest and that the buyer, assignee, or transferee will fulfill the commitments, obligations, and representations of the utility. However, a sale, assignment, or transfer of its certificate of authorization, facilities or any portion thereof, or majority organizational control may occur prior to commission approval if the contract for sale, assignment, or transfer is made contingent upon commission approval.

(2) The commission may impose a penalty pursuant to s. 367.161 when a transfer occurs prior to approval by the commission. The transferor remains liable for any outstanding regulatory assessment fees, fines, or refunds of the utility.

(3) An application for proposed sale, assignment, or transfer shall be accompanied by a fee as provided by s. 367.145.

(4) An application shall be disposed of as provided in s. 367.045, except that:

(b) When paragraph (a) does not apply, the commission shall amend the certificate of authorization as necessary to reflect the change resulting from the sale, assignment, or transfer.

(5) The commission by order may establish the rate base for a utility or its facilities or property when the commission approves a sale, assignment, or transfer thereof, except for any sale, assignment, or transfer to a governmental authority.

****CLK OFFICIAL DOCUMENT...****

FPSC, CLK - CORRESPONDENCE		
<input type="checkbox"/> Administrative	<input type="checkbox"/> Parties	<input checked="" type="checkbox"/> Consumer
DOCUMENT NO. 06427-08		
DISTRIBUTION		

Kimberley Pena

From: Erik Sayler
Sent: Tuesday, September 02, 2008 12:57 PM
To: Kimberley Pena; Timolyn Henry
Cc: 'marsha@reuphlaw.com'
Subject: 080428 - Heather Hills Joint application of transfer - Starkey to Ni Florida

Attachments: FAX.TIF

080428 - Heather Hills Joint application of transfer - Starkey to Ni Florida

Hi,
Would you please add this fax to the Docket Correspondence? It's a copy of the Notices posted at Heather Hills Clubhouse.
Thanks,
Erik

From: NET SatisFAXtion
Sent: None
To: Erik Sayler
Subject: , 3 page(s)

You have received a new fax. This fax was received by **NET SatisFAXtion**. The fax is attached to the message. Open the attachment to view your fax.

Received Fax Details

Received On: 8/29/2008 11:50 AM
Number of Pages: 3
From (CSID):
From (ANI):
Sent to DID: 6085

Duration of Fax: 0:01:58
Transfer Speed: 9600

Received Status: Success
Number of Errors: 0
Port Received On: RockForceOCTO+ Port 8



FAX.TIF (41 KB)

AUG. 29th, 2008

FROM: JOHN MORELLI - HH RESIDENT.

TO: ERIK SAYER
PER CONVERSATION BETWEEN US TODAY.

DEAR ERIK,

THIS IS A COVER LETTER TO COMBINE WITH
THE 3 PAGES YOU ARE BEING FAXED TODAY.

- 1) THE "NOTICE"
IS POSTED UPON 3 CLUBHOUSE DOORS.
- 2) THE LETTER WAS LYING ON A TABLE INSIDE
THE CLUBHOUSE.
- 3) FS. 367
(P.S) MOST OF THE OWNERS ARE STILL OUT
OF TOWN, UP NORTH.

WITH F.U.G. LLC BEING SO FAR AWAY IF
AN EMERGENCY ARISES, SOME FOLKS COULD ALREADY
BE AT RISK FOR THEIR HEALTH BY PARTAKING
OF CONTAMINATED WATER. AT LEAST THE STARKEYS
COULD RESPOND IN ABOUT 10 MINUTES.

THANK YOU,
JOHN MORELLI

①

NOTICE

For ALL Water or sewer information
Contact the

Home office of:

Florida Utility Group, LLC
13825 Us Highway 19, Suite 301
Hudson, Fl 33667

Phone: 727-863-0205
Toll free: 877-233-0101
Fax: 727-869-5913

AUG 27 2008

②

Florida Utility Group, LLC.
13825 US HWY 19
Suite 301
Hudson, FL 34667

August 27, 2008

Subject: Operation of the Water Distribution and Wastewater Collection Systems.

We are proud to announce to the residents of Heather Hills Estates that, as of August 27, 2008, Florida Utility Group, LLC has assumed the responsibility for the operation and maintenance of the water distribution and wastewater collection systems that serve your home. We will continue to maintain these systems until Ni Florida completes its purchase of the utilities.

"We Are Committed To Providing The Highest Quality Of Service While Protecting Our Environment."

The quality of service we provide to our customers is and always has been important to us. Equally as important are environmental issues and the quality of water and effluent passing through our collection systems. Our first priority at Florida Utility Group is delivering the highest level of service to each of our water and wastewater customers.

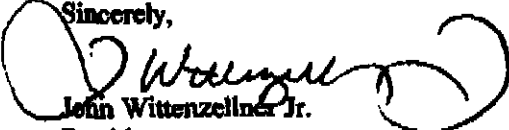
From time to time, you may see our trucks driving through the area or exercising valves or flushing the system. These vehicles are easily identified with our company name and logo on the doors. If you have an emergency to report, need to contact or visit the office, or mail your payment, the phone numbers and local address is:

Florida Utility Group, LLC
13825 US Highway 19, Suite 301
Hudson, FL 33667

Phone: 727-863-0205
Toll free: 877-233-0101
Fax: 727-869-5913

We will be installing a drop box to receive after-hours payments. It will be located at the front entrance of the community building for your convenience. If you have any questions or concerns regarding this or any other matter, please feel free to contact Florida Utility Group.

Sincerely,


John Wittenzellner Jr.
President

****CLK OFFICIAL DOCUMENT...****

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<input type="checkbox"/> Administrative	<input type="checkbox"/> Parties	<input checked="" type="checkbox"/> Consumer
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Kimberley Pena

From: Erik Saylor
Sent: Tuesday, September 02, 2008 12:57 PM
To: Timolyn Henry; Kimberley Pena
Cc: 'marsha@reuphlaw.com'
Subject: 080428 - Heather Hills Joint application of transfer - Starkey to Ni Florida

Attachments: FAX.TIF

080428 - Heather Hills Joint application of transfer - Starkey to Ni Florida

Hi,
Would you please add this fax to the Docket Correspondence?
It is a fax addendum from Ms. Kenna Gunn.
Thanks,
Erik

From: NET SatisFAXtion
Sent: None
To: Erik Saylor
Subject: , 6 page(s)

You have received a new fax. This fax was received by **NET SatisFAXtion**. The fax is attached to the message. Open the attachment to view your fax.

Received Fax Details

Received On: 9/02/2008 10:59 AM
Number of Pages: 6
From (CSID):
From (ANI):
Sent to DID: 6085

Duration of Fax: 0:04:44
Transfer Speed: 9600

Received Status: Success
Number of Errors: 0
Port Received On: RockForceOCTO+ Port 8 #2



FAX.TIF (182 KB)

9-2-08

ADDENDUM TO KENNA GUNN'S LETTER

TO: ATTORNEY ERIK SAYLER

FAXED: 4 pg ADDENDUM

" 1 pg WATER & SEWER BILL

" 1 pg "NOTICE" OF 2002 INFO.

6 PAGES TO FOLLOW

9-29-08

ADDENDUM : From KENNA GUNN, to my letter dated July 25th, 2008 Re: DOCKET # 080428-WS (OK to include per Attorney Erik Saylor).

The 5 pages of said letter contained about 10 questions, please may I have answers?

(I wish to amend the word in the last paragraph from "wholehearted" to the adverb "wholeheartedly". I had retyped the sentence and missed the necessary correction).

I would appreciate answers to these questions regarding my concerns of the 'applied for' transfer of a Water & Sewer Utility to Ni Florida from M/M Keith Starkey which I believe to definitely NOT be in the best interests of its customers.



1) Below are 'cut & pastes' directly from the JOINT APPLICATION and owing to the fact that there were indeed "written objections filed to this Application within 30 days" then it appears that both parties have failed to adhere to their written words by the act of posting a notice on the Heather Hills Estates clubhouse door stating "NOTICE FOR ALL Water or sewer information Contact the Home office of: Florida Utility Group, LLC....." etc and dated Aug 27 2008 and inside on the counter were sheets from F.U.G., LLC reading "We are proud to announce to the residents of Heather Hills Estates that, as of August 27, 2008. Florida Utility Group, LLC has assumed the responsibility for the operation and maintenance of the water distribution and wastewater collection systems that serve your home".....etc.

Has this deal "closed" already at Ni Florida's option prior to FPSC approval?

How can we trust any of their other written words? See below:

8. Exhibit "C" to the Application contains a copy of the Asset Purchase Agreement by and between Ni Florida, LLC, Keith C. Starkey and Clara B. Starkey concerning the purchase and sale of the Heather Hills water and wastewater systems. Under Section 7.1 ** of the Agreement, the parties will close on the transaction following approval of this Application by the Commission, but may, at Ni Florida's option, close prior to final approval (and subject to rescission) if no written objections are filed to this Application within 30 days after required notices have been filed.

** 7.1

- (g) all consents, approvals and waivers necessary to permit the Sellers to transfer the Assets to the Buyer, or necessary to permit the Buyer to conduct the Business as presently conducted, shall have been obtained, including the Regulatory Approval, *provided that, if no written objection to the purchase and sale of the Assets as contemplated herein is received by the FPSC within thirty (30) days after notice of the sale was mailed to the FPSC or published by the applicant(s), this condition shall be deemed to be satisfied.*

2) Kindly review below, the beginning page of JOINT APPLICATION as per below, (bolding mine) "367.045(2) is quoted as per the FL Statute with Florida Administrative Code Rules 25-30.036 (3) and 25-30.037 yet on page 5, PART III NOTICE OF ACTUAL APPLICATION it quotes FS 367.045(1) (a) and FAC Rule 25-30.030.

Is this an error? Or are they both accurate? See below:

"JOINT APPLICATION
OF KEITH AND CLARA STARKEY d/b/a HEATHER HILLS ESTATES AND NI FLORIDA, LLC FOR APPROVAL OF TRANSFER OF HEATHER HILLS ESTATES'S (sic) WATER AND WASTEWATER SYSTEMS

Keith and Clara Starkey d/b/a Heather Hills Estates ("Heather Hills") and Ni Florida, LLC ("Ni Florida"), by and through their undersigned counsel, and pursuant to Sections 367.045(2) and 367.071, Florida Statutes, and Rules 25-30.036(3) and 25-30.037, Florida Administrative Code, hereby file this Application for approval of the transfer of Heather Hills's water and wastewater system to Ni Florida. In support of this Application, the Joint Applicants state as follows:.....

PART III NOTICE OF ACTUAL APPLICATION

A) Exhibit J -An affidavit that the notice of actual application was given in accordance with Section **FS 367.045(1)(a)**, Florida Statutes, and Rule 25-30.030, Florida Administrative Code, by regular mail to the following:



3) Please see below verbiage regarding evidence that the Utility owns the land.

In the **FLORIDA PUBLIC SERVICE COMMISSION MEMORANDUM** dated August 1st, 1996, **Re: Docket #960814-WS**, page 6 it states,

"LAND AND LAND RIGHTS: The utility owns no land but does own land rights for the easements for the water distribution and wastewater collection lines. The 1995 utility annual report did not record any land or land rights". Hence, NO LAND OWNERSHIP AND NO 99-YEAR LEASE EITHER!! According to the Joint Application SCHEDULE 6.1(a) states that #2 EASEMENTS AND SETBACKS:, ARE NO LONGER APPLICABLE then combine that statement with the developers' "CERTIFICATE OF OWNERSHIP AND DEDICATION" whereby he dedicated "all of the streets, walks, alleys, thorough fares, parks and other open spaces, canals and drainage or other easements shown on this Plat to the use of the general public forever."

So pray tell me just what land does the Utility Co. own? You may wish to re-acquaint yourselves with my original letter pages 3 and 4 for a more detailed explanation on this issue.

PART V OTHER

A) Exhibit M - Evidence that the utility owns the land where the utility treatment facilities are located. Or, where the utility does not own the land, a copy of the agreement which provides for the long term, continuous use of the land, such as a 99-year lease. The Commission may consider a written easement or other cost-effective alternative.



4) Is it legal for persons in business who are not incorporated to actually claim auspices under any of the Florida Statutes? If they could do business legally under any or all such Statutes how would the Dept of Business and Professional Regulation and/or the Division of Florida Land Sales, Condominiums And Mobile Homes receive any 'incorporating' fees? Keith & Clara Starkey quote from sections of FS 367 in the opening statement of the Joint Application for transferal of Water & Sewer Certificates to Ni Florida. They are attempting to transfer under Keith & Clara Starkey d/b/a Heather Hills Estates which is NOT incorporated. The legal name of the W & S business is Heather Hills Utility, Inc. under the (generic corporation act) "FS 607 Corporations" yet HHU, Inc appears no where in the Joint Application, a document consisting of over 260 pages! Also, can a corporation under FS 607 legally "pass-thru" charges to customers under "FS 367 Water & Waste Water Systems" without M/M Starkey having paid the required additional incorporation fee/and or the fee to amend the Articles of Incorporation and/or the amendment fees to change the By Laws?

5) I believe that it is common knowledge within Heather Hills Estates that Keith Starkey approached Manatee County with the intention of offering the Utility to them for free (suggesting knowledge of its depreciation) if they would oblige him by taking it over. (He has been trying to "dump it" (unquote) for a long time). They declined the offer unless the Utility was first brought up to code. This overhaul never occurred. Now, a couple of years later the asking price is \$277,500 and Ni Florida would pass that cost onto the customers. Is that not a cause for "**unjust enrichment**" to and for M/M Starkey? Especially as **all** the costs of **all** the updating would **also** be on the shoulders of the customers, customers who have already paid for such costs by virtue of HHE receiving automatic yearly 'cost of living' rate raises?
Jan Voorheis, resident of Heather Hills Estates may know more explicit details of this issue.

6) Re: The article in The Tampa Tribune published March 21st, 2008 written by Christian M. Wade titled "Texas Company Buys Hudson Utilities" a portion of which reads "Mark Myers, Vice president of business development for Ni America, said he thinks private companies like his are better positioned financially to buy *and operate* utilities than local governments, *which pay too much and then pass that along to customers*". (Italics, mine).

He claims his company can buy **and operate** the utility so why would Ni Florida buy a utility and then HIRE ANOTHER COMPANY entirely such as FUGH, LLC to **operate** it?

Ni Management claims their 19 employees have a combined 162 years of experience in the operation of **managing and operating water & wastewater utilities**. Well, what good is all that experience if they are not the persons who will actually be operating it? *And* he states that '**local governments pay too much which then gets passed on to the customers**'!! (Bolding mine).

Is that not precisely what Ni Florida is planning on doing??!

7) Has the Florida Governmental Utilities Authority been advised of and approached by the county commission, regarding their potential assistance in and toward the viable purchase of this utility by Manatee County?

8) Would it not behoove the FPSC to actually obtain copies of the ORIGINAL 2 certificates which applications were filed for on December 7th, 1995 and granted with issuance on March 28th, 1996 by FPSC Order PSC-96-0434-FOF-WS for the HHE W & S Utility which the current owners claim are not in their possession? As per Joint Application **EXHIBIT 0**

"The current water and wastewater certificates issued for each system, and where not available, a statement providing an explanation of the steps taken by Ni Florida to obtain the certificates.

Attached is a copy of Certificate Nos. 577-W and 498-S, which are the current water and wastewater certificates issued to Heather Hills. Ni Florida was advised that the current owners do not have the original certificates". (Bolding mine).

The 2 documents included as the last 2 pages of the "Joint Application" are believed to **not** be copies of the *original* certificates which may well have contained verbiage to the effect of, "This Certificate is valid for 5 years after which it shall come up for review in March 2001," or "This Certificate is void after 10 (ten) years" etc. The Certificates shown in the JOINT APPLICATION are not dated, **highly irregular for official legal documents**. How would the FPSC et al know the Certificates were "current" if they are not dated? How can we the customers, be privy to copies of the original Certificates?

8a) Why would the Utility Co. incorporate under FS 607 when the Certificate specifically states them to be authorized "to provide water/wastewater services in accordance with the provisions of Chapter 367?"

NOTICE

Please take the time to review the regulations carefully, especially noting rules number 1, 5, 6, 11, 12, and 14. If there are questions concerning these rules, please call the office and arrange to meet with us and we will explain them to you.

***VEHICLE PARKING**—recreational, etc. For our permanent residents, (those owning the property) the time limitation will be:

- Arriving in Heather Hills 48 hours
- Returning to your northern home 48 hours
- Short vacations during your time here 24 hours
- Preparing for storage when returning 24 hours

Please call the office when you are bringing your recreational vehicle into the park, if one of the above applies.

NO OVERNIGHT PARKING PRIVILEGES WILL BE GIVEN TO VISITORS IN RECREATIONAL VEHICLES, UNLESS APPROVED BY THE OFFICE.

Thank you for your cooperation.

	* 2002 QUARTERLY FEES	
ASSESSMENT	Single lot	\$121.08
WATER	Ready to Serve (base rate)	\$21.38
SEWER	Ready to Serve (base rate)	\$28.36

QUARTERLY MINIMUM FOR SINGLE LOT \$170.82
(Does not include water & sewer usage)

WATER	(per 1,000 gallons)	\$1.32
WASTE WATER	(per 1,000 gallons)	\$2.57
* (83% of 1,000 gallons @ \$3.02)		

TOTAL quarterly bill will be \$170.82 PLUS water and sewer usage.

5

From: Keith and Clara Starkey
dba Heather Hills Estates
4925 Third St W
Bradenton FL 34207

Quarterly Invoice
January 01, 2002

To: Shirley Boons
196 46th Ave Dr W
Bradenton FL 34207

Account (Lot) Number 78

658960

Service From	Water Meter Readings		Water Used (Gallons)
	Current	Previous	
9/24/01			
To 12/24/01	056700	056700	= 2000

Water: 2000 Gallons at \$1.32 per 1000 Gallons	\$2.64
Water: Customer Charge (Base Rate)	\$21.38
Sewer: 2000 Gallons at \$2.57 per 1000 Gallons	\$5.14
Sewer: Customer Charge (Base Rate)	\$28.36

Total Amount due Heather Hills Estates Utilities \$57.52

Paid due after 1/21/02. If unpaid, water will be shut off on 1/29/02.

Please make the portion ABOVE payable to HEATHER HILLS ESTATES UTILITIES

Please make the portion BELOW payable to HEATHER HILLS ESTATES

Assessment for January, February and March \$121.08

Total Amount due Heather Hills Estates \$121.08

Paid due after 1/21/02. 10% penalty on unpaid balance.

121.08
37.52

178.60
1564
1-17-02

6

****CLK OFFICIAL DOCUMENT...****

FPSC, CLK - CORRESPONDENCE		
<input type="checkbox"/> Administrative	<input type="checkbox"/> Parties	<input checked="" type="checkbox"/> Consumer
DOCUMENT NO. 06427-08		
DISTRIBUTION		

Kimberley Pena

From: Erik Saylor
Sent: Tuesday, September 02, 2008 12:57 PM
To: Kimberley Pena; Timolyn Henry
Cc: 'marsha@reuphlaw.com'
Subject: 080428 - Heather Hills Joint application of transfer - Starkey to Ni Florida

Attachments: FAX.TIF

080428 - Heather Hills Joint application transfer - Starkeys to Ni Florida

Hi,
Would you please add this fax to the Docket Correspondence?
1. Copy of Draft Letter from PSC to "Utility Owner" regarding Price Index, dated January 31, 2006
2. Copy of Presentation to Heather Hills Property Assoc, Date February 14, 2003.

Thanks,

Erik

From: NET SatisFAXtion
Sent: None
To: Erik Saylor
Subject: , 2 page(s)

You have received a new fax. This fax was received by **NET SatisFAXtion**. The fax is attached to the message. Open the attachment to view your fax.

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Received On: 8/29/2008 2:26 PM
Number of Pages: 2
From (CSID):
From (ANI):
Sent to DID: 6085

Duration of Fax: 0:02:01
Transfer Speed: 9600

Received Status: Success
Number of Errors: 0
Port Received On: RockForceOCTO+ Port 8



FAX.TIF (65 KB)

8/29/08

TO: ERIK SAYLER
FROM: JOHN MORELLI

ERIK,
THESE ARE THE OTHER (2) PAGES THAT
WE (KENNA & I) SAID WE WOULD
FAX YOU.

THANKS FOR YOU TIME,
JOHN MORELLI

b1k

ORDER NO. PSC-06-0873-PAA-WS
DOCKET NO. 060005-WS
PAGE 23

ATTACHMENT A 10F3

COMMISSIONERS:
LEA POLAK BEGAN, CHAIRMAN
J. THOMAS BRADSHAW
TERRY BROWN
WILLIAM J. HARRIS
MATTHEW M. CARTER, II
KATHLEEN J. TAYLOR

STATE OF FLORIDA



THEODORE DEVLIN, DIRECTOR
DIVISION OF REGULATORY SERVICES
(850) 417-9900

Public Service Commission

January 31, 2006

All Florida Public Service Commission
Regulated Water & Wastewater Utilities

DRAFT

Re: Docket No. 060005-WS - 2006 Price Index

Dear Utility Owner:

Since March 31, 1981, pursuant to the guidelines established by Section 367.061(4)(b), Florida Statutes, and Rule 25-30.420, Florida Administrative Code (F.A.C.), the Commission has established a price index increase or decrease for major categories of operating costs. The intent of this rule is to insure that inflationary pressures are not detrimental to utility owners, and that any possible deficiency pressures are not adverse to rate payers. By keeping up with index and pass-through adjustments, utility operations can be maintained at a level sufficient to insure quality of service for the rate payer.

Pursuant to Rule 25-30.420 (1)(a), F.A.C., all operation and maintenance expenses shall be indexed with the exception of:

- Pass-through items pursuant to Section 367.061(4)(b);
- Any amortization of rate case expense; and
- Disincentives or adjustments made in an applicant's most recent rate proceeding.

Upon the filing of a request for an index, under pass-through increases, staff will review the application and modify existing rates accordingly. If for no other reason than to keep up with escalating costs, utilities throughout Florida should file for this rate roll on an annual basis. Utilities may apply for a 2006 Price Index anytime between April 1, 2006, through March 31, 2007.

b1k

2 of 3

Presentation to Heather Hills Property Owners' Association Board of Directors on February 14, 2003

- Since 1976 there has not been a Heather Hill Estates, Inc.
- The Starkeys do not own Heather Hills Estates.
- The Starkeys own the recreation area including the clubhouse.
- The Starkeys are doing business under a fictitious name of dbe Heather Hills Estates.
- The Restrictive Covenants as published in the directory and posted is not a valid official document.
- The Corrective of Restrictive Covenants filed in Manatee County Official Records over 9 months late state there are 3 Restrictive Covenants, one for Unit 1 and one for Unit 3. The Unit 4 Restrictive Covenant is filed incorrectly. There are no Restrictive Covenants on Unit 2 and 5.
- The Restrictive Covenants states that our assessment, for the privilege to use the recreation facilities, can only be increased on March 8.
- The Starkeys increase our assessment on January 1, each year.
- The association members and all residents have the privilege of using the recreation areas and clubhouse by paying the Starkeys the assessment of approximately \$300 individually and \$180,000 collectively each year.
- The association has a lease with the Starkeys to use the recreation area and clubhouse.
- By leasing, the association accepts liabilities, expenses and responsible for the recreation area and clubhouse.
- The association can cancel the lease at any time by written notice delivered to the Starkeys 30 days before September 30.
- According to Mr. Starkey and the Heather Hills Property Owners' Association neither have any knowledge of the whereabouts or the contents of Exhibit A or Exhibit B of the Lease Agreement.
- According to budget provided by Starkeys to Judge Ferrance, each year the Starkeys spend \$2000 of our recreation area assessment on board dinners.
- The Starkeys according to Florida Law have to provide us with an annual financial statement on the assessments we are required to pay. It is due March 1.
- Our water/sewer system installed in 1967 is 36 years old and needs updating.
- According to the 2001 Florida Public Service Commission records submitted by the Starkeys the utility plant is worth \$7,906 and had a net loss of \$1,901 in 2001.
- At this depreciation rate the utility plant will be worth nothing in 2007.

b1k

3 of 3

- The Florida Public Service Commission states that many small utility owners, like the Starkeys, abandon their plant when it is fully depreciated because there is very little profit or none for small utility owners.
- The subdivision residents have a right to petition Manatee County Utility Operations Division to directly provide us with a new water/sewer system with fireplugs. Fireplugs will reduce our household insurance costs.
- A strong association that represents resident issues in relation to the recreation area and water/sewer systems is needed.
- Call the Federation of Manufactured Home Owners of Florida, Inc., 888-319-3696, for information and presentations. The dues are \$13 a year. This organization is an advocacy group for owners of manufactured homes. It meets the third (3rd) Tuesday of every month.

Motions are needed on Items 7, 12, 15, 20 and 22.

Respectfully Submitted,
Janet Voorheis

****CLK OFFICIAL DOCUMENT...**b>**

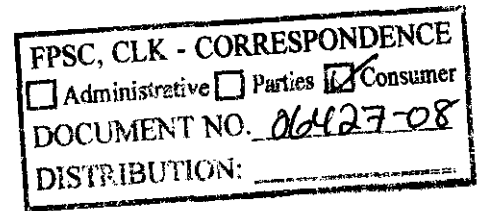
Kimberley Pena

From: Kimberley Pena
Sent: Friday, August 15, 2008 10:05 AM
To: Erik Saylor
Subject: RE: Docket No. 080428-WS, Joint Application for transfer of water and wastewater systems from Keith and Clara Starkey d/b/a Heather Hills Estates to Ni Florida, LLC, in Manatee County.

Per this email, we will do so. Thank you.

From: Erik Saylor
Sent: Friday, August 15, 2008 10:02 AM
To: Kimberley Pena
Subject: RE: Docket No. 080428-WS, Joint Application for transfer of water and wastewater systems from Keith and Clara Starkey d/b/a Heather Hills Estates to Ni Florida, LLC, in Manatee County.

Kim,
Would you also add this document to the Correspondence in the Docket file?
Many thanks.
Erik



From: NET SatisFAXtion
Sent: None
To: Erik Saylor
Subject: , 1 page(s)

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<< File: FAX.TIF >>

THEY DID NOT KNOW
 WHAT A "READINESS TO SERVE"
 FEE WAS. IT COSTS US OVER
 \$1700/MONTH NOW WITH NO
 WATER USE & THAT IS GOING UP.

Heather Hills

Potential Rate Increases

(PRESENTED BY NI AMERICA)

★ TO: ERIK SAYLER ★
 FROM: JOHN MORELLI ★

	Current Rates		Year 1	Year 2	Year 3	Year 4	Year 5
	County	Heather Hills	Index	Rate Case	Index	Index	Index
Monthly Rates			3.00%		3.00%	3.00%	3.00%
Water base facility charge	\$ 6.80	\$ 7.46	\$ 7.68	\$ 11.61	\$ 11.96	\$ 12.32	\$ 12.69
Water usage fee per 1,000 gallons (no minimum)	\$ 1.61	\$ 2.23	\$ 2.30	\$ 4.00	\$ 4.12	\$ 4.24	\$ 4.37
Sewer base facility charge	\$ 15.90	\$ 9.66	\$ 9.95	\$ 17.34	\$ 17.86	\$ 18.40	\$ 18.95
Sewer usage fee per 1,000 gallons (no minimum)	\$ 3.74	\$ 5.10	\$ 5.25	\$ 7.25	\$ 7.47	\$ 7.69	\$ 7.92
Estimated average monthly water bill	\$ 9.47	\$ 11.16	\$ 11.49	\$ 18.25	\$ 18.80	\$ 19.36	\$ 19.94
Estimated average monthly sewer bill	\$ 21.18	\$ 16.85	\$ 17.36	\$ 27.57	\$ 28.39	\$ 29.25	\$ 30.12
Estimated combined average monthly total bill	\$ 30.65	\$ 28.01	\$ 28.85	\$ 45.82	\$ 47.19	\$ 48.61	\$ 50.06
Yearly % increase			3%	58.8%	3%	3%	3%

This schedule is provided for discussion purposes only. Projected future rates are based upon (1) estimated operating expenses, (2) capital expenditures necessary to bring the system into compliance, improve customer satisfaction, or promote operational efficiency, and (3) the current average water and wastewater usage in Heather Hills. Suggested rate design is spread between base and usage charges pro-rata using the current rate design as a basis. County rates represent the published rates for Manatee County as found on the county website and do not include any county tax subsidy applying to municipal utilities. Annual indexing is subject to rates published by the Florida Public Service Commission (FPSC) and do not include any increases in cost passed through to the customer from the county for water and wastewater treatment. All rate increases must be reviewed and approved by the FPSC.

ERIK SAYLER,
 THIS IS A COPY OF THE DOCUMENT NI AMERICA GAVE US
 AT THEIR (MR. MELCHER & OTHERS) PRESENTATION. AS I HAVE
 SAID PRIOR IN OUR CONVERSATIONS, WE PAY OVER \$1700/MONTH
 IN READINESS TO SERVE FEES TO MANATEE COUNTY AND OUR
 HH UTILITY NOW. THESE FIGURES DO NOT TAKE INTO CONSIDERATION
 CHANGING OUR BILLING FROM QUARTERLY TO MONTHLY AND
 OTHER FACTORS. PLEASE PASS THIS ON TO ALL CONCERNED PARTIES.
 THANK YOU - JOHN MORELLI

COMMISSIONERS:
MATTHEW M. CARTER II, CHAIRMAN
LISA POLAK EDGAR
KATRINA J. MCMURRIAN
NANCY ARGENZIANO
NATHAN A. SKOP

STATE OF FLORIDA



OFFICE OF THE GENERAL COUNSEL
MICHAEL G. COOKE
GENERAL COUNSEL
(850) 413-6199

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DOCUMENT NO. 06427-08
DISTRIBUTION:

Public Service Commission

August 14, 2008

RECEIVED-FPSC
08 AUG 14 AM 11:49
COMMISSION
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Betty and Mannie Medeiros
4920 Second Street West
Bradenton, FL 34207

Re: Docket No. 080428-WS, Joint Application for transfer of water and wastewater systems from Keith and Clara Starkey d/b/a Heather Hills Estates to Ni Florida, LLC, in Manatee County.

Dear Mr. and Ms. Medeiros,

Thank you for your letter dated July 25, 2008, in which you expressed concerns regarding the transfer of water and wastewater utility, Keith and Clara Starkey d/b/a Heather Hills Estates, to Ni Florida, LLC, (Ni Florida) in the above referenced docket. At this time, the Florida Public Service Commission (Commission) is thoroughly reviewing the joint application for transfer and investigating the concerns raised in your letter. In the near future, the Commission will send a comprehensive letter to Ni Florida with any questions it has concerning the transfer. If you are interested, Commission staff will provide you with a copy of that letter and Ni Florida's response.

I am also writing you to determine whether you wish to proceed formally or informally with your objection. If you prefer to formally object to the transfer and pursue this matter to an administrative hearing, you will become a party to this proceeding and will assume certain legal rights and responsibilities. You will be expected to put on your case, including filing written testimony, participating in motion practice and formal discovery, filing a prehearing statement, attending a prehearing conference to be held in Tallahassee, putting on witnesses and cross-examining utility and other witnesses at the hearing, and filing a post-hearing brief. All of these activities will have deadlines which must be satisfied by all parties to this proceeding. Although utility customers may represent themselves at formal hearings before the Commission, some customers find it preferable to hire an attorney or a qualified representative to present their case.

Alternatively, if you prefer to raise your concerns informally, your letter will be placed in the correspondence side of the docket file where it will remain available for review by Commissioners, staff, and members of the public. Further, you may attend the Agenda Conference when this docket is addressed and personally convey your concerns about the transfer to the Commissioners. Documents such as filings and correspondence may be viewed and copied from the Commission's website at www.psc.state.fl.us.

Betty and Mannie Medeiros

Page 2

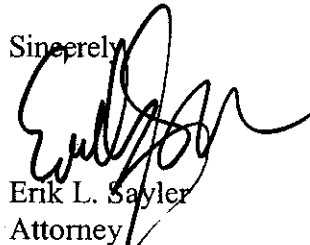
August 14, 2008

In addition, there is a separate state agency, the Office of Public Counsel, which represents the interests of customers in certain proceedings before the Commission. For more information, you may wish to contact the Office of Public Counsel with regard to your concerns at (800) 342-0222 or at <http://www.floridaopc.gov/contact.cfm>.

In closing, your letter dated July 25, 2008, arrived within the statutory time period in which to pursue an administrative hearing. If you wish to formally object to the transfer and initiate an administrative hearing, please let me know by **September 5, 2008**. You will also need to submit by that date a petition initiating an administrative hearing in accordance with the requirements of Rule 28-106.201, Florida Administrative Code (a copy of the rule is attached for your convenience). Your petition should be made in writing and should be addressed to the Florida Public Service Commission, Director, Office of Commission Clerk, 2540 Shumard Oak Boulevard, Tallahassee, FL 32399-0850, and reference this docket. You will also need to send a copy of your petition to Ni Florida and its attorney Marsha Rule. Otherwise, if you do not want to pursue this matter formally, or if we do not hear from you by September 5, 2008, we will assume that you do not want to pursue a formal hearing and your letter will be placed in the correspondence side of the record file in this docket.

If you have any questions regarding this matter, please do not hesitate to contact me at my direct line (850) 413-6084 or via email at erik.sayler@psc.state.fl.us.

Sincerely,



Erik L. Sayler
Attorney
Office of the General Counsel

ELS:es

Attachment: Rule 28-106.201, Florida Administrative Code

cc: Marsha E. Rule, Esq.
Keith & Clara Starkey, d/b/a Heather Hills Estates
Ni Florida, LLC
Patricia Brady, ECR
Office of Commission Clerk

28-106.201 Initiation of Proceedings.

(1) Unless otherwise provided by statute, and except for agency enforcement and disciplinary actions that shall be initiated under Rule 28-106.2015, F.A.C., initiation of proceedings shall be made by written petition to the agency responsible for rendering final agency action. The term "petition" includes any document that requests an evidentiary proceeding and asserts the existence of a disputed issue of material fact. Each petition shall be legible and on 8 1/2 by 11 inch white paper. Unless printed, the impression shall be on one side of the paper only and lines shall be double-spaced.

(2) All petitions filed under these rules shall contain:

(a) The name and address of each agency affected and each agency's file or identification number, if known;

(b) The name, address, and telephone number of the petitioner; the name, address, and telephone number of the petitioner's representative, if any, which shall be the address for service purposes during the course of the proceeding; and an explanation of how the petitioner's substantial interests will be affected by the agency determination;

(c) A statement of when and how the petitioner received notice of the agency decision;

(d) A statement of all disputed issues of material fact. If there are none, the petition must so indicate;

(e) A concise statement of the ultimate facts alleged, including the specific facts the petitioner contends warrant reversal or modification of the agency's proposed action;

(f) A statement of the specific rules or statutes the petitioner contends require reversal or modification of the agency's proposed action, including an explanation of how the alleged facts relate to the specific rules or statutes; and

(g) A statement of the relief sought by the petitioner, stating precisely the action petitioner wishes the agency to take with respect to the agency's proposed action.

(3) Upon receipt of a petition involving disputed issues of material fact, the agency shall grant or deny the petition, and if granted shall, unless otherwise provided by law, refer the matter to the Division of Administrative Hearings with a request that an administrative law judge be assigned to conduct the hearing. The request shall be accompanied by a copy of the petition and a copy of the notice of agency action.

Specific Authority: 120.54(3), (5) FS. Law Implemented 120.54(5), 120.569, 120.57 FS. History--New 4-1-97, Amended 9-17-98, 1-15-07.

STATE OF FLORIDA

COMMISSIONERS:
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(850) 413-6199

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Public Service Commission

August 13, 2008

RECEIVED-FPSC
08 AUG 14 AM 11:49
COMMISSION
CLERK

Donald and Helen Mathews
209 48th Ave W.
Bradenton, Florida 34207

Re: Docket No. 080428-WS, Joint Application for transfer of water and wastewater systems from Keith and Clara Starkey d/b/a Heather Hills Estates to Ni Florida, LLC, in Manatee County.

Dear Mr. and Mrs. Mathews,

Thank you for your letter in which raised your objections to the sale of Heather Hills Estates water and wastewater systems to Ni Florida, LLC. Thank you for taking some time to discuss your concerns with me on August 8, 2008. At this time, the Florida Public Service Commission (Commission) is thoroughly reviewing the joint application for transfer and investigating the concerns raised in your letter. In the near future, the Commission will send a comprehensive letter to Ni Florida with any questions it has concerning the transfer. If you are interested, Commission staff will provide you with a copy of that letter and Ni Florida's response. With regards to your letter, you stated you did not want to pursue your objection to a formal hearing. Instead, at your request, I will place your letter in the correspondence file of the docket where it will remain available for review by Commissioners, staff, and members of the public.

Going forward, if you would like to participate further in this matter, you may request a copy of staff's recommendation, or download it from our website (<http://www.psc.state.fl.us/dockets/cms/>). You may also participate at the Agenda Conference when this docket will be addressed and personally convey your concerns about the transfer to the Commissioners. If you wish to participate at the Agenda Conference, please contact me in advance so I can provide you with the necessary dates and procedural information. Please note the Agenda Conference date has not yet been set.

In addition, there is a separate state agency, the Office of Public Counsel, which represents the interests of customers in certain proceedings before the Commission. For more information, you may wish to contact the Office of Public Counsel with regard to your concerns at (800) 342-0222 or at <http://www.floridaopc.gov/contact.cfm>.

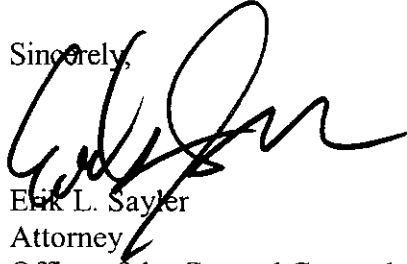
Donald & Helen Mathews

Page 2

August 13, 2008

If you have any questions or would like to discuss this matter further, please do not hesitate to contact me at (850) 413-6084, or via email at erik.sayler@psc.state.fl.us.

Sincerely,



Erik L. Sayler

Attorney

Office of the General Counsel

ELS:es

cc: Marsha E. Rule, Esq.
Keith & Clara Starkey, d/b/a Heather Hills Estates
Ni Florida, LLC
Patricia Brady, ECR
Office of Commission Clerk

STATE OF FLORIDA

COMMISSIONERS:
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NANCY ARGENZIANO
NATHAN A. SKOP



OFFICE OF THE GENERAL COUNSEL
MICHAEL G. COOKE
GENERAL COUNSEL
(850) 413-6199

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Florida Public Service Commission

August 14, 2008

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COMMISSION
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John and Janet Voorheis
3420 Wormer Drive
Waterford Township, MI 48329

Re: Docket No. 080428-WS, Joint Application for transfer of water and wastewater systems from Keith and Clara Starkey d/b/a Heather Hills Estates to Ni Florida, LLC, in Manatee County.

Dear Mr. and Ms. Voorheis,

Thank you for the letters and attachments you have sent, expressing your concerns regarding the transfer of water and wastewater utility, Keith and Clara Starkey d/b/a Heather Hills Estates, to Ni Florida, LLC, (Ni Florida) in this docket. Thank you for the time you have taken to express and explain those concerns to me over the telephone, especially concerning a potential future acquisition adjustment which Ni Florida is not currently seeking. I am attaching Rule 25-30.0371, Florida Administrative Code, related to Acquisition Adjustments. If you have any questions about it, please let me know. At this time, the Florida Public Service Commission (Commission) is thoroughly reviewing the joint application for transfer and investigating the concerns you raised. In the near future, the Commission will send a comprehensive letter to Ni Florida with any questions it has concerning the transfer. If you are interested, Commission staff will provide you with a copy of that letter and Ni Florida's response.

The purpose of this letter is to determine whether you wish to proceed formally or informally with your objection. As mentioned previously in our phone conversation, if you prefer to formally object to the transfer and pursue this matter to an administrative hearing, you will become a party to this proceeding and will assume certain legal rights and responsibilities. You will be expected to put on your case, including filing written testimony, participating in motion practice and formal discovery, filing a prehearing statement, attending a prehearing conference to be held in Tallahassee, putting on witnesses and cross-examining utility and other witnesses at the hearing, and filing a post-hearing brief. All of these activities will have deadlines which must be satisfied by all parties to this proceeding. Although utility customers may represent themselves at formal hearings before the Commission, some customers find it preferable to hire an attorney or a qualified representative to present their case.

Alternatively, if you prefer to raise your concerns informally, your letter will be placed in the correspondence side of the docket file where it will remain available for review by Commissioners, staff, and members of the public. Further, you may attend the Agenda Conference when this docket is

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PSC Website: <http://www.floridapsc.com>

Internet E-mail: contact@psc.state.fl.us

John and Janet Voorheis

Page 2

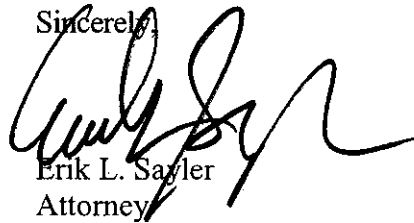
August 14, 2008

addressed and personally convey your concerns about the transfer to the Commissioners. Documents such as filings and correspondence may be viewed and copied from the Commission's website at www.psc.state.fl.us.

In closing, your letters were within the statutory time period in which to pursue an administrative hearing. If you wish to formally object to the transfer and initiate an administrative hearing, please let me know by **September 5, 2008**. You will also need to submit by that date a petition initiating an administrative hearing in accordance with the requirements of Rule 28-106.201, Florida Administrative Code (a copy of the rule is attached for your convenience). Your petition should be made in writing and should be addressed to the Florida Public Service Commission, Director, Office of Commission Clerk, 2540 Shumard Oak Boulevard, Tallahassee, FL 32399-0850, and reference this docket. You will also need to send a copy of your petition to Ni Florida and its attorney Marsha Rule. Otherwise, if you do not want to pursue this matter formally, or if we do not hear from you by September 5, 2008, we will assume that you do not want to pursue a formal hearing and your letter will be placed in the correspondence side of the record file in this docket.

If you have any questions regarding this matter, please do not hesitate to contact me at my direct line (850) 413-6084 or via email at erik.sayler@psc.state.fl.us.

Sincerely,



Erik L. Sayler

Attorney

Office of the General Counsel

ELS:es

Attachment: Rule 25-30.0371, Florida Administrative Code
Rule 28-106.201, Florida Administrative Code

cc: Marsha E. Rule, Esq.
Keith & Clara Starkey, d/b/a Heather Hills Estates
Ni Florida, LLC
Patricia Brady, ECR
Office of Commission Clerk

25-30.0371 Acquisition Adjustments.

(1) Definition. For the purpose of this rule, an acquisition adjustment is defined as the difference between the purchase price of utility system assets to an acquiring utility and the net book value of the utility assets. A positive acquisition adjustment exists when the purchase price is greater than the net book value. A negative acquisition adjustment exists when the purchase price is less than the net book value.

(2) Positive Acquisition Adjustments. A positive acquisition adjustment shall not be included in rate base absent proof of extraordinary circumstances. Any entity that believes a full or partial positive acquisition adjustment should be made has the burden to prove the existence of extraordinary circumstances. In determining whether extraordinary circumstances have been demonstrated, the Commission shall consider evidence provided to the Commission such as anticipated improvements in quality of service, anticipated improvements in compliance with regulatory mandates, anticipated rate reductions or rate stability over a long-term period, and anticipated cost efficiencies.

(3) Negative Acquisition Adjustments. A negative acquisition adjustment shall not be included in rate base unless there is proof of extraordinary circumstances or where the purchase price is less than 80 percent of net book value. If the purchase price is less than 80 percent of net book value then the inclusion of a negative acquisition adjustment shall be calculated pursuant to paragraph (b) below.

(a) Contested. Any entity that believes a full or partial negative acquisition adjustment should be made has the burden to prove the existence of extraordinary circumstances. Under no circumstance, however, shall the purchaser be required to record on its books more than 70 percent of a negative acquisition adjustment. In determining whether extraordinary circumstances have been demonstrated, the Commission shall consider evidence provided to the Commission such as the anticipated retirement of the acquired assets and the condition of the assets acquired.

(b) Uncontested. If the purchase price is less than 80 percent of net book value, then the amount of the difference in excess of 20 percent of net book value shall be recognized for ratemaking purposes as a negative acquisition adjustment. The negative acquisition adjustment shall not be recorded on the books for ratemaking purposes or used for any earnings review unless the purchaser files for a rate increase pursuant to Section 367.081(2), 367.0814, 367.0817 or 367.0822, F.S., that will be effective during the amortization period. The negative acquisition adjustment shall be amortized over a 5-year period from the date of issuance of the order approving the transfer of assets.

(4) Amortization Period. In setting the amortization period for a Commission approved acquisition adjustment pursuant to (2) or (3)(a) above, the Commission shall consider evidence provided to the Commission such as the composite remaining life of the assets purchased and the condition of the assets purchased. Amortization of the acquisition adjustment shall begin on the date of issuance of the order approving the transfer of assets.

(5) Subsequent Modification. Any full or partial acquisition adjustment, once made by the Commission pursuant to (2) or (3)(a) above, may be subsequently modified if the extraordinary circumstances do not materialize or subsequently are eliminated or changed within five years of the date of issuance of the order approving the transfer of assets.

Specific Authority 350.127(2), 367.121(1)(f) FS. Law Implemented 367.071(5), 367.081(2)(a), 367.121(1)(a), (b) FS. History—New 8-4-02.

28-106.201 Initiation of Proceedings.

(1) Unless otherwise provided by statute, and except for agency enforcement and disciplinary actions that shall be initiated under Rule 28-106.2015, F.A.C., initiation of proceedings shall be made by written petition to the agency responsible for rendering final agency action. The term "petition" includes any document that requests an evidentiary proceeding and asserts the existence of a disputed issue of material fact. Each petition shall be legible and on 8 1/2 by 11 inch white paper. Unless printed, the impression shall be on one side of the paper only and lines shall be double-spaced.

(2) All petitions filed under these rules shall contain:

(a) The name and address of each agency affected and each agency's file or identification number, if known;

(b) The name, address, and telephone number of the petitioner; the name, address, and telephone number of the petitioner's representative, if any, which shall be the address for service purposes during the course of the proceeding; and an explanation of how the petitioner's substantial interests will be affected by the agency determination;

(c) A statement of when and how the petitioner received notice of the agency decision;

(d) A statement of all disputed issues of material fact. If there are none, the petition must so indicate;

(e) A concise statement of the ultimate facts alleged, including the specific facts the petitioner contends warrant reversal or modification of the agency's proposed action;

(f) A statement of the specific rules or statutes the petitioner contends require reversal or modification of the agency's proposed action, including an explanation of how the alleged facts relate to the specific rules or statutes; and

(g) A statement of the relief sought by the petitioner, stating precisely the action petitioner wishes the agency to take with respect to the agency's proposed action.

(3) Upon receipt of a petition involving disputed issues of material fact, the agency shall grant or deny the petition, and if granted shall, unless otherwise provided by law, refer the matter to the Division of Administrative Hearings with a request that an administrative law judge be assigned to conduct the hearing. The request shall be accompanied by a copy of the petition and a copy of the notice of agency action.

Specific Authority 120.54(3), (5) FS. Law Implemented 120.54(5), 120.569, 120.57 FS. History--New 4-1-97, Amended 9-17-98, 1-15-07.

STATE OF FLORIDA

COMMISSIONERS:
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OFFICE OF THE GENERAL COUNSEL
MICHAEL G. COOKE
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Public Service Commission

August 13, 2008

John J. Morelli, Sr.
110 50th Avenue West
Bradenton, FL 34207

Re: Docket No. 080428-WS, Joint Application for transfer of water and wastewater systems from Keith and Clara Starkey d/b/a Heather Hills Estates to Ni Florida, LLC, in Manatee County.

Dear Mr. Morelli,

Thank you for the letters and attachments you have sent, expressing your concerns regarding the transfer of water and wastewater utility, Keith and Clara Starkey d/b/a Heather Hills Estates, to Ni Florida, LLC, (Ni Florida) in this docket. Thank you for the time you have taken to express and explain those concerns to me over the telephone, especially concerning a potential future acquisition adjustment. I'm attaching Rule 25-30.0371, Florida Administrative Code, related to Acquisition Adjustments. If you have any questions about it, please let me know. At this time, the Florida Public Service Commission (Commission) is thoroughly reviewing the joint application for transfer and investigating the concerns you raised. In the near future, the Commission will send a comprehensive letter to Ni Florida with any questions it has concerning the transfer. If you are interested, Commission staff will provide you with a copy of that letter and Ni Florida's response.

The purpose of this letter is to determine whether you wish to proceed formally or informally with your objection. As mentioned previously in our phone conversation, if you prefer to formally object to the transfer and pursue this matter to an administrative hearing, you will become a party to this proceeding and will assume certain legal rights and responsibilities. You will be expected to put on your case, including filing written testimony, participating in motion practice and formal discovery, filing a prehearing statement, attending a prehearing conference to be held in Tallahassee, putting on witnesses and cross-examining utility and other witnesses at the hearing, and filing a post-hearing brief. All of these activities will have deadlines which must be satisfied by all parties to this proceeding. Although utility customers may represent themselves at formal hearings before the Commission, some customers find it preferable to hire an attorney or a qualified representative to present their case.

Alternatively, if you prefer to raise your concerns informally, your letter will be placed in the correspondence side of the docket file where it will remain available for review by Commissioners, staff, and members of the public. Further, you may attend the Agenda Conference when this docket is addressed and personally convey your concerns about the transfer to the Commissioners. Documents

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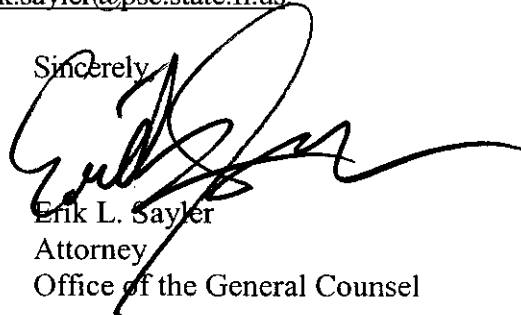
John J. Morelli, Sr.
Page 2
August 13, 2008

such as filings and correspondence may be viewed and copied from the Commission's website at www.psc.state.fl.us.

In closing, your letters were received on July 28, 2008 and arrived within the statutory time period in which to pursue an administrative hearing. If you wish to formally object to the transfer and initiate an administrative hearing, please let me know by **September 5, 2008**. You will also need to submit by that date a petition initiating an administrative hearing in accordance with the requirements of Rule 28-106.201, Florida Administrative Code (a copy of the rule is attached for your convenience). Your petition should be made in writing and should be addressed to the Florida Public Service Commission, Director, Office of Commission Clerk, 2540 Shumard Oak Boulevard, Tallahassee, FL 32399-0850, and reference this docket. You will also need to send a copy of your petition to Ni Florida and its attorney Marsha Rule. Otherwise, if you do not want to pursue this matter formally, or if we do not hear from you by September 5, 2008, we will assume that you do not want to pursue a formal hearing and your letter will be placed in the correspondence side of the record file in this docket.

If you have any questions regarding this matter, please do not hesitate to contact me at my direct line (850) 413-6084 or via email at erik.sayler@psc.state.fl.us

Sincerely,



Erik L. Sayler
Attorney
Office of the General Counsel

ELS:es

Attachment: Rule 25-30.0371, Florida Administrative Code
Rule 28-106.201, Florida Administrative Code

cc: Marsha E. Rule, Esq.
Keith & Clara Starkey, d/b/a Heather Hills Estates
Ni Florida, LLC
Patricia Brady, ECR
Office of Commission Clerk

28-106.201 Initiation of Proceedings.

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(b) The name, address, and telephone number of the petitioner; the name, address, and telephone number of the petitioner's representative, if any, which shall be the address for service purposes during the course of the proceeding; and an explanation of how the petitioner's substantial interests will be affected by the agency determination;

(c) A statement of when and how the petitioner received notice of the agency decision;

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(g) A statement of the relief sought by the petitioner, stating precisely the action petitioner wishes the agency to take with respect to the agency's proposed action.

(3) Upon receipt of a petition involving disputed issues of material fact, the agency shall grant or deny the petition, and if granted shall, unless otherwise provided by law, refer the matter to the Division of Administrative Hearings with a request that an administrative law judge be assigned to conduct the hearing. The request shall be accompanied by a copy of the petition and a copy of the notice of agency action.

Specific Authority 120.54(3), (5) FS. Law Implemented 120.54(5), 120.569, 120.57 FS. History--New 4-1-97, Amended 9-17-98, 1-15-07.

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(1) Definition. For the purpose of this rule, an acquisition adjustment is defined as the difference between the purchase price of utility system assets to an acquiring utility and the net book value of the utility assets. A positive acquisition adjustment exists when the purchase price is greater than the net book value. A negative acquisition adjustment exists when the purchase price is less than the net book value.

(2) Positive Acquisition Adjustments. A positive acquisition adjustment shall not be included in rate base absent proof of extraordinary circumstances. Any entity that believes a full or partial positive acquisition adjustment should be made has the burden to prove the existence of extraordinary circumstances. In determining whether extraordinary circumstances have been demonstrated, the Commission shall consider evidence provided to the Commission such as anticipated improvements in quality of service, anticipated improvements in compliance with regulatory mandates, anticipated rate reductions or rate stability over a long-term period, and anticipated cost efficiencies.

(3) Negative Acquisition Adjustments. A negative acquisition adjustment shall not be included in rate base unless there is proof of extraordinary circumstances or where the purchase price is less than 80 percent of net book value. If the purchase price is less than 80 percent of net book value then the inclusion of a negative acquisition adjustment shall be calculated pursuant to paragraph (b) below.

(a) Contested. Any entity that believes a full or partial negative acquisition adjustment should be made has the burden to prove the existence of extraordinary circumstances. Under no circumstance, however, shall the purchaser be required to record on its books more than 70 percent of a negative acquisition adjustment. In determining whether extraordinary circumstances have been demonstrated, the Commission shall consider evidence provided to the Commission such as the anticipated retirement of the acquired assets and the condition of the assets acquired.

(b) Uncontested. If the purchase price is less than 80 percent of net book value, then the amount of the difference in excess of 20 percent of net book value shall be recognized for ratemaking purposes as a negative acquisition adjustment. The negative acquisition adjustment shall not be recorded on the books for ratemaking purposes or used for any earnings review unless the purchaser files for a rate increase pursuant to Section 367.081(2), 367.0814, 367.0817 or 367.0822, F.S., that will be effective during the amortization period. The negative acquisition adjustment shall be amortized over a 5-year period from the date of issuance of the order approving the transfer of assets.

(4) Amortization Period. In setting the amortization period for a Commission approved acquisition adjustment pursuant to (2) or (3)(a) above, the Commission shall consider evidence provided to the Commission such as the composite remaining life of the assets purchased and the condition of the assets purchased. Amortization of the acquisition adjustment shall begin on the date of issuance of the order approving the transfer of assets.

(5) Subsequent Modification. Any full or partial acquisition adjustment, once made by the Commission pursuant to (2) or (3)(a) above, may be subsequently modified if the extraordinary circumstances do not materialize or subsequently are eliminated or changed within five years of the date of issuance of the order approving the transfer of assets.

Specific Authority 350.127(2), 367.121(1)(f) FS. Law Implemented 367.071(5), 367.081(2)(a), 367.121(1)(a), (b) FS. History--New 8-4-02.

STATE OF FLORIDA

COMMISSIONERS:
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Public Service Commission

August 14, 2008

Kenna Gunn
116 50th Avenue West
Bradenton, FL 34207

Re: Docket No. 080428-WS, Joint Application for transfer of water and wastewater systems from Keith and Clara Starkey d/b/a Heather Hills Estates to Ni Florida, LLC, in Manatee County.

Dear Ms. Gunn,

Thank you for your letter dated July 25, 2008, in which you expressed concerns regarding the transfer of water and wastewater utility, Keith and Clara Starkey d/b/a Heather Hills Estates, to Ni Florida, LLC, (Ni Florida) in the above referenced docket. At this time, the Florida Public Service Commission (Commission) is thoroughly reviewing the joint application for transfer and investigating the concerns raised in your letter. In the near future, the Commission will send a comprehensive letter to Ni Florida with any questions it has concerning the transfer. If you are interested, Commission staff will provide you with a copy of that letter and Ni Florida's response.

I am also writing you to determine whether you wish to proceed formally or informally with your objection. If you prefer to formally object to the transfer and pursue this matter to an administrative hearing, you will become a party to this proceeding and will assume certain legal rights and responsibilities. You will be expected to put on your case, including filing written testimony, participating in motion practice and formal discovery, filing a prehearing statement, attending a prehearing conference to be held in Tallahassee, putting on witnesses and cross-examining utility and other witnesses at the hearing, and filing a post-hearing brief. All of these activities will have deadlines which must be satisfied by all parties to this proceeding. Although utility customers may represent themselves at formal hearings before the Commission, some customers find it preferable to hire an attorney or a qualified representative to present their case.

Alternatively, if you prefer to raise your concerns informally, your letter will be placed in the correspondence side of the docket file where it will remain available for review by Commissioners, staff, and members of the public. Further, you may attend the Agenda Conference when this docket is addressed and personally convey your concerns about the transfer to the Commissioners. Documents such as filings and correspondence may be viewed and copied from the Commission's website at www.psc.state.fl.us.

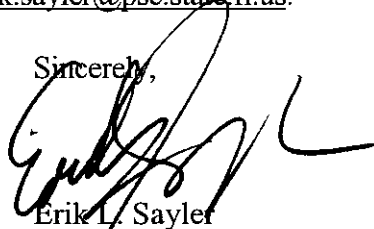
Kenna Gunn
Page 2
August 14, 2008

In addition, there is a separate state agency, the Office of Public Counsel, which represents the interests of customers in certain proceedings before the Commission. For more information, you may wish to contact the Office of Public Counsel with regard to your concerns at (800) 342-0222 or at <http://www.floridaopc.gov/contact.cfm>.

In closing, your letter dated July 25, 2008, arrived within the statutory time period in which to pursue an administrative hearing. If you wish to formally object to the transfer and initiate an administrative hearing, please let me know by **September 5, 2008**. You will also need to submit by that date a petition initiating an administrative hearing in accordance with the requirements of Rule 28-106.201, Florida Administrative Code (a copy of the rule is attached for your convenience). Your petition should be made in writing and should be addressed to the Florida Public Service Commission, Director, Office of Commission Clerk, 2540 Shumard Oak Boulevard, Tallahassee, FL 32399-0850, and reference this docket. You will also need to send a copy of your petition to Ni Florida and its attorney Marsha Rule. Otherwise, if you do not want to pursue this matter formally, or if we do not hear from you by September 5, 2008, we will assume that you do not want to pursue a formal hearing and your letter will be placed in the correspondence side of the record file in this docket.

If you have any questions regarding this matter, please do not hesitate to contact me at my direct line (850) 413-6084 or via email at erik.sayler@psc.state.fl.us.

Sincerely,



Erik L. Sayler
Attorney
Office of the General Counsel

ELS:es

Attachment: Rule 28-106.201, Florida Administrative Code

cc: Marsha E. Rule, Esq.
Keith & Clara Starkey, d/b/a Heather Hills Estates
Ni Florida, LLC
Patricia Brady, ECR
Office of Commission Clerk

28-106.201 Initiation of Proceedings.

(1) Unless otherwise provided by statute, and except for agency enforcement and disciplinary actions that shall be initiated under Rule 28-106.2015, F.A.C., initiation of proceedings shall be made by written petition to the agency responsible for rendering final agency action. The term "petition" includes any document that requests an evidentiary proceeding and asserts the existence of a disputed issue of material fact. Each petition shall be legible and on 8 1/2 by 11 inch white paper. Unless printed, the impression shall be on one side of the paper only and lines shall be double-spaced.

(2) All petitions filed under these rules shall contain:

(a) The name and address of each agency affected and each agency's file or identification number, if known;

(b) The name, address, and telephone number of the petitioner; the name, address, and telephone number of the petitioner's representative, if any, which shall be the address for service purposes during the course of the proceeding; and an explanation of how the petitioner's substantial interests will be affected by the agency determination;

(c) A statement of when and how the petitioner received notice of the agency decision;

(d) A statement of all disputed issues of material fact. If there are none, the petition must so indicate;

(e) A concise statement of the ultimate facts alleged, including the specific facts the petitioner contends warrant reversal or modification of the agency's proposed action;

(f) A statement of the specific rules or statutes the petitioner contends require reversal or modification of the agency's proposed action, including an explanation of how the alleged facts relate to the specific rules or statutes; and

(g) A statement of the relief sought by the petitioner, stating precisely the action petitioner wishes the agency to take with respect to the agency's proposed action.

(3) Upon receipt of a petition involving disputed issues of material fact, the agency shall grant or deny the petition, and if granted shall, unless otherwise provided by law, refer the matter to the Division of Administrative Hearings with a request that an administrative law judge be assigned to conduct the hearing. The request shall be accompanied by a copy of the petition and a copy of the notice of agency action.

Specific Authority 120.54(3), (5) FS. Law Implemented 120.54(5), 120.569, 120.57 FS. History--New 4-1-97, Amended 9-17-98, 1-15-07.

STATE OF FLORIDA

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OFFICE OF THE GENERAL COUNSEL
MICHAEL G. COOKE
GENERAL COUNSEL
(850) 413-6199

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Public Service Commission

August 14, 2008

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Linda Doepker
763 Treat Boulevard
Tallmadge, OH 44278

Re: Docket No. 080428-WS, Joint Application for transfer of water and wastewater systems from Keith and Clara Starkey d/b/a Heather Hills Estates to Ni Florida, LLC, in Manatee County.

Dear Ms. Doepker,

Thank you for the letter you sent July 28, 2008, expressing your concerns regarding the transfer of water and wastewater utility, Keith and Clara Starkey d/b/a Heather Hills Estates, to Ni Florida, LLC, (Ni Florida) in this docket. Thank you for the time you have taken to express and explain those concerns to me over the telephone, especially concerning a potential future acquisition adjustment which Ni Florida is not currently seeking. I am attaching Rule 25-30.0371, Florida Administrative Code, related to Acquisition Adjustments. If you have any questions about it, please let me know. At this time, the Florida Public Service Commission (Commission) is thoroughly reviewing the joint application for transfer and investigating the concerns you raised. In the near future, the Commission will send a comprehensive letter to Ni Florida with any questions it has concerning the transfer. If you are interested, Commission staff will provide you with a copy of that letter and Ni Florida's response.

The purpose of this letter is to determine whether you wish to proceed formally or informally with your objection. As mentioned previously in our phone conversation, if you prefer to formally object to the transfer and pursue this matter to an administrative hearing, you will become a party to this proceeding and will assume certain legal rights and responsibilities. You will be expected to put on your case, including filing written testimony, participating in motion practice and formal discovery, filing a prehearing statement, attending a prehearing conference to be held in Tallahassee, putting on witnesses and cross-examining utility and other witnesses at the hearing, and filing a post-hearing brief. All of these activities will have deadlines which must be satisfied by all parties to this proceeding. Although utility customers may represent themselves at formal hearings before the Commission, some customers find it preferable to hire an attorney or a qualified representative to present their case.

Alternatively, if you prefer to raise your concerns informally, your letter will be placed in the correspondence side of the docket file where it will remain available for review by Commissioners, staff, and members of the public. Further, you may attend the Agenda Conference when this docket is

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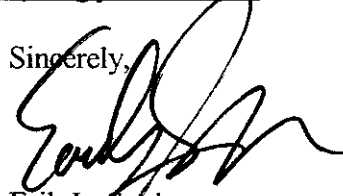
Linda Doepker
Page 2
August 14, 2008

addressed and personally convey your concerns about the transfer to the Commissioners. Documents such as filings and correspondence may be viewed and copied from the Commission's website at www.psc.state.fl.us.

In closing, your letter, dated July 28, 2008, arrived within the statutory time period in which to pursue an administrative hearing. If you wish to formally object to the transfer and initiate an administrative hearing, please let me know by **September 5, 2008**. You will also need to submit by that date a petition initiating an administrative hearing in accordance with the requirements of Rule 28-106.201, Florida Administrative Code (a copy of the rule is attached for your convenience). Your petition should be made in writing and should be addressed to the Florida Public Service Commission, Director, Office of Commission Clerk, 2540 Shumard Oak Boulevard, Tallahassee, FL 32399-0850, and reference this docket. You will also need to send a copy of your petition to Ni Florida and its attorney Marsha Rule. Otherwise, if you do not want to pursue this matter formally, or if we do not hear from you by September 5, 2008, we will assume that you do not want to pursue a formal hearing and your letter will be placed in the correspondence side of the record file in this docket.

If you have any questions regarding this matter, please do not hesitate to contact me at my direct line (850) 413-6084 or via email at erik.sayler@psc.state.fl.us.

Sincerely,



Erik L. Sayler
Attorney
Office of the General Counsel

ELS:es

Attachment: Rule 25-30.0371, Florida Administrative Code
Rule 28-106.201, Florida Administrative Code

cc: Marsha E. Rule, Esq.
Keith & Clara Starkey, d/b/a Heather Hills Estates
Ni Florida, LLC
Patricia Brady, ECR
Office of Commission Clerk

25-30.0371 Acquisition Adjustments.

(1) **Definition.** For the purpose of this rule, an acquisition adjustment is defined as the difference between the purchase price of utility system assets to an acquiring utility and the net book value of the utility assets. A positive acquisition adjustment exists when the purchase price is greater than the net book value. A negative acquisition adjustment exists when the purchase price is less than the net book value.

(2) **Positive Acquisition Adjustments.** A positive acquisition adjustment shall not be included in rate base absent proof of extraordinary circumstances. Any entity that believes a full or partial positive acquisition adjustment should be made has the burden to prove the existence of extraordinary circumstances. In determining whether extraordinary circumstances have been demonstrated, the Commission shall consider evidence provided to the Commission such as anticipated improvements in quality of service, anticipated improvements in compliance with regulatory mandates, anticipated rate reductions or rate stability over a long-term period, and anticipated cost efficiencies.

(3) **Negative Acquisition Adjustments.** A negative acquisition adjustment shall not be included in rate base unless there is proof of extraordinary circumstances or where the purchase price is less than 80 percent of net book value. If the purchase price is less than 80 percent of net book value then the inclusion of a negative acquisition adjustment shall be calculated pursuant to paragraph (b) below.

(a) **Contested.** Any entity that believes a full or partial negative acquisition adjustment should be made has the burden to prove the existence of extraordinary circumstances. Under no circumstance, however, shall the purchaser be required to record on its books more than 70 percent of a negative acquisition adjustment. In determining whether extraordinary circumstances have been demonstrated, the Commission shall consider evidence provided to the Commission such as the anticipated retirement of the acquired assets and the condition of the assets acquired.

(b) **Uncontested.** If the purchase price is less than 80 percent of net book value, then the amount of the difference in excess of 20 percent of net book value shall be recognized for ratemaking purposes as a negative acquisition adjustment. The negative acquisition adjustment shall not be recorded on the books for ratemaking purposes or used for any earnings review unless the purchaser files for a rate increase pursuant to Section 367.081(2), 367.0814, 367.0817 or 367.0822, F.S., that will be effective during the amortization period. The negative acquisition adjustment shall be amortized over a 5-year period from the date of issuance of the order approving the transfer of assets.

(4) **Amortization Period.** In setting the amortization period for a Commission approved acquisition adjustment pursuant to (2) or (3)(a) above, the Commission shall consider evidence provided to the Commission such as the composite remaining life of the assets purchased and the condition of the assets purchased. Amortization of the acquisition adjustment shall begin on the date of issuance of the order approving the transfer of assets.

(5) **Subsequent Modification.** Any full or partial acquisition adjustment, once made by the Commission pursuant to (2) or (3)(a) above, may be subsequently modified if the extraordinary circumstances do not materialize or subsequently are eliminated or changed within five years of the date of issuance of the order approving the transfer of assets.

Specific Authority 350.127(2), 367.121(1)(f) FS. Law Implemented 367.071(5), 367.081(2)(a), 367.121(1)(a), (b) FS. History—New 8-4-02.

28-106.201 Initiation of Proceedings.

(1) Unless otherwise provided by statute, and except for agency enforcement and disciplinary actions that shall be initiated under Rule 28-106.2015, F.A.C., initiation of proceedings shall be made by written petition to the agency responsible for rendering final agency action. The term "petition" includes any document that requests an evidentiary proceeding and asserts the existence of a disputed issue of material fact. Each petition shall be legible and on 8 1/2 by 11 inch white paper. Unless printed, the impression shall be on one side of the paper only and lines shall be double-spaced.

(2) All petitions filed under these rules shall contain:

(a) The name and address of each agency affected and each agency's file or identification number, if known;

(b) The name, address, and telephone number of the petitioner; the name, address, and telephone number of the petitioner's representative, if any, which shall be the address for service purposes during the course of the proceeding; and an explanation of how the petitioner's substantial interests will be affected by the agency determination;

(c) A statement of when and how the petitioner received notice of the agency decision;

(d) A statement of all disputed issues of material fact. If there are none, the petition must so indicate;

(e) A concise statement of the ultimate facts alleged, including the specific facts the petitioner contends warrant reversal or modification of the agency's proposed action;

(f) A statement of the specific rules or statutes the petitioner contends require reversal or modification of the agency's proposed action, including an explanation of how the alleged facts relate to the specific rules or statutes; and

(g) A statement of the relief sought by the petitioner, stating precisely the action petitioner wishes the agency to take with respect to the agency's proposed action.

(3) Upon receipt of a petition involving disputed issues of material fact, the agency shall grant or deny the petition, and if granted shall, unless otherwise provided by law, refer the matter to the Division of Administrative Hearings with a request that an administrative law judge be assigned to conduct the hearing. The request shall be accompanied by a copy of the petition and a copy of the notice of agency action.

Specific Authority 120.54(3), (5) FS. Law Implemented 120.54(5), 120.569, 120.57 FS. History—New 4-1-97, Amended 9-17-98, 1-15-07.

STATE OF FLORIDA

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OFFICE OF THE GENERAL COUNSEL
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Public Service Commission

August 13, 2008

Marinus C. Staal
404 50th Ave. Plaza West
Bradenton, FL 34207

Re: Docket No. 080428-WS, Joint Application for transfer of water and wastewater systems from Keith and Clara Starkey d/b/a Heather Hills Estates to Ni Florida, LLC, in Manatee County.

Dear Mr. Staal,

Thank you for your letter dated July 10, 2008, in which you expressed concerns regarding the transfer of water and wastewater utility, Keith and Clara Starkey d/b/a Heather Hills Estates, to Ni Florida, LLC, (Ni Florida) in the above referenced docket. At this time, the Florida Public Service Commission (Commission) is thoroughly reviewing the joint application for transfer and investigating the concerns raised in your letter. In the near future, the Commission will send a comprehensive letter to Ni Florida with any questions it has concerning the transfer. If you are interested, Commission staff will provide you with a copy of that letter and Ni Florida's response.

I am also writing you to determine whether you wish to proceed formally or informally with your objection. If you prefer to formally object to the transfer and pursue this matter to an administrative hearing, you will become a party to this proceeding and will assume certain legal rights and responsibilities. You will be expected to put on your case, including filing written testimony, participating in motion practice and formal discovery, filing a prehearing statement, attending a prehearing conference to be held in Tallahassee, putting on witnesses and cross-examining utility and other witnesses at the hearing, and filing a post-hearing brief. All of these activities will have deadlines which must be satisfied by all parties to this proceeding. Although utility customers may represent themselves at formal hearings before the Commission, some customers find it preferable to hire an attorney or a qualified representative to present their case.

Alternatively, if you prefer to raise your concerns informally, your letter will be placed in the correspondence side of the docket file where it will remain available for review by Commissioners, staff, and members of the public. Further, you may attend the Agenda Conference when this docket is addressed and personally convey your concerns about the transfer to the Commissioners. Documents such as filings and correspondence may be viewed and copied from the Commission's website at www.psc.state.fl.us.

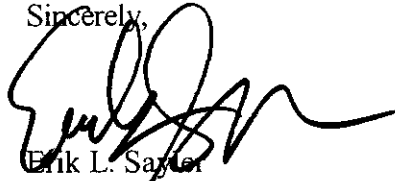
Marinus C. Staal
Page 2
August 13, 2008

In addition, there is a separate state agency, the Office of Public Counsel, which represents the interests of customers in certain proceedings before the Commission. For more information, you may wish to contact the Office of Public Counsel with regard to your concerns at (800) 342-0222 or at <http://www.floridaopc.gov/contact.cfm>.

In closing, your letter dated July 10, 2008, arrived within the statutory time period in which to pursue an administrative hearing. If you wish to formally object to the transfer and initiate an administrative hearing, please let me know by **September 5, 2008**. You will also need to submit by that date a petition initiating an administrative hearing in accordance with the requirements of Rule 28-106.201, Florida Administrative Code (a copy of the rule is attached for your convenience). Your petition should be made in writing and should be addressed to the Florida Public Service Commission, Director, Office of Commission Clerk, 2540 Shumard Oak Boulevard, Tallahassee, FL 32399-0850, and reference this docket. You will also need to send a copy of your petition to Ni Florida and its attorney Marsha Rule. Otherwise, if you do not want to pursue this matter formally, or if we do not hear from you by September 5, 2008, we will assume that you do not want to pursue a formal hearing and your letter will be placed in the correspondence side of the record file in this docket.

If you have any questions regarding this matter, please do not hesitate to contact me at my direct line (850) 413-6084 or via email at erik.sayler@psc.state.fl.us.

Sincerely,



Erik L. Sayler
Attorney
Office of the General Counsel

ELS:es

Attachment: Rule 28-106.201, Florida Administrative Code

cc: Marsha E. Rule, Esq.
Keith & Clara Starkey, d/b/a Heather Hills Estates
Ni Florida, LLC
Patricia Brady, ECR
Office of Commission Clerk

28-106.201 Initiation of Proceedings.

(1) Unless otherwise provided by statute, and except for agency enforcement and disciplinary actions that shall be initiated under Rule 28-106.2015, F.A.C., initiation of proceedings shall be made by written petition to the agency responsible for rendering final agency action. The term "petition" includes any document that requests an evidentiary proceeding and asserts the existence of a disputed issue of material fact. Each petition shall be legible and on 8 1/2 by 11 inch white paper. Unless printed, the impression shall be on one side of the paper only and lines shall be double-spaced.

(2) All petitions filed under these rules shall contain:

(a) The name and address of each agency affected and each agency's file or identification number, if known;

(b) The name, address, and telephone number of the petitioner; the name, address, and telephone number of the petitioner's representative, if any, which shall be the address for service purposes during the course of the proceeding; and an explanation of how the petitioner's substantial interests will be affected by the agency determination;

(c) A statement of when and how the petitioner received notice of the agency decision;

(d) A statement of all disputed issues of material fact. If there are none, the petition must so indicate;

(e) A concise statement of the ultimate facts alleged, including the specific facts the petitioner contends warrant reversal or modification of the agency's proposed action;

(f) A statement of the specific rules or statutes the petitioner contends require reversal or modification of the agency's proposed action, including an explanation of how the alleged facts relate to the specific rules or statutes; and

(g) A statement of the relief sought by the petitioner, stating precisely the action petitioner wishes the agency to take with respect to the agency's proposed action.

(3) Upon receipt of a petition involving disputed issues of material fact, the agency shall grant or deny the petition, and if granted shall, unless otherwise provided by law, refer the matter to the Division of Administrative Hearings with a request that an administrative law judge be assigned to conduct the hearing. The request shall be accompanied by a copy of the petition and a copy of the notice of agency action.

Specific Authority: 120.54(3), (5) FS. Law Implemented 120.54(5), 120.569, 120.57 FS. History—New 4-1-97, Amended 9-17-98, 1-15-07.

STATE OF FLORIDA

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Public Service Commission

August 13, 2008

Pearl Bailey
207 48th Ave W.
Bradenton, Florida 34207

Re: Docket No. 080428-WS, Joint Application for transfer of water and wastewater systems from Keith and Clara Starkey d/b/a Heather Hills Estates to Ni Florida, LLC, in Manatee County.

Dear Mrs. Bailey,

Thank you for your letter in which raised your objections to the sale of Heather Hills Estates water and wastewater systems to Ni Florida, LLC. At this time, the Florida Public Service Commission (Commission) is thoroughly reviewing the joint application for transfer and investigating the concerns raised in your letter. In the near future, the Commission will send a comprehensive letter to Ni Florida with any questions it has concerning the transfer. If you are interested, Commission staff will provide you with a copy of that letter and Ni Florida's response. With regards to your letter, I spoke with your daughter and son-in-law on August 8, 2008. They stated you probably did not want to pursue your objection to a formal hearing. Based on that conversation, I will place your letter in the correspondence file of the docket where it will remain available for review by Commissioners, staff, and members of the public.

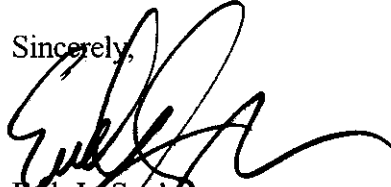
Going forward, if you would like to participate further in this matter, you may request a copy of staff's recommendation, or download it from our website (<http://www.psc.state.fl.us/dockets/cms/>). You may also participate at the Agenda Conference when this docket will be addressed and personally convey your concerns about the transfer to the Commissioners. If you wish to participate at the Agenda Conference, please contact me in advance so I can provide you with the necessary dates and procedural information. Please note the Agenda Conference date has not yet been set.

In addition, there is a separate state agency, the Office of Public Counsel, which represents the interests of customers in certain proceedings before the Commission. For more information, you may wish to contact the Office of Public Counsel with regard to your concerns at (800) 342-0222 or at <http://www.floridaopc.gov/contact.cfm>.

Pearl Bailey
Page 2
August 13, 2008

If you have any questions or would like to discuss this matter further, please do not hesitate to contact me at (850) 413-6084, or via email at erik.sayler@psc.state.fl.us.

Sincerely,



Erik L. Sayler
Attorney
Office of the General Counsel

ELS:es

cc: Marsha E. Rule, Esq.
Keith & Clara Starkey, d/b/a Heather Hills Estates
Ni Florida, LLC
Patricia Brady, ECR
Office of Commission Clerk

COMMISSIONERS:
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August 13, 2008

Rose Mears
110 50th Avenue West
Bradenton, FL 34207

Re: Docket No. 080428-WS, Joint Application for transfer of water and wastewater systems from Keith and Clara Starkey d/b/a Heather Hills Estates to Ni Florida, LLC, in Manatee County.

Dear Mrs. Mears,

Thank you for your letter dated July 24, 2008, in which you expressed concerns regarding the transfer of water and wastewater utility, Keith and Clara Starkey d/b/a Heather Hills Estates, to Ni Florida, LLC, (Ni Florida) in the above referenced docket. At this time, the Florida Public Service Commission (Commission) is thoroughly reviewing the joint application for transfer and investigating the concerns raised in your letter. In the near future, the Commission will send a comprehensive letter to Ni Florida with any questions it has concerning the transfer. If you are interested, Commission staff will provide you with a copy of that letter and Ni Florida's response.

I am also writing you to determine whether you wish to proceed formally or informally with your objection. If you prefer to formally object to the transfer and pursue this matter to an administrative hearing, you will become a party to this proceeding and will assume certain legal rights and responsibilities. You will be expected to put on your case, including filing written testimony, participating in motion practice and formal discovery, filing a prehearing statement, attending a prehearing conference to be held in Tallahassee, putting on witnesses and cross-examining utility and other witnesses at the hearing, and filing a post-hearing brief. All of these activities will have deadlines which must be satisfied by all parties to this proceeding. Although utility customers may represent themselves at formal hearings before the Commission, some customers find it preferable to hire an attorney or a qualified representative to present their case.

Alternatively, if you prefer to raise your concerns informally, your letter will be placed in the correspondence side of the docket file where it will remain available for review by Commissioners, staff, and members of the public. Further, you may attend the Agenda Conference when this docket is addressed and personally convey your concerns about the transfer to the Commissioners. Documents such as filings and correspondence may be viewed and copied from the Commission's website at www.psc.state.fl.us.

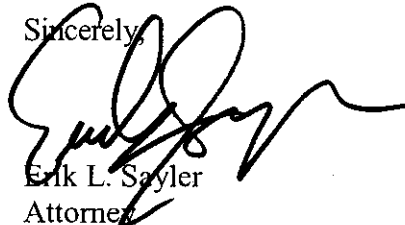
Rose Mears
Page 2
August 13, 2008

In addition, there is a separate state agency, the Office of Public Counsel, which represents the interests of customers in certain proceedings before the Commission. For more information, you may wish to contact the Office of Public Counsel with regard to your concerns at (800) 342-0222 or at <http://www.floridaopc.gov/contact.cfm>.

In closing, your letter dated July 24, 2008, arrived within the statutory time period in which to pursue an administrative hearing. If you wish to formally object to the transfer and initiate an administrative hearing, please let me know by **September 5, 2008**. You will also need to submit by that date a petition initiating an administrative hearing in accordance with the requirements of Rule 28-106.201, Florida Administrative Code (a copy of the rule is attached for your convenience). Your petition should be made in writing and should be addressed to the Florida Public Service Commission, Director, Office of Commission Clerk, 2540 Shumard Oak Boulevard, Tallahassee, FL 32399-0850, and reference this docket. You will also need to send a copy of your petition to Ni Florida and its attorney Marsha Rule. Otherwise, if you do not want to pursue this matter formally, or if we do not hear from you by September 5, 2008, we will assume that you do not want to pursue a formal hearing and your letter will be placed in the correspondence side of the record file in this docket.

If you have any questions regarding this matter, please do not hesitate to contact me at my direct line (850) 413-6084 or via email at erik.sayler@psc.state.fl.us.

Sincerely,



Erik L. Sayler
Attorney
Office of the General Counsel

ELS:es

Attachment: Rule 28-106.201, Florida Administrative Code

cc: Marsha E. Rule, Esq.
Keith & Clara Starkey, d/b/a Heather Hills Estates
Ni Florida, LLC
Patricia Brady, ECR
Office of Commission Clerk

28-106.201 Initiation of Proceedings.

(1) Unless otherwise provided by statute, and except for agency enforcement and disciplinary actions that shall be initiated under Rule 28-106.2015, F.A.C., initiation of proceedings shall be made by written petition to the agency responsible for rendering final agency action. The term "petition" includes any document that requests an evidentiary proceeding and asserts the existence of a disputed issue of material fact. Each petition shall be legible and on 8 1/2 by 11 inch white paper. Unless printed, the impression shall be on one side of the paper only and lines shall be double-spaced.

(2) All petitions filed under these rules shall contain:

(a) The name and address of each agency affected and each agency's file or identification number, if known;

(b) The name, address, and telephone number of the petitioner; the name, address, and telephone number of the petitioner's representative, if any, which shall be the address for service purposes during the course of the proceeding; and an explanation of how the petitioner's substantial interests will be affected by the agency determination;

(c) A statement of when and how the petitioner received notice of the agency decision;

(d) A statement of all disputed issues of material fact. If there are none, the petition must so indicate;

(e) A concise statement of the ultimate facts alleged, including the specific facts the petitioner contends warrant reversal or modification of the agency's proposed action;

(f) A statement of the specific rules or statutes the petitioner contends require reversal or modification of the agency's proposed action, including an explanation of how the alleged facts relate to the specific rules or statutes; and

(g) A statement of the relief sought by the petitioner, stating precisely the action petitioner wishes the agency to take with respect to the agency's proposed action.

(3) Upon receipt of a petition involving disputed issues of material fact, the agency shall grant or deny the petition, and if granted shall, unless otherwise provided by law, refer the matter to the Division of Administrative Hearings with a request that an administrative law judge be assigned to conduct the hearing. The request shall be accompanied by a copy of the petition and a copy of the notice of agency action.

Specific Authority 120.54(3), (5) FS. Law Implemented 120.54(5), 120.569, 120.57 FS. History—New 4-1-97, Amended 9-17-98, 1-15-07.

August 13, 2008

Mr. Eric Sailor

080428

1-850-413-6085

I am sending you a copy of my letter dated July 28, 2008 regarding the transfer of the Heather Hills Water Utility.

I appreciate your interest in this matter.

Sincerely,

Linda Doepker
330-633-2213
Doecottage@Aol.Com

FPSC, CLK - CORRESPONDENCE		
<input type="checkbox"/> Administrative	<input type="checkbox"/> Parties	<input checked="" type="checkbox"/> Consumer
DOCUMENT NO. <u>06427-08</u>		
DISTRIBUTION: _____		

July 28, 2008

Florida Public Service Commission
2540 Shumard Oak Blvd.
Tallahassee, FL 32302

FPSC Docket Number 080428 – Keith and Clara Starkey DBA Heather Hills Estates
Water Utility for approval of water utility transfer to Ni Florida LLC

To Whom It May Concern;

I am writing this letter in an attempt to convince this Commission that the residents of Heather Hills Estates are being treated in a very unfair and unjust manner. I am appalled that we have been unable to gain any relief from this nightmare of private ownership of our Clubhouse and Water Utility by Keith and Clara Starkey, and what they have knowingly subjected our community to.

My husband served on the Homeowners Association Board for the allotted six year term and we are well aware of what it involves when you voluntarily serve your neighbors as a board member. Over the last several years, we have been subjected to a very vicious and lengthy attack by the Starkey's while my husband served as Secretary and President of the Board. The succeeding Presidents have endured similar assaults on their good name and efforts to help our association. In 1996/97 the Starkey's led a movement to have the Association become an active #723 Homeowners Association so we might purchase the Clubhouse and the Water Utility when they decided to sell their interests. The first attempt to purchase by the residents was not able to occur as the Starkey's wanted to sell their interests for several hundred thousand dollars more than the appraised value. Then again in 2004 we were made aware of the sale of the park (we own the land our units are on) when we discovered an advertisement in a magazine. They did not provide us with the first right of refusal as they were required to do by law. We were forced to hire an attorney and fight for our right to make this purchase. Even though they had signed a contract with another party, they also signed a contract with our Homeowners Association because we had managed to collect in excess of one million dollars to meet the contract that they had signed with Mr. Kim Walker. They did not show up for closing. Instead, they filed a lawsuit and claimed we were not a legitimate #723 association. They attempted to prevent our association from raising any funds to operate with by denying us the same reasonable use of the clubhouse that we had enjoyed, supported by them, for the almost thirty past years. They kept the lawsuit in court long enough to financially drain our association of all funds. I can assure you that as a community of retired seniors, none of our members were sitting around reading the Florida State Statutes in 1996/97 and the only reason we became a #723 was to make it possible for us to encumber a debt large enough to buy their interests when they so desired. Our association becoming #723 was to their benefit, to serve their purpose. However, when the time came, Keith and Clara Starkey refused to sell us the clubhouse and water utility even though we met the contract they had signed with Mr. Walker in its entirety.

Judge Dubensky ruled that instead of having one designated voter per household, (and in spite of the fact that we had an attorney advise us that this was the mandated way to vote in 1997), we should have had every person who was listed on the deed vote on becoming a 723. This was ten years after the fact. During the previous almost ten years, the Starkey's did not question our status as a 723, and, in fact, acted under that belief completely, as in signing all paperwork, contracts, and such. However, once the board and the residents became aware of a personal problem that occurred with an employee in his office, he decided that he would not allow us to purchase the clubhouse and water utility regardless of our successful attempt to meet his contract, and he has succeeded in that effort. They have sold the clubhouse to a couple who maintain his attitude of prohibiting us from use of the clubhouse to raise any funds to operate our association with. We are no longer even able to earn enough money to pay for postage to keep our members informed. This occurs in spite of the fact that residents pay almost \$600 a year per unit in assessments for a total of almost \$200,000 a year for the use of this building. This would be an issue to take to court, if we had not been shut down by the previous and new owners from raising any funds for the budget to run our association. Does this help explain why we are feeling so abused? We are fighting people who became very wealthy off us and are now using that wealth to keep a strangle hold on this neighborhood of seniors. This is all about profit, and if a neighborhood of seniors get drained to the point of bankruptcy, is there anyone who can, or will help us?

Now, as a final and insulting blow, they are attempting to sell the water utility that they have, in my opinion failed to maintain, run in an efficient and safe manner, and though they have collected monies to make improvements, have failed to do so, and it appears that we will have paid Keith Starkey to make said improvements (it is my understanding that at one time he was ordered to replace the water meters at 25 a year until they were all replaced; he did not). Now it looks as though Ni Florida will make these improvements and we will be subjected to paying yet another time. HOW CAN THIS HAPPEN? Most of us are residents for only five to six months, and Ni Florida has told us they intend to read the water meters every month and charge us for that. When there will be approximately 200 of the 353 units not using one drop of water, they will still read the meters and charge us.

For almost thirty years, I feel we have been treated as merely a means for Keith and Clara Starkey to become very wealthy, as in millions of dollars, and if anyone dared to question him on any subject, they were treated with such disrespect and humiliation that for the most part, this senior community simply fell into step, paid their fees, and even when we had services reduced, and the fees increased, most of the community of elderly and retired people, simply did not have the fortitude to stand up to them. They were aware that the majority of residents were too decent to respond in kind, too ill, or impaired to take them on.

I am literally begging you to go over this transaction with a fine tooth comb, and please do not allow us to be taken advantage of again, with no restrictions on what hardships this will bring to us and our neighbors. We are at the mercy of people with unlimited amounts of wealth to punish us without end and WE NEED YOU TO INTERVENE FOR

US We have endured almost four full years of unbearable stress and torment in legal cases over what should have been a simple resident purchase if only we had been working with owners who would take, in my opinion, the right and moral stand. FL #723 was written to protect homeowners from this very occurrence, but sadly without enough funds, and our ability to earn them curtailed, we were unable to attain justice for our community of seniors. I am asking you to stand tall against what I believe to be an unscrupulous attempt to allow yet another company to rob us without any recourse.

I have attempted to give you some background as I have come to understand it and things I have experienced through this time frame of difficulty, but more importantly I am asking you to review this transfer with our welfare in mind. Why would anyone agree to pay \$277,500.00 for a water utility that cost \$93,000.00 in 1976, to which no improvements or replacement of the system has been made? Does it seem in any way a wise investment to any clear thinking person? It makes me think that Ni Florida has every intention of recouping any monies on the backs of all our residents. Will anyone question why the Starkey's should not be made to pay for any and all updates before they take their check and sail off to allow us to once again pay for any and all improvements or upgrades to the system, or the way it is managed? If they had allowed us to make the purchase that we were prepared to make, we would be the owners, making the repairs and improvements without the need for profit. Please review this purchase with great care. Our lifestyles will be greatly affected by the outcome of your research.

And although my husband and I, along with the current President and his wife, are not listed in the contact list of current water utility users in this docket, I can assure you I am still billed regularly for this service.

Sincerely,

Linda Doepker
Heather Hills
303 50th Avenue Plaza West
Bradenton, Florida 34207
941-753-7357

OHIO
763 Treat Blvd.
Tallmadge, Ohio 44278
330-633-2213

CC: Steve Reilly – Florida Office of Public Counsel
John Zimmerman – Manatee County Utility

FPSC, CLK - CORRESPONDENCE		
<input type="checkbox"/> Administrative	<input type="checkbox"/> Parties	<input checked="" type="checkbox"/> Consumer
DOCUMENT NO. <u>06427-08</u>		
DISTRIBUTION: <u>ECR, GCL</u>		

August 3, 2008

To: Office of Commission Clerk Fax: 1-850-413-7118

Re: FPSC Docket #080428

The Official Manatee County Record of the Utility Easement agreement between Manatee County and the Heather Hills Estates lot owners of 109 49th Avenue Drive W. should have been recorded as an Exhibit to our July 23, 2008 protest letter. This Official Public Record shows there is no treatment center or land owned as stated in Docket #080428.

Your cooperation is appreciated.

John and Janet Voorheis
203 49th Ave. Dr. W.
Bradenton, Florida 34207

voorheis@msu.edu

RECEIVED-FPSC
08 AUG -5 AM 9:50
COMMISSION
CLERK

Exhibit

640156

UTILITY EASEMENT

In consideration of the mutual benefits to be derived

JOHN BRANDES and MABEL B. BRANDES, husband and wife,
whose address is:

109 - 49th Ave. Dr. West

Bradenton, Fla. 33507, Grantors, do hereby grant to MANATEE COUNTY, FLORIDA, a political subdivision of the State of Florida, Grantee, its successors or assigns, the right to maintain, operate, repair or remove a Sanitary Sewerage Lift Station with right of Ingress and Egress, through the following described real estate to wit:

A 20' by 20' permanent easement for aforesaid Lift Station Site being a parcel 20' East and West by 20' North and South located in the Northwest corner of the following described property:

and Also: A 5-foot permanent easement for Ingress and Egress being the West 5-feet of the South 55 feet of the same following described parcel:

Commence at the SE corner of Block 'I', Unit 1, Heather Hills Estates, as recorded in Plat Book 15, pages 30, 31 and 32, of the Public Records of Manatee County, Florida; thence run N. 89° 36' 28" W, along the South line of said Block 'I', a distance of 114.39 feet for a Point of Beginning; thence run N. 89° 36' 28" W, a distance of 40 feet to the SE corner of Lot 17 of Block 'I'; thence run N. 0° 23' 32" E, along the East line of said Lot 17, a distance of 75 feet to the NE corner of said Lot 17, Block 'I'; thence run S. 89° 36' 28" E, a distance of 40 feet; thence run S. 0° 23' 32" W, a distance of 75 feet to the Point of Beginning. Lying and being in Section 11, Township 35-S, Range 17 East.

This is a non-exclusive easement with the Grantors reserving unto themselves, their successors or assigns, the right to the continued free use and enjoyment of the property herein described for any purposes which are not inconsistent with Manatee County's rights granted herein.

It is especially provided that any damage done to Grantor's property caused by maintaining, operating, repairing or removing said Sanitary Sewerage Lift Station shall be paid by Manatee County Utilities System.

At such time as Grantee's facilities are removed or abandoned, then this easement shall terminate and all rights revert to the Grantors.

IN-WITNESS WHEREOF I/WE have set our hands and seals
day of August 1978.

Signed, Sealed and Delivered
in the presence of:

Clara Murray

Clara Murray

John Brandes

Mabel B Brandes (SEAL)
Mabel B. Brandes

STATE OF: FLORIDA
COUNTY OF: MANATEE

2083

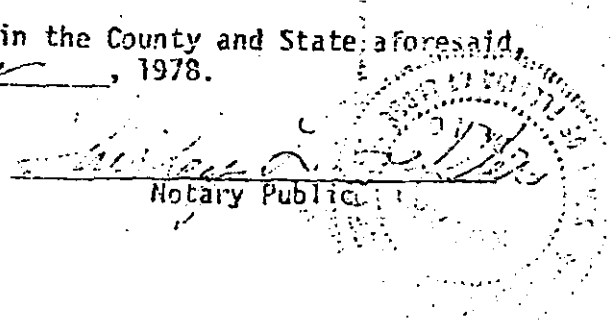
APPROVED IN OPEN SESSION 14-18
BOARD OF COUNTY COMMISSIONERS, MANATEE COUNTY
BY Clara Murray CHAIRMAN

FILED AND RECORDED
FEB 15 12 39 PM '78
CLERK
MANATEE CO. FLA.

640156

I HEREBY CERTIFY that on this day, before me, an officer duly authorized in the State and County aforesaid to take acknowledgments, personally appeared: JOHN BRANDES and MABEL B. BRANDES, husband and wife, whose address is: 109 - 49th Ave. Dr. W., Bradenton, Fla. 33507 to me known to be the persons described in and who executed the foregoing instrument for the uses and purposes therein mentioned and they acknowledged, before me, that they executed the same.

WITNESS my hand and official seal in the County and State aforesaid, this 7th day of February, 1978.



My Commission expires

Notary Public, State of Florida

899 1794

FPSC, CLK - CORRESPONDENCE
 Administrative Parties Consumer
DOCUMENT NO. 0642708
DISTRIBUTION: ECR, GCL

August 3, 2008

To: Office of Commission Clerk Fax: 1-850-413-7118

Re: FPSC Docket #080428

The Official Manatee County Record of the Utility Easement agreement between Manatee County and the Heather Hills Estates lot owners of 109 49th Avenue Drive W. should have been recorded as an Exhibit to our July 23, 2008 protest letter. This Official Public Record shows there is no treatment center or land owned as stated in Docket #080428.

Your cooperation is appreciated.

John and Janet Voorheis
203 49th Ave. Dr. W.
Bradenton, Florida 34207

voorheis@msu.edu

RECEIVED-FPSC
08 AUG - 5 AM 9:50
COMMISSION
CLERK

Exhibit

640156

UTILITY EASEMENT

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Bradenton, Fla. 33507,

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It is especially provided that any damage done to Grantor's property caused by maintaining, operating, repairing or removing said Sanitary Sewerage Lift Station shall be paid by Manatee County Utilities System.

At such time as Grantee's facilities are removed or abandoned, then this easement shall terminate and all rights revert to the Grantors.

IN WITNESS WHEREOF I/WE have set our hands and seals
day of February, 1978.

Signed, Sealed and Delivered
in the presence of:

Scott Sargent
Chairman

Clara Murray

John Brandes
John Brandes

Mabel B. Brandes (SEAL)
Mabel B. Brandes

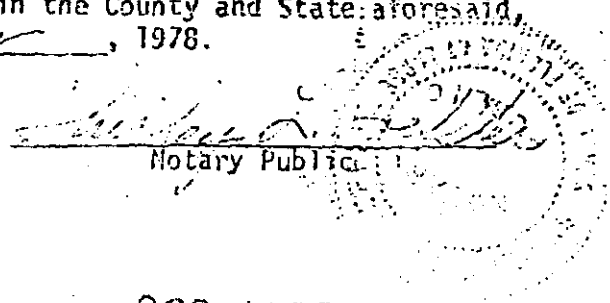
FILED AND RECORDED
FEB 15 12 39 PM '78
CLERK
MANATEE CO. FLA.
640156

STATE OF: FLORIDA
COUNTY OF: MANATEE

APPROVED IN OPEN SESSION 2-14-78
BOARD OF COUNTY COMMISSIONERS, MANATEE COUNTY
BY Clara Murray CHAIRMAN

I HEREBY CERTIFY that on this day, before me, an officer duly authorized in the State and County aforesaid to take acknowledgments, personally appeared: JOHN BRANDES and NABEL B. BRANDES, husband and wife, whose address is: 109 - 49th Ave. Dr. W., Bradenton, Fla. 33507 to me known to be the persons described in and who executed the foregoing instrument for the uses and purposes therein mentioned and they acknowledged, before me, that they executed the same.

WITNESS my hand and official seal in the County and State aforesaid, this 7th day of February, 1978.



Notary Public

My Commission expires:

Notary Public, State of Florida

898 1794

RECEIVED-FPSC

REGISTRATION CENTER

08 JUL 31 AM 10:26

08 JUL 31 AM 8:00

July 27, 2008

To: Office of Commission Clerk Fax 1-850-413-7118

COMMISSION CLERK

Re: FPSC Docket #080428

From: John and Janet Voorheis
203 49th Ave Dr. W.
Bradenton, Florida 34207

John Voorheis

The following are additions to my July 23, 2008 Protest to the FPSC Docket #080428

Worth of Utilities- addition to protest

If Ni Florida wants to purchase the Utility for \$276,000 that is their problem. Please do not make it the ratepayer's problem. We already paid for this utility in the purchase price of our lots and the 40 plus years of paying utility bills with capitalization and depreciation cost. You can't ask us to pay for this out-dated neglected utility again. Please do not allow Ni Florida to have a clause in the application that states that Ni Florida does not seek an acquisition adjustment at this time. (Docket Exhibit G) Please demand that Ni Florida sign a statement that no acquisition cost above \$1000 or fair net book value of the Utility can ever be charged to ratepayers. I did an amortization schedule. If the \$276,000 purchase price is borrowed at 8% for 10 years that would amount to a 50% plus increase in our bills. \$276,000 is a ridiculous, unreasonable price for this very old neglected utility. This 50% increase does not include the investment for new lines and pipes and the replacement or refurbishment that will be needed on this very old neglected system. The current owner stated in 2006 substantial capital improvements are needed that may effect the rate structure. (My Exhibit 1) This limited fixed income retirement community can not afford to pay for the above through a major rate increase.

Unregulated Utilities- addition to protest

By very ignorant consumer, I'm referring to the lack of knowledge and complaints to FPSC because many of HH ratepayers are crippled with arthritis making it very painful if not impossible to write. Many HH ratepayers have impaired hearing and/or vision making telephone calls and reading difficult if not impossible. For many high blood pressure and heart disease doesn't allow them to handle stress, conflict, frustration and intimidation. As my father, who was a 40 year resident of HH, often said, "They are half dead when they come at Heather Hills." These citizens have a moral right, if not a legal right, to be protected. The current Heather Hills Utility owner should be penalize for charging for maintenance and not performing required exercising of the valves/flushing of system and choosing to shut down the complete system and let ratepayers flush the system through their kitchen sinks at the consumer's expense and health. It was his responsibility to abide by the 1996 Safe Drink Water Act as well as the State and County responsible to enforce the laws. After questioning in 2004 about safe drinking water, it took 2 1/2 years before the County/State enforced the law. This is completely

FPSC, CLK - CORRESPONDENCE
 Administrative Parties Consumer
DOCUMENT NO. 0 6427-08
DISTRIBUTION: BCB, JBC

unacceptable. (My Exhibits 2, 3, 4, 5 and 6). Now the application states that the ratepayer has to pay for valves/flushing after we paid for this required maintenance for the last 40 years.

Threat and an addition to Declaration of Covenant

David Paul Montgomery, Heather Hills Utilities Attorney, in 2006 threatened to terminate water and sewer service to 109 49th Ave Dr. W. if the lot is not subject to the Declaration of Covenant. (My Exhibit.7) Now 2 years later, according to the transfer request the provisions of the Declaration of Covenant no longer apply. Docket Exhibit C-Schedule 6.1 (a) (My Exhibit 8)

Threat- new item to protest

Knowing the HH community is uninformed; it was decided to start Community Education Forums in February 2008. As a Home Owners Association Board member I volunteered to give leadership to this effort. Since the Board was overwhelmed with the Starkey initiated court case and fearful of retaliation, I had to resign from the Board to help start the Forums. On March 31, 2008, Lindsay Derington, Don and Helen Mathews, John and Janet Voorheis requested the use of the clubhouse meeting room for a Forum on Safe Drinking Water, speaker Harry Messick, State of Florida Environment Specialist. Keith Starkey shouted at the group "If you do anything to stop this water deal, I have going, I will sue you for everything you've got."

Ni Florida – correction

There is a web of 5 not 4 LLCs involved that will seek a return on their investment. Add Ni Management to Ni America, Ni Florida, Florida Utilities Group Holding and Metalmark. The Florida Public Service Commission and Manatee County have not been able to protect this old folk's subdivision from one company, Heather Hills Estates Utilities, when the utility had some life-time in it. How are you going to protect us from 5 LLCs when this neglected old utility is beyond its life-time expectation?

Petition- A new item to protest (My Exhibit 9)

The original petition signed by 65 ratepayers was sent to FPSC in April 2008. The petition is against the exorbitant purchase price above net book value for this utility. The ratepayers fear that the exorbitant purchase price would unjustly be added to future utility bills. They opposed the sale and transfer.

Again, we protest the transfer of Heather Hill Estates' water and sewer system to Ni Florida.



The MONTGOMERY Law Firm

Attorneys & Counselors at Law, Mediators & Arbitrators

David Paul Montgomery, Esquire
Rebecca A. Montgomery, Esquire

2103 Manatee Avenue West
Bradenton, Florida 34205
Voice: (941) 748-8470
Facsimile: (941) 747-6804

March 3, 2006

Janet L. Voorheis
109 – 49th Avenue Drive West
Bradenton, Florida 34207

Re: **Heather Hills Utilities**

Dear Ms. Voorheis:

Thank you for your letter dated February 23, 2006.

I understand your letter's references to "requests for information only" to be statements that you did not contest my clients' "title" to the common areas or to the rights to receive the assessments under the deed restrictions and hence, there is no need to record an instrument, or to obtain a judgment, removing any doubt as to the liability of the subject lots, and the owners of the subject lots for payment of the assessments.

If I misunderstand the import of your last letter, then please so inform me in writing as soon as possible.

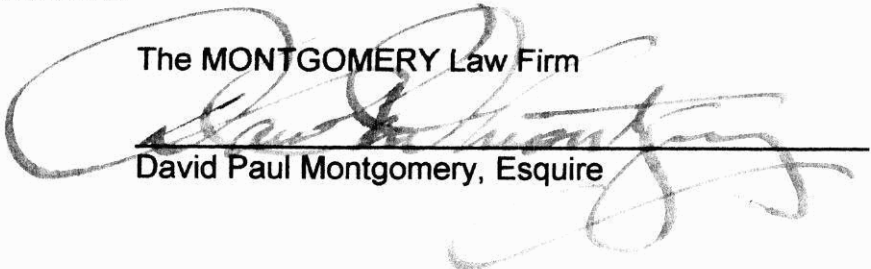
If I do not misunderstand the import of your last letter, then I will discuss with my clients whether they perceive a need to record an instrument, or to obtain a judgment, removing any doubt as to the liability of the subject lots, and the owners of the subject lots for payment of the assessments.

Regarding the maintenance of the utility systems and restoration of property effected by that maintenance, **my clients will reasonably respond to maintain the systems, and to restore effected property in appropriate due course.** My clients are in the process of a comprehensive review of the long term, and short term, maintenance projections and are considering substantial capital improvements and betterments to the systems to produce even more reliable systems (which, of course, may effect the rate structure as may in the future be determine and be approved by the Florida Public Service Commission). *

We will be glad to add you name to the list of consumers who call for such capital improvements.

Thank you for your consideration.

The MONTGOMERY Law Firm


David Paul Montgomery, Esquire

Keith & Clara Starkey
dba Heather Hills Estates *Utilities*
Exclusive Mobile Home Subdivision
4925 3rd Street W.
Bradenton, Fl. 34207

March 2, 2005

Re: Case Number 641379W
Mrs. Voorhies,

Thank you for your letter outlining several questions with regard to utility operations. I will attempt to answer those questions in the order they were raised in your letter dated January 12, 2005.

1. **The first question apparently deals with the Company's base rate and gallonage charge. As you know, the base charge and gallonage rate structure was established by the Florida Public Service Commission in Docket No. 960814-WS, in 1996. The Company has no control over this change. The base rate is meant to recover certain fixed and semi- variable expenses, which occur whether or not a customer is in residence at the park. Examples of this include maintenance, taxex, insurance, and day to day operating costs. The gallonage charge is meant to cover variable expenses including, electricity, purchased water, Regulatory Assessment Fees, and the like.**

Heather Hills Utilities does not have any knowledge of the specific expenses that were allocated into the Commission established rate structure, since it was apparently a revenue neutral charge.

2. **During 2003, the Company purchased 8,780,000 gallons of water from Manatee County and sold 7,868,000 gallons, a 912,000 gallon difference. The difference is referred to as unaccounted for water and is normal for all utility systems. The Florida Public Service Commission uses an acceptable unaccounted for water percentage of 10%. Heather Hills Utilities unaccounted for water percentage in 2003 was slightly over 10%. It is physically impossible that water purchased or even produced by a company exactly match the gallons sold, even with a brand new system. Sources for unaccounted for water include small sifferences in meter calibrations, the timing of when meters are read, line breaks, line flushing, fires, etc. We are not saying that the Company actually experienced each and every one of these, but cite them to give you an idea of some of the reasons for**

*only
brezKS
→ Not
in H-H.
No fire
plugs
No flushing*

club house
use charged
as unaccounted
water -

unaccounted for water. The Company's utility system was first constructed in 1967 and the lines are about 38 years old. The percentage of unaccounted for water is extraordinarily low given the age of the system. In terms of dollars, the unaccounted for water amounts to only \$1,404 (912 x \$1.54), about \$1.00 per customer bill, and is simply a normal and unavoidable cost of doing business.

- sewer cost?

3. The usage at the clubhouse is metered and Heather Hills Estates pays the same base charge and gallonage charges as any other customer. A new meter was installed over a year ago and is believed to be accurately recording water usage.
4. The \$4,486 non-utility expense is not interest expense. Rather, these were expenses paid to the Public Service Commission for Regulatory Assessment Fees in the year 2002 but paid in 2003. Since they were not a 2003 expense, our accountants showed these as miscellaneous non-utility expenses. This was done so that the net operating income (loss) for 2003 reflects only 2003 revenues and expenses. This item has no impact on our customers or their rates.
5. We were contacted by Mr. Harry Messick of the Manatee County Health Department in January concerning water quality testing. According to him, they and the DEP, as I understand it; were unaware that we existed and were not overseeing this park for testing purposes. He has drafted a letter for us outlining the requirements, and he informed me as of March 3, 2005 that the letter is now in the process of going through the necessary steps to ensure all elements that are required are included and correct according to the regulations. As soon as we hear from them, we will formally notify you of any required testing and move forward to comply.

since 2005

1st meter?
How long
with out
meter?
40 years?

No drinking
water
safety
tests
ever

Exhibit 3

STATE OF FLORIDA

COMMISSIONERS:
BRAULIO L. BAEZ, CHAIRMAN
J. TERRY DEASON
RUDOLPH "RUDY" BRADLEY
CHARLES M. DAVIDSON
LISA POLAK EDGAR



TIMOTHY DEVLIN, DIRECTOR
DIVISION OF ECONOMIC REGULATION
(850) 413-6900

Public Service Commission

March 14, 2005

Ms. Stephanie Gardner
Heather Hills Estates
4925 Third Street West
Bradenton, FL 34207

Re: Complaint No. 641379W, Heather Hills Estates

Dear Ms. Gardner:

Thank you for your January 27, 2005 and March 2, 2005 letters forwarding a January 12, 2005 letter received from Mrs. Voorheis and your response to her.

One of her concerns was that the 912,000 gallons of water purchased but not sold included water that should have been billed to the recreation center. Pursuant to Order No. PSC-96-1126-FOF-WS, revenues were imputed for the water and wastewater service provided to the recreation center and the utility was required to install a water meter for the center so unaccounted for water could be monitored. According to your March 2 response to Mrs. Voorheis, the utility installed the meter at the center and is billing the center in accordance with its tariffs. Therefore, the revenue from the center should be recorded in Gross Revenue in the utility's Income Statement in its Annual Report. In recording the gallons purchased and sold on the Annual Report Schedule W-4, Pumping and Purchased Water Statistics, the water sold to the recreation center should be included in Column f, Water Sold to Customers.

If you have any questions, please write or telephone me at (850) 413-6934.

Sincerely,

Troy Rendell
Public Utilities Supervisor

TR:sm

cc: Mrs. Janet Voorheis ✓
Division of Economic Regulation (Merta)
Division of Regulatory Compliance & Consumer Assistance (Forsman)
Reading File

November 3, 2005

Heather Hills Utilities
4925 3rd St W.
Bradenton, FL 34207

Re: Fees on Accounts 331 and 337

On November 2, 2005, I received a \$13.65 Express Mail from the Heather Hills (HH) Management stating I will be charged \$20.00 for each service I requested in March 2005 and not the posted \$10.00 fee.

The Florida Public Service Commission requires utilities to provide its consumer with fee schedules. The posted fee in March 2005 was \$10.00 for the service I requested. I paid \$10.00 for the service last year. If the utilities and the Public Service Commission agree to the \$20.00 charge then provide me with a dated HH Utilities posting of the revised charges and the next time I request service I will comply with the approved posted fee structure. Consumers have a right to be informed before taking action and not after the choices have been made.

After a year, HH Utilities has not answered the question? "How do HH consumers know HH drinking water is safe?" Manatee County's drinking water is safe. Is the drinking water safe after it runs through HH Utilities' old pipes that spring numerous leaks? What tests and procedures does HH Utilities perform to ensure safe drinking water?

Please provide the following:

1. A dated Heather Hills Utilities fee schedule to replace the fee schedule used in March 2005. If there is a revised schedule it must be sent to all HH Utilities consumers.
2. Corrected utilities bills for Accounts 331 and 337.
3. A copy of Heather Hills Utilities Safe Drinking Water information requested/required by Manatee County and/or tests and procedures HH uses to ensure drinking water safety.

Janet Voorheis
3420 Wormer
Waterford, MI 48329

c. Heather Hills Property Owners Association

OFFICIAL NOTICE

Exhibit 5

February 6, 2006

Keith & Clara Starkey
d/b/a Heather Hills Estates
4925 3rd Street West
Bradenton, FL 34207-2608

RE: Heather Hills Estates

Dear Mr. & Mrs. Starkey:

Your water distribution system serving Health Hills Estates is registered as a community water system regulated by the Public Service Commission. In addition, your water distribution system is defined by Chapter 62-550, Florida Administrative Code (F.A.C.), as a consecutive system, as you purchase your water from another public system and subsequently sell that water to the residents of Heather Hills Estates. As a consecutive system that receives water from Manatee County Utilities you are required to comply with the "Florida Safe Drinking Water Act," Sections 403.850-403.864, Florida Statutes (F.S.) and Chapters 62-550, 62-555, 62-560 and 62-602, F.A.C.

Specifically, your system must comply with the following requirements.

- (1) Asbestos monitoring in accordance with Chapter 62-550.511, F.A.C.
- (2) Microbiological monitoring in accordance with Chapter 62-550.518, F.A.C.
- (3) Lead and copper control requirements in Chapter 62-550.800, F.A.C.
- (4) Establish and implement a routine cross-connection control program in accordance with Chapter 62-555.360, F.A.C.
- (5) Prepare and provide customers with an annual consumer confidence report (CCR) on the quality of the water delivered by the system in accordance with Chapter 62-550.824, F.A.C.
- (6) Submit monthly operation reports as specified in Chapter 62-555.900(4), F.A.C., to the Manatee County Health Department with ten (10) days after the month of operation on accordance with Chapter 62-550.730(12), F.A.C.
- (7) Obtain a Consecutive Public Water System Operator License in accordance with Chapter 62-602.880, F.A.C.
- (8) Develop a written emergency preparedness/response plan and update and implement the plan as necessary in accordance with Chapter 62-555.350(15), F.A.C.
- (9) Maintain an up-to-date map of the drinking water distribution system in accordance with Chapter 62-555.350(14), F.A.C.

Manatee County Health Department
Environmental Health Services
410 Sixth Avenue East • Bradenton 34208-1928
PHONE (941) 748-0747 • FAX (941) 750-9364

Exhibit 5 1 of 2

- (10) Prepare and maintain a written record of minimum free chlorine residual in your distribution system in accordance with Chapter 62-555.350(6), F.A.C.
- (11) Maintain a written log of water main breaks in accordance with Chapter 62-555.350(7), F.A.C.
- (12) Maintain an isolation valve exercising program and flushing program of dead-end water mains in accordance with Chapter 62-555.350(2), F.A.C.
- (13) Follow notification requirements of unusual incidents affecting the water system in accordance with Chapter 62-555.350(10) and follow the Department of Health's "Guidelines for the Issuance of Precautionary Boil Water Notices." Maintain a written log of complaints and "boil water" notices.

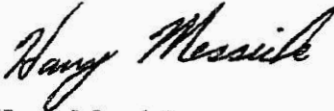
All samples required for water quality monitoring (Items 1-3 above) must be taken and be submitted to a laboratory of the Department of Health (DOH) or a laboratory certified by the DOH, **within 30 days of receipt of this letter**. Sampling plans required for Items 2 and 3 must be submitted and approved before sampling begins.

Items 4-13 requirements must also be met or a written schedule of proposed compliance must be submitted and approved by this department, **within 30 days of receipt of this letter**.

Please be advised that an exception may be given when all of these requirements are fulfilled by the supplying utility (Manatee County Utilities) under an established written agreement as provided in 62-550.540(4) F.A.C. or because the supplying utility accepts ownership of the distribution system.

Please feel free to contact me at (941)748-0747 Ext. 1355 with any questions and/or to discuss these requirements. Questions concerning lead and copper sampling or consumer confidence report (CCR) should be referred to Hans Roese at (941) 748-0747 Ext 1342.

Sincerely,



Harry Messick
Environmental Specialist II
Water Program Coordinator
Environmental Health Services

CC: Tom Larkin
Brian Dietz
Hans Roese

Exhibit 5 2 of 2



The MONTGOMERY Law Firm

Exhibit 6

Attorneys & Counselors at Law, Mediators & Arbitrators

David Paul Montgomery, Esquire
Rebecca A. Montgomery, Esquire

2103 Manatee Avenue West
Bradenton, Florida 34205
Voice: (941) 748-8470
Facsimile: (941) 747-6804

February 7, 2006

Janet L. Voorheis
109 – 49th Avenue Drive West
Bradenton, Florida 34207

Re: **Heather Hills Utilities**

Dear Ms. Voorheis:

I have discussed your question with my clients.

They inform me that they have been informed by the Florida Public Service Commission that they must work with local governmental authorities on water quality assurance.

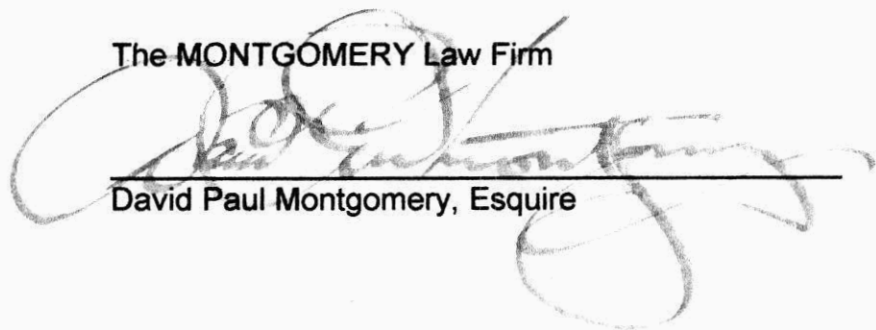
They further inform me that they have been in contact with Manatee County Environmental Authorities and have solicited information about, and have complied with all known, water quality assurance requirements of that authority.

We consider it inappropriate to answer any further or remaining implications of your answer.

We appreciate your compliance with our clients' request that you not direct non-emergency communications directly to them. *

Thank you for your consideration.

The MONTGOMERY Law Firm



David Paul Montgomery, Esquire

c.c. Clients



The MONTGOMERY Law Firm

Attorneys & Counselors at Law, Mediators & Arbitrators

David Paul Montgomery, Esquire
Rebecca A. Montgomery, Esquire

2103 Manatee Avenue West
Bradenton, Florida 34205
Voice: (941) 748-8470
Facsimile: (941) 747-6804

February 16, 2006

Janet L. Voorheis
109 – 49th Avenue Drive West
Bradenton, Florida 34207

Re: **Heather Hills Utilities**

Dear Ms. Voorheis:

Thank you for your letter dated February 10, 2006.

I have discussed your letter with my clients.

Regarding the utilities, my clients are working closely with health authorities to ensure full and timely compliance with all requirement of law. My clients also are committed to taking all reasonable steps to ensure the proper quality of the water.

Regarding the deed restrictions, my clients have authorized me to investigate this matter and to conduct a historical review of the chain of title back to records which may only be available by an on-site search of the public records. We are proceeding in accordance with that authorization.

Since they are undertaking this expense, we are not ruling out any potential consequences of the results we discover, including results which my fundamentally change the course of dealings from those in the past (and which may free my client from any continuing relationship with you).

You should prepare yourself for the possible conclusion that if the circumstances are as to seem to think, then while the appropriate lot may not be subject to the financial and other obligations of a lot within the subdivision and subject to the subdivision covenants, so too the lot and its owners or occupants may not be entitled to the benefits of a lot within the subdivision. This may include forfeiture of any rights to use common areas (upon which event, and after notice the owners or occupants, include such person being deemed to be trespassers if they come upon the subdivisions common areas). This result would include not only the current owners, but also all future owners. These consequences may significantly impact on the value of the lot to future purchasers who may prefer to be full members of the Heather Hills community.

Also, if that is the case, then we may investigate whether our client has the right, after reasonable notice, to terminate water and sewer services to a lot not subject to the subdivision covenants and to require the lot owner to arrange, and pay for, direct connection to the county system, by lines built to county standards, and for billing by the county at the individual homesite

1st time ever

threat

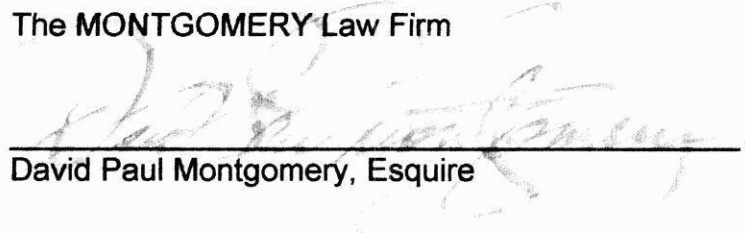
rate charged by the county (rather than the rate derived from the bulk service rate charged to my clients by the county) now and in perpetuity.

We will inform you of our client's decisions once we have completed our investigations and have advised our clients of their rights and options.

Of course, if they choose any particular course of action within their rights and power, they may not have to offer you any opportunity to return to the past relationship.

Thank you for your consideration.

The MONTGOMERY Law Firm



David Paul Montgomery, Esquire

c.c. Clients

Exhibit 9

**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**

This indenture made and entered into this 20th day of January, 1967, by HEATHER HILLS ESTATES, INC., a Florida corporation, hereinafter referred to as the Company, being the owner of all the lands embraced in Heather Hills Estates Subdivision, as per plat thereof, to be recorded among the Public Records of Manatee County, Florida, being desirous of providing uniform restrictions, reservations, easements, rules and regulations, for said subdivisions, does hereby impose and charge all of said subdivision for itself, its successors or assigns, with the covenants, easements, restrictions, conditions and charges hereinafter set forth, to wit:

1. **IMPROVEMENT:** No mobile home, building (addition or accessory) or home, fence, wall, planting, exceeding two feet in height, or other structure or improvement shall be commenced, erected or maintained, nor shall any addition to, or change or alteration be made until the plans and specifications showing the nature, kind, shape, height, floor plan, materials, location and approximate cost of such structure, have been submitted to and approved in writing by the Company. The Company's failure to give notice of its approval or disapproval of such plans and specifications within thirty (30) days after receipt thereof shall be deemed to constitute its approval thereof.

2. **EASEMENTS AND SET-BACKS:** The Company specifically reserves unto itself an easement over the rear five (5) feet of each lot and over and across such other areas as are designated as easement on the plat of said subdivision, for use by the Company or the Company's assigns for utility installations and right-of-ways, or such other use as the Company may deem appropriate and the Company specifically reserves the exclusive right to lay utilities in the street in said subdivision, and further, specifically reserves the fee title to the streets in said subdivision. There shall be a minimum setback of five (5) feet from the rear, side and 10 front property lines, for all permanent or temporary structures or improvements. Where one mobile home occupies more than one lot, the set-back line shall be from the edge of the property line, rather than the edge of the lot line. The Company may, at its discretion, release any lot or parcel from the restriction or easement contained in this paragraph.

3. **SEPTIC TANKS AND WELLS:** No well or septic tank shall be constructed in said subdivision without prior written approval of the Company, and in no event shall the water from any well be used in any mobile home or piped into any mobile home, or used for human consumption.

4. **USE:** All lands included in this subdivision shall be used for residential purpose only, except for such lots or parcels as may be designated by the Company otherwise.

5. **SIGNS:** No signs or advertisements shall be displayed on the lots, right-of-ways, or any other part of the subdivision, except as specifically designated and approved by the Company.

6. **STORAGE:** No boat or boat trailer, travel trailer, camp trailer or any similar property shall be stored in said subdivision without the prior written approval of the Company.

7. **MAILBOXES:** Mailboxes shall be only of the design approved by the Company and may only be placed in such locations as are designated by the Company.

8. **RECREATION AREAS:** The areas designated on the plat of the subdivision as "Recreation Area", together with all the improvements thereon, shall remain the exclusive property of the Company who specifically retains the title to said recreation areas, and the right to make all the rules and regulations pertaining to same, and the owners of lots in the subdivision shall have the right to use the recreation areas, in accordance with such rules and regulations as are propagated by the Company from time to time, and not otherwise.

9. **ASSESSMENT:** As part of the purchase price of each lot and as compensation for the privileges herein granted to utilize recreation areas and other common facilities, subject to the rules and regulations of the Company, the owner of each lot agrees to pay unto the Company an annual fee, to be fixed by the Company, its successors or assigns, not, however, exceeding, except as hereinafter set forth, the sum of \$90.00 per year for each lot, provided that the sum of \$90.00 may at the Company's option be increased in the same proportion as the cost of living index of the United States Department of Labor increases above such index on the date of recording of these restrictions. The assessment shall be uniform against all lots for the availability of facilities, without regard to the extent of use or non-use thereof by the several lot owners. Any and all charges made by the Company under this paragraph shall at the time of assessment provided herein constitute a lien on the lot against which made and be enforceable as provided for the enforcement of mechanics liens under the laws of the State of Florida, or otherwise as the Company may deem expedient. The annual charge abovementioned shall be used by the Company to first provide reasonable return on the Company's investment in the streets, recreation areas and common areas, and then for reasonable salaries for the Company's officers and

1 of 2

over

reasonable fees and expenses the Company and the Company's employees in managing said areas and the subdivision, and finally to the extent available, such annual charge shall be used for the maintenance of the recreation areas and common areas and to provide sewage disposal and street lighting for the subdivision and the usual and ordinary trash collection from each lot.

10. GARBAGE AND TRASH: All garbage shall be wrapped and placed in proper receptacles as designated by the Company and all garbage receptacles and trash shall be stored, until collected, in neat, clean, and orderly condition, in such places as are designated by the Company to give the subdivision a clean and neat appearance.

11. CARE OF LOTS: Lot owners shall keep their lots in a neat, clean and orderly condition, the grass mowed and all bushes, shrubs and trees properly trimmed, and in the event that the owner of any lot shall fail to maintain the same as aforesaid, the Company reserves the right to enter upon such lot and care for the same and cut the grass and remove the rubbish and to trim all trees, bushes and plants and to charge the owner of said lot the actual cost of such upkeep, including office expense and supervisory expense, plus the sum of 15%, which charge shall be due and payable the first of the month following the performance of the work and shall be a lien upon the land to the same extent as the annual charge.

12. WASHING: All wash to be dried must be hung during hours approved by the Company on a special drying apparatus in the form of a folding rack or umbrella which shall be placed at the rear of each lot.

13. MOBILE HOME LIMITATIONS: There shall only be one mobile on each lot and all mobile homes must be a minimum of forty (40) feet in length, as designated on certificate of title, and a minimum of twelve feet in width, unless otherwise designated by the Company. All mobile homes must have concrete patio slab at least 10x20 feet and complete sanitary facilities, including among other things, a lavatory, wash basin, a tub or shower, kitchen sink, and must be connected to the sewage outlets in conformity with State health requirements. The space from ground level to floor of mobile home, must be enclosed with suitable materials approved by the Company.

14. ANIMALS: No four-legged animals shall be permitted in the subdivision at any time, and no other pets which the Company deems obnoxious or annoying shall be permitted in the subdivision.

15. ZONING & PLANNING: No portion of the subdivision shall be rezoned or re-platted without the written consent of the Company or the Company's successors or assigns

16. VIOLATION: The restrictions set forth herein shall be covenants running with the land, and in the event of the violation of same or in the event of the violation of any of rules and regulations lawfully imposed by the Company pursuant to this instrument including the failure to pay any charge imposed pursuant hereto, then the Company may bring any suit at law or in equity to enforce these restrictions, and said rules and regulations, and to collect any amount due, and the person or persons breaching the restrictions or any of the rules or regulations made pursuant hereto or failing to make any of the payments required hereunder, shall be liable for damages and shall further pay unto the company all of the costs of said action together with a reasonable attorney fee for the Company's attorney in bringing said action. Failure of the Company to enforce any restrictions, conditions, covenant or agreement, or rule or regulation made pursuant hereto, shall in no event be deemed a waiver of the right of the Company to enforce the same, as to the same breach or to one occurring prior or subsequent thereto, nor shall such failure give rise to any claim or cause action against the Company by any lot owner, and the Company shall not be required to enforce any covenant set forth herein.

17. DURATION: All of the covenants set forth herein shall be deemed covenants running with the land, and unless otherwise voluntarily terminated by the Company, shall bind all persons and interests and all owners of all lots or any part of said subdivision, their legal representatives, successors and assigns, until January 1 A.D 2000, except that Company may extend the same for successive periods of ten years each. If any provision of this indenture or the application of such provision to any person or circumstances shall be held invalid, the remainder of this indenture or the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby.

IN WITNESS WHEREOF, the Company has caused this instrument to be executed in its name by its proper officer thereunto duly authorized and its corporate seal to be affixed this day and year first above written.

HEATHER HILLS ESTATES
Keith & Clara Starkey - Owners

March 25, 2008

This is a petition to inform the Florida Public Service Commission of the believed sale of the Keith and Clara Starkey, Heather Hills Utilities number 753. We believe the purchasing company is Ni America, LLC from Texas. It is our understanding that the sale price is way above the present value of the utilities. All the transactions have been done without providing any information to the customer. We the undersigned do not believe that this is in the best interest of the consumers in Heather Hills Estates Subdivision.

1. John V. Vosskeis 203 49TH AVE. DR. W.
2. Robert Woodard, 203 49th Ave Dr W
3. Tom Sadler 112 48th Ave W
4. Lorraine Sadler 108-48th Ave. W.
5. Shirley G. Francis 4810 4th St. W.
6. Dorothy & Marcus 4808 4th St W
7. Ryloot J. Warner 4808 4th St. W.
8. Harold S. Francis 4810 4th St. W.
9. Virginia Edgworth 213 49th Ave W
10. Herb Edgworth 213 49th Ave W
11. Juan Martinez 4914 2nd St W.
12. Henry Lockwood 106 50th Ave. Terr. W.
13. L. P. Deren Glen 212 48th Ave Dr. W.
14. Susan Lockwood 106 30th Ave E Terr W.
15. Hannah Metzger 105 49th Ave W
16. A Lee Metzger 105 49 Ave - W
17. Peter Belton 206 48th Ave Terr W
18. Bradley Henry 304 49th Ave. Dr. W.
19. Calvin Henry 304 49th Ave Dr W
20. Gilman E. Fuller 215-48th Ave Terr West
21. Bernice E Hoops 210 48th Ave Terr W
22. Francis H Hoops 210 48th Ave Terr W,
24. Lane Gray 307 49th Ave. Dr. W.
25. Ken Adney 308 49th Ave Dr. W.
26. Elena Adney 308 49th Ave Dr W
27. Christina Orsfield 306 49th Ave West
28. James Orsfield 306 49th Ave. W.
29. Mauley Fox 307 50th Ave West
30. Home Link 307 50th Ave W.
31. Frances M. Southke 108 48th Ave Dr. W.
32. Herbert H Southke 108 48th Ave Dr. W.

- 33 Helen Mathews
209 48th Ave. W.
- 34 Don Mathews
209 48th Ave. W.
- 35 Pearl Bailey
207 48th Ave. W.
- 36 Boyd Reda
5003 4th St. West
Bradenton, FL
- 37 Ralph Brown
110 49th Ave W
Renee Jersey 404 50th Ave West W
- 39 Marilyn Corbett
4816 2nd St. W.
- 40 Clair Iffland
4816 4th W
- 41 Doris Iffland
4816 4th W.
- 42 Maggie Gallogher
400-484. Ave. D. West
- 43 Florence Edgard
214-218th Ave W
- 44 Bradenton, Fla 34207
- 45 Linda DOKKER
303 50th Ave Plaza W
Bradenton, FL 34207
- 46 Georgia Breel
304 49th Ave. Terr. W.
Bradenton, FL
- 47 Barbara Martin
304 50 Ave. PLY. W
Bradenton, FL 34207
- 48 Ruthie McNeill
308 49th Ave W.
Bradenton FL 34207
49. Floyd McBride
308 49th Ave W
Bradenton FL
- 50 Sparrow McNeill
- 51 Joan McNeill
1910 50th St W
- 52 James Galley
308 50th Ave West
- 53 Marsha Bryant
- 54 Ronald Bryant
215 48th Ave. W.
- 55 Ted Rydal 309 49th Ave. DC W.
Janet Dike
- 56 Tom Dike
213 48th Ave. Dr. W.
- 57 Robert T. McCarty
104 50th Ave. Dr. W.
- 58 Robert McCarty
104 50th Ave Dr W
- 59 Mildred Sullivan
203 50th Ave. Dr. W.
- 60 Carolyn Kleber
113 49th Ave Dr W.
- 61 Evelyn Crawford
404-49th. Ave Terr. W
- 62 Mary Markle 110 48th Ave W.
- 63 Janet Hornick 50th Ave. W.
- 64 Georgeann Mysant 50th Ave W
- 65 Clark Martin 304-50th Ave-PLZ W

Additions to July 23, 2008 Protest

July 27, 2008

To: Office of Commission Clerk Fax 1-850-413-7118

Re: FPSC Docket #080428

From: John and Janet Voorheis
203 49th Ave Dr. W.
Bradenton, Florida 34207

FPSC, CLK - CORRESPONDENCE		
<input type="checkbox"/> Administrative	<input type="checkbox"/> Parties	<input checked="" type="checkbox"/> Consumer
DOCUMENT NO. 06427-08		
DISTRIBUTION: ECB/llc		

RECEIVED-FPSC
08 JUL 30 AM 8:23
COMMISSION
CLERK

The following are additions to my July 23, 2008 Protest to the FPSC Docket #080428

Worth of Utilities- addit on to protest

If Ni Florida wants to purchase the Utility for \$276,000 that is their problem. Please do not make it the ratepayer's problem. We already paid for this utility in the purchase price of our lots and the 40 plus years of paying utility bills with capitalization and depreciation cost. You can't ask us to pay for this out-dated neglected utility again. Please do not allow Ni Florida to have a clause in the application that states that Ni Florida does not seek an acquisition adjustment at this time. (Docket Exhibit G) Please demand that Ni Florida sign a statement that no acquisition cost above \$1000 or fair net book value of the Utility can ever be charged to ratepayers. I did an amortization schedule. If the \$276,000 purchase price is borrowed at 8% for 10 years that would amount to a 50% plus increase in our bills. \$276,000 is a ridiculous, unreasonable price for this very old neglected utility. This 50% increase does not include the investment for new lines and pipes and the replacement or refurbishment that will be needed on this very old neglected system. The current owner stated in 2006 substantial capital improvements are needed that may effect the rate structure. (My Exhibit 1) This limited fixed income retirement community can not afford to pay for the above through a major rate increase.

Unregulated Utilities- addition to protest

By very ignorant consumer, I'm referring to the lack of knowledge and complaints to FPSC because many of HH ratepayers are crippled with arthritis making it very painful if not impossible to write. Many HH ratepayers have impaired hearing and/or vision making telephone calls and reading difficult if not impossible. For many high blood pressure and heart disease doesn't allow them to handle stress, conflict, frustration and intimidation. As my father, who was a 40 year resident of HH, often said, "They are half dead when they come at Heather Hills." These citizens have a moral right, if not a legal right, to be protected. The current Heather Hills Utility owner should be penalize for charging for maintenance and not performing required exercising of the valves/flushing of system and choosing to shut down the complete system and let ratepayers flush the system through their kitchen sinks at the consumer's expense and health. It was his responsibility to abide by the 1996 Safe Drink Water Act as well as the State and County responsible to enforce the laws. After questioning in 2004 about safe drinking water, it took 2 1/2 years before the County/State enforced the law. This is completely

1 of 2

unacceptable. (My Exhibits 2, 3, 4, 5 and 6). Now the application states that the ratepayer has to pay for valves/flushing after we paid for this required maintenance for the last 40 years.

Threat and an addition to Declaration of Covenant

David Paul Montgomery, Heather Hills Utilities Attorney, in 2006 threatened to terminate water and sewer service to 109 49th Ave Dr. W. if the lot is not subject to the Declaration of Covenant. (My Exhibit 7) Now 2 years later, according to the transfer request the provisions of the Declaration of Covenant no longer apply. Docket Exhibit C-Schedule 6.1 (a) (My Exhibit 8)

Threat- new item to protest

Knowing the HH community is uninformed; it was decided to start Community Education Forums in February 2008. As a Home Owners Association Board member I volunteered to give leadership to this effort. Since the Board was overwhelmed with the Starkey initiated court case and fearful of retaliation, I had to resign from the Board to help start the Forums. On March 31, 2008, Lindsay Derington, Don and Helen Mathews, John and Janet Voorheis requested the use of the clubhouse meeting room for a Forum on Safe Drinking Water, speaker Harry Messick, State of Florida Environment Specialist. Keith Starkey shouted at the group "If you do anything to stop this water deal, I have going, I will sue you for everything you've got."

Ni Florida - correction

There is a web of 5 not 4 LLCs involved that will seek a return on their investment. Add Ni Management to Ni America, Ni Florida, Florida Utilities Group Holding and Metalmark. The Florida Public Service Commission and Manatee County have not been able to protect this old folk's subdivision from one company, Heather Hills Estates Utilities, when the utility had some life-time in it. How are you going to protect us from 5 LLCs when this neglected old utility is beyond its life-time expectation?

Petition- A new item to protest (My Exhibit 9)

The original petition signed by 65 ratepayers was sent to FPSC in April 2008. The petition is against the exorbitant purchase price above net book value for this utility. The ratepayers fear that the exorbitant purchase price would unjustly be added to future utility bills. They opposed the sale and transfer.

Again, we protest the transfer of Heather Hill Estates' water and sewer system to Ni Florida.



The MONTGOMERY Law Firm

Attorneys & Counselors at Law, Mediators & Arbitrators

David Paul Montgomery, Esquire
Rebecca A. Montgomery, Esquire

2103 Manatee Avenue West
Bradenton, Florida 34205
Voice: (941) 748-8470
Facsimile: (941) 747-6804

March 3, 2006

Janet L. Voorheis
109 - 49th Avenue Drive West
Bradenton, Florida 34207

Re: **Heather Hills Utilities**

Dear Ms. Voorheis:

Thank you for your letter dated February 23, 2006.

I understand your letter's references to "requests for information only" to be statements that you did not contest my clients' "title" to the common areas or to the rights to receive the assessments under the deed restrictions and hence, there is no need to record an instrument, or to obtain a judgment, removing any doubt as to the liability of the subject lots, and the owners of the subject lots for payment of the assessments.

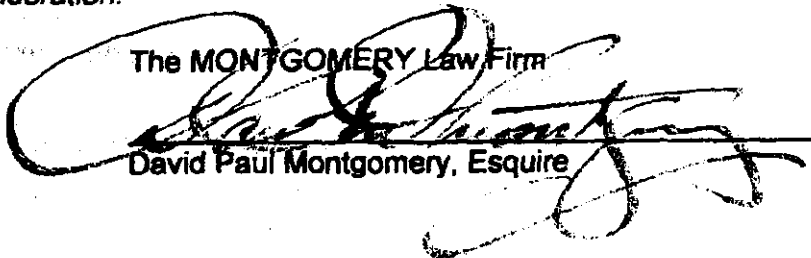
If I misunderstand the import of your last letter, then please so inform me in writing as soon as possible.

If I do not misunderstand the import of your last letter, then I will discuss with my clients whether they perceive a need to record an instrument, or to obtain a judgment, removing any doubt as to the liability of the subject lots, and the owners of the subject lots for payment of the assessments.

Regarding the maintenance of the utility systems and restoration of property effected by that maintenance, my clients will reasonably respond to maintain the systems, and to restore effected property in appropriate due course. My clients are in the process of a comprehensive review of the long term, and short term, maintenance projections and are considering substantial capital improvements and betterments to the systems to produce even more reliable systems (which, of course, may effect the rate structure as may in the future be determine and be approved by the Florida Public Service Commission).

We will be glad to add you name to the list of consumers who call for such capital improvements.

Thank you for your consideration.

The MONTGOMERY Law Firm

David Paul Montgomery, Esquire

080428

RECEIVED-FPSC

08 JUL 29 AM 9:14

25 July 2008

Office of Commission Clerk
2540 Shumard Oak Blvd.
Tallahassee, FL 32399-0850

COMMISSION
CLERK

08 JUL 29 AM 7:19
DISTRICT CENTER

FPSC, CLK - CORRESPONDENCE		
<input type="checkbox"/> Administrative	<input type="checkbox"/> Parties	<input checked="" type="checkbox"/> Consumer
DOCUMENT NO. 0642708		
DISTRIBUTION: ECL		

To whom it may concern:

My wife and I are residents of Heather Hill Estates, having purchased in the year 2000. It is my understanding that the current owner of the park is selling the water rights and system to an outfit in Texas. It is also our understanding that the current system has been in existence for some 40 years or so, and that no updates have been made by the owner of the park. It's common knowledge that the system is pretty well rundown, and to bring it to code would cost the current owners of the park and enormous amount of money.

Money's have been accumulated from the residents by the owner to repair and maintain the system. This he has not done. The owner had the obligation to repair and or bring the system up to date, he decided not to do so. Now, he is trying to pass the cost of updating the system to the residents (not fair)

Why would someone want to purchase the system when it is rundown/dilapidated (to put the burden of cost on the residents). Naturally, many of the residents, including ourselves, are living on limited incomes, This would further complicate matters for most of the residents in the park.

As you are well aware the cost of living has skyrocketed, and will continue to do so thereby creating and added burden to all of us in the park. We say let the current owner ~~should~~ update the system at his own expense, and not put the burden on the back of those less fortunate than he.

Wishing a favorable consideration in this matter.

Sincerely

Elizabeth Medeiros
Mannie Medeiros
Betty and Mannie Medeiros
4920 Second Street West
Bradenton, FL 34207

FPSC, CLK - CORRESPONDENCE		
<input type="checkbox"/> Administrative	<input type="checkbox"/> Parties	<input checked="" type="checkbox"/> Consumer
DOCUMENT NO. <u>06427-08</u>		
DISTRIBUTION: <u>ECR, JEL</u>		

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08 JUL 29 AM 9:14

COMMISSION
CLERK

COMMUNICATION CENTER
08 JUL 29 AM 7:21

July 24, 2008

Office of Commission Clerk
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0850

Re: FPSC Docket 080428- Joint Application for Heather Hills (HH) and Ni Florida, LLC for Approval of Transfer

I'm against the transfer of HH Utilities as described in Docket 080428. I fear that the \$270,000 plus price and the neglected maintenance of valves will be billed to the residents in this Senior Citizen Subdivision. Before transfer all neglected maintenance of valves needs to be corrected at no expense to the customer. A fair market value needs to be the bases of our utility bills not the outrageous \$270,000 purchase price.

Heather Hills Estates, Inc, Heather Hills Estates dba, Heather Hill Community, Starkey Trusts, Heather Hill Utility, Inc and numerous other names used are very confusing. I have been paying my utility bills to Heather Hills Utilities not Heather Hills Estate dba. Are the names used in the Docket documents correct?

It is my understanding from a presentation by Ni America in April 2008 that Ni America has plans to increase my bills by 50% within a short time. This fact isn't included in the information provided for the FPSC Docket.

Please do not allow this transfer of the utilities under the conditions spelled out in the Docket. If you do, it will provide the Corporations (LLC) with future huge utility bill increases and very big profits from our very limited income Senior Citizens in HH.

Your cooperation is appreciated.

Sincerely,

Rose Mears

Rose Mears
110 50th Ave. W.
Bradenton, Florida, 34207
Heather Hills Estates

FPSC, CLK - CORRESPONDENCE
 Administrative Parties Consumer
DOCUMENT NO. 66427-08
DISTRIBUTION: JUL 23, 2008 ECB/bca

RECEIVED-FPSC

REGISTRATION CENTER
08 JUL 29 AM 7:21

08 JUL 29 AM 9:14
Re: FPSC Docket 080428- Transfer of Water and Sewer from Heather Hills to Ni Florida

From: John and Janet Voorheis, 203 49th Ave Dr W. Bradenton, Florida 34207
COMMISSION CLERK

The transfer of the Manatee County Heather Hills (HH) W/S utilities as described in the June 30, 2008 Joint Application for Heather Hills Estates and Ni Florida is not in the best interest of Heather Hills Subdivision lot owners.

➤ The Worth of the Utilities

This is only a pass through utilities system with no treatment center or land as was stated in the Docket. Water and Sewer service is purchased from Manatee County. The utility has no operating equipment, machinery and no treatment center. Manatee County, Florida signed a Utility Easement agreement with my late father on 2-14-78 for a 20' by 20' permanent easement for a Lift Station Site and also for Ingress and Egress to the site on his HH lot at 109- 49th Ave. Dr. West. I've been told it is one of the oldest lift stations in the County. The Heather Hills Manatee County Plats clearly state that certificate of ownership and dedication of all common areas, open areas, streets, walks, alleys, parks or other easements shown on the Plats to the use of the general public forever. The utility only owns the old water lines and old sewer lines. All the utility needs to maintain is the 2 inch 40 year old water lines, the flushing/ turn off values and making sure the sewer caps fit and sewers aren't plugged. Our sewer cap is held in place with a piece of plastic which probably will not last long. The meters are mostly original and I don't think have ever been tested. The system has been depreciated to \$902 and its remaining life time has to be very, very, limited. We personal think it has out lived it purpose. The remaining life time needs to be determined so a fair book value can be established. It is probably worth under \$10,000. The current owner has been reporting thousands of dollars of loses the last years. We should not be charged for an inflated purchase price of \$277,500. Our utilities bills need to be based on the true book value of this utility.

➤ Unregulated Utilities

It needs to be noted the Heather Hills Estates W/S were not regulated from 1967 to 1996. The State and County government did the residents of HH a great injustice by not enforcing the laws and rules of Florida. 2007 was the first full year HH utilities supposedly complied with safe drink water tests and standards. The outdated, frail, PVC water lines break many times each year. They are thin and brittle. When they break no flushing or isolation of the system was possible because the valves are not in working condition. Required exercising of the valves was not performed. The cost should not be paid by the consumers. We already paid to have this system maintained properly. I'm sure the owner's or FPSC records do not tell the complete story because the consumers did not know they needed to report questionable practices to the correct authorities. The consumers were very ignorant as to the rules on repairs, testing of the water and other operational details.

➤ **Declarations of Covenant (Schedule 6.1 (a))**

Deed restrictions/Covenant of Heather Hills Estates, Inc. doesn't separate the recreational amenities and the water system. The sewage disposal system is part of the assessment itemize in the deed restriction. Schedule 6.1 (a) states that the 2) Easement and Set Backs and 9) Assessment provisions of each Declaration (deed restriction/covenant) are no longer applicable and have been superseded by changes in the Florida law. Those Florida laws need to be identified. Schedule 1.1 states that any of the rights or benefits of the community deed restrictions accruing to the owners or operators of said recreational amenities of Heather Hills are excluded assets. You can't have it both ways. Either the Sections 2 or 9 of deed restriction are superseded by changes in Florida law and no longer applicable or not.

➤ **Open lawsuit case in Manatee County Circuit Court**

For your information there is an open Manatee Circuit Court Case on Negligence against the owners of the utilities. It is Case No. 41-2004-CA-003373, Case Status- Re Open.

In 2005 the Home Owner Association offered to purchase the utility so we could work directly with Manatee County the provider of the Water/Sewer service. The HOA is now paralyzed because instead of selling the utility to us, we were sued. Case No. 2005 CA 4671, Case Status- Re Open

➤ **Ni Florida**

Who is going to protect us HH, old people, from this financial web of 4 LLCs (Ni America, Ni Florida, Florida Utilities Group Holding and Metal Mark)? All 4 are in business to make money. The money will have to come from us, the old people on very limited retirement incomes. Ni Florida LLC has very limited experience in Florida. At this time FUCH from Hudson, Fl, will be contract manager for HH. How will we be sure they will conduct business according the rules and regulations of FPSC and Manatee County? No one helped us the last 40 years. No financial statements for Ni Florida were provided. Is the use of Ni America's financial statement acceptable? Isn't that a leap of faith that Ni America is the only financial backer with Metalmark also perhaps providing money? This appears to be a complicated money making scheme by 4 LLCs using our outdated utility as the pawn.

➤ **Summary**

Your careful review of this transaction is needed and will be appreciated. Please 1) establish a fair book value (not more than \$10,000), 2) demand that the flushing/turn off valves (standard maintenance procedure expectation) be in operating condition before transfer at no expense to the customer 3) clarify the Declarations of Covenant in Section 6.1 a) and Section 1.1., and also the related Florida Laws. We fear this sale will place a huge unbearable burden on this modest subdivision of resident age 65 and over.

FPSC, CLK - CORRESPONDENCE		
<input type="checkbox"/> Administrative	<input type="checkbox"/> Parties	<input checked="" type="checkbox"/> Consumer
DOCUMENT NO. 06427-08		
DISTRIBUTION: ECB, GCL		

Ms. Ann Cole, Director
 Commission Clerk and Administrative Services
 Florida Public Service Commission
 2540 Shumard Oak Blvd
 Betty Easley Conference Center - Room 110
 Tallahassee, Fl. 32399-0850

DISTRIBUTION CENTER
 08 JUL 28 AM 7:31

080428

RECEIVED-FPSC
 08 JUL 28 AM 9:39
 COMMISSION
 CLERK

Re: FPSC Docket Number 080428 - Joint application of Keith and Clara Starkey d/b/a/ Heather Hills Estates and Ni Florida, LLC for approval of transfer of Heather Hills Estates Water and Wastewater Systems

Dear Ms. Cole,

The following correspondence pertains to the prospective sale of Heather Hills Utilities by Keith and Clara Starkey to Ni Florida (Ni America) which is contained in FPSC Docket number 080428. I believe this sale is NOT in the best interests of the residents / consumers and this docket in itself contains information that is not correct and will affirm my stance on said subject. This document reads like a bad Fairy Tale and shows that the present owners and the prospective new buyers are more interested in the almighty dollar with no regard for the utility consumers.

IF this sale is allowed it will put a very heavy burden on the consumers, especially at a time when the economy is so bad that their resources are already stretched to the limit. The FPSC should take into consideration that this is a retirement community where the majority of our residents, many that are widows and widowers, are on fixed incomes and will not be able to afford the projected increases unless they do without food and/or medications. I realize that this point is more a moral point than a legal one but it is very pertinent and important.

Now comes the pertinent points and questions. In the docket it states that the purchase / sale price is \$277,500.00 (dollars). The docket also claims that the present owners paid \$93,000.00 for the utilities back in 1976. When they became the new owners of this utility (water and wastewater) our wastewater went into a septic system. This system had to be emptied every so often which cost for the removal. This cost was included in our yearly assessment. Soon after their purchase they contacted Manatee County Utility and tied into their sewer lines. At this time they passed the entire costs for sewage removal to the residents / consumers. There was NO drop in the yearly assessment fee so the monies they saved were an added income for them.

Our present system is over forty (40) years old. The water lines consist of a single 2 inch line that feeds all 353 units / homes in Heather Hills plus the clubhouse. We have no swimming pool or any other entity that would consume a large quantity of water. Everything is gravity fed. There is a lift station here but it is owned, operated and maintained by Manatee County Utilities.

Heather Hills Utility has NO operating equipment, plant or machinery. Since our inception in 1967 there has been NO new lines installed, most of us have the original meters installed in the 1960s and 1970s, shut off valves and back flush equipment that was ordered installed never were as stated in the docket, until recently our water quality has never been checked as required, etc. All the utility did was pocket our money without fulfilling their obligations to us. No expenditures means more profit for them. Their original investment has been paid for many times over. Again we are the losers. They have been collecting an automatic increase for years also. WHY? They have no equipment that costs them more every year. We lose again.

For the past few years the present owners have filed yearly statements stating that the utility (which was incorporated in February of 2006) has been losing well over \$20,000.00 a year. Another fact is that in communities like ours, where we own our land and homes, the price of the land alone is based not only on the size of our property but all the improvements which includes the installed water and sewer lines, electrical and any other improvements. Does that mean that we are paying for all this twice? Also, if the utility is sold, will we have to start all over again? The present utility has already depreciated to less than a thousand dollars. The write offs are now gone. If it is sold will we have to start all over again?

There are so many perplexing facts regarding this proposed sale. Why would anyone pay \$277,500.00 for a utility that has been "losing money" for a number of years and is old, outdated, run down and needs so much done to it? The company is in this to make money and that will be at the expense of the elderly. Maybe it is time for the FPSC to look into situations like ours and not give their blessings on these transactions without a thorough investigation. In their EXHIBIT F of the docket they state that the book value of the "plant" (what plant) is only \$902.00. (WOW. WHAT A DEAL!!)

In Section III - Representations and Warranties of the Sellers - in 3.1, Item (e), it states the following: there are and have been no violations by the Sellers of any Environmental, Health and Safety Law and, to the knowledge of the Sellers, no violations of any such law have been committed on properties owned by the Sellers. This is not true. In May of 2003 I stepped on a manhole / sewer cover that was too small for the cavity. It butterflied on me resulting in my falling into the opening with my right leg up to the groin. My left leg was stretched out on the ground. As I was falling I stretched my right hand out to stop my fall. My right hand came into contact with the lid as it was flipping in the cavity. This additional jolt snapped my neck (I had just had a metal plate installed in my neck from C3 to C7 vertebrae in December of 2002). Due to this action I had to have additional back and neck surgeries. (I am not the only one that something like this has happened to). I now have 8 inch long rods about ½ inch in diameter up both sides of my low back along with a hideous scar up the back of my neck. I contacted Vicki Wheeler of the DEP. She came out and checked that cover and others. She flipped many of them

with just a rod. Starting in September of 2006 she sent the present utility owners e-mails telling of the violations and giving them the statutes and laws that they were violating. They sat back on their laurels and did nothing. I am enclosing six (6) pages of e-mails from Ms. Wheeler to the Starkeys which were sent to me by her. It took a long time and a lot of prodding to get something done. There are still lose covers. In a heavy rain there is a lot of ground water that goes down these cavities and has to be treated as sewage / wastewater. You will be able to see by the dates of the e-mails what I have stated is true.

It states in EXHIBIT G that Ni Florida is not requesting an acquisition adjustment at this time. That is very convenient for THEM. When we met with them (Mr. Melcher and others) they passed out a sheet showing what they were expecting over 5 years. The 3rd year showed an increase to us of at least 50% and their figures did not take into consideration that they will be billing us every month rather than every quarter as we are now. This added cost will in itself be a burden. Since 2/3rds of our residents are here for 6 months or less that is very convenient for them. Another increase!!

In EXHIBIT I it states "The Seller currently has no notices of violation to be addressed: however Ni Florida plans to install flush valves throughout the system, as regulators have suggested in the past". This along with well over 20 shutoff valves that they were ordered to install backs up what I wrote earlier. It will cost us more now than if it was done years ago. It is not our fault that no one in authority follows up on such things. YOU are the experts. The FPSC and Manatee County especially has really let us down in the past.

In EXHIBIT M it talks about the utility treatment center and land. This utility has no such thing.

In your definitions section you talk about common areas, In 1967 Jack House (the original developer / owner) dedicated all the common areas, walkways, streets, open spaces, etc to the general public for their use forever. This addition is on plats 1, 2, 3, and 4 at the county. I will attach a copy and enlargement of this also. It will consist of 3 pages.

Also I am enclosing an e-mail from the association president that states they are doing nothing for fear of being sued. Jan Voorheis, myself and others have been threatened with lawsuits by Keith Starkey if we do anything to stop this sale. This is ludicrous and insulting. This is what we have been fighting for years. Go along with me or I will sue you. Threats and intimidation are the lifestyle here in Heather Hills. I believe that, as a resident and customer / consumer, I have every right to voice my concerns.

In conclusion I will make the following statements:

The Utility's so called plant-in-service is over 40 years old, almost fully depreciated, and in need of significant investment to pay for replacement or refurbishment of the water and wastewater lines. Given the current condition of these lines it is not reasonable or prudent to pay a \$276,000.00 premium above the net book value of the utility. If the management and shareholders of Ni Florida have determined that, for whatsoever reason, they are prepared to pay this premium price above net book value, so be it. However, Ni Florida's unwillingness to commit to never seek a positive acquisition adjustment creates a serious problem for us, the customers, and makes this proposed purchase not in the public interest.

It gives us, the customers, little comfort that Ni Florida does not seek an acquisition adjustment "at this time". Especially when the parent company's web page (www.niamerica.com) provides in part: "We look only for a fair and reasonable return on our capital investment". Heather Hills is a mobile home community comprised of retirees living on limited fixed incomes. It will be very difficult for us, the Heather Hills customers / residents, to be able to pay the rate increases that will likely result from any owner attempting to recover the costs of making the necessary improvements to refurbish the Utility's system. We, the Heather Hills Customers, cannot afford to bear the additional costs or to be exposed in the future to bear the additional cost of reimbursing Ni Florida for its unreasonable and imprudent purchase price for this Utility. So long as Ni Florida reserves the right to seek recovery from us, the ratepayers, of its purchase price in excess of net book value, this transfer is not in the public interest and should be denied by the Commission.

For this and all the other reasons mentioned in my letter I hereby protest the transfer of Heather Hill's water and wastewater system to Ni Florida. Thank you for the opportunity to voice my concerns.

CC: Steve Reilly - Florida Office of Public Counsel
 Marsha E. Rule, Esq. - Rutledge, Ecenia and Purnell, P.A.
 Erik Sayler - Atty FPSC
 John Zimmerman - Manatee County Utility
 President - FPSC

John J. Morelli, Sr.
 110 50th Avenue West
 Bradenton, Fl 34207



Heather Hills Estates
 Phone/Fax: 941-756-5627 E-Mail: FUJIMOCAR@msn.com

"Tax" shall mean any federal, state, or local income, gross receipts, license, payroll, employment, severance, unemployment, disability, real property, personal property, sales, use, transfer, or other tax of any kind whatsoever, including any interest, penalty, or addition thereto, whether disputed or not.

"Tax Authority" means any regulatory authority responsible for the imposition, assessment or collection of any Tax (domestic or foreign).

"Tax Return" shall mean any return, statement, declaration, notice, certificate or other document that is or has been filed with or submitted to, or required to be filed with or submitted to, any Tax Authority in connection with the determination, assessment, collection or payment of any Tax or in connection with the administration, implementation or enforcement of or compliance with any legal requirement related to any Tax.

Section II - Purchase and Sale of Assets; Closing

2.1 **Purchase and Sale of Assets:** Subject to the terms and conditions of this Agreement, the Buyer agrees to purchase from the Sellers and the Sellers agree to sell, transfer, assign and deliver to the Buyer, all of the Assets free and clear of all liens, security interests, options, rights of first refusal, mortgages, charges, indebtedness, deeds of trust, leases or security agreements on the Closing Date against receipt by the Sellers of the Purchase Price (as adjusted as provided herein).

2.2 **Purchase Price:**

(a) Subject to the following adjustments, in consideration for the sale of the Assets, the Buyer agrees to pay the Sellers on the Closing Date TWO HUNDRED SEVENTY SEVEN THOUSAND FIVE HUNDRED and No/100 Dollars (\$277,500.00) (the "Purchase Price"), less TWENTY SEVEN THOUSAND and No/100 Dollars (\$27,000.00) (the "Withheld Sum"), which shall be retained by the Buyer in accordance with Section 2.3. All ad valorem Taxes relating to the Assets, utility bills and lease payments and any other monthly recurring payments related to the Assets shall be prorated as of the Closing Date in such a manner that will result in (i) the Sellers having paid for and received the benefit of those items attributable to the period of time prior to and on the Closing Date and (ii) the Buyer having paid for and received the benefit of those items attributable to the period of time following the Closing Date. The Purchase Price shall be adjusted to account for such proration. If the actual amounts to be prorated pursuant to the foregoing provisions are not known on the Closing Date, then the proration shall be made on the Closing Date using the best evidence then available, and thereafter, when actual figures are received, a cash settlement will be made between the Sellers and the Buyer. The Purchase Price shall be adjusted downward by the amount of customer deposits (and all interest accrued or properly accruable thereon) as of Closing.

(b) All items of revenue and expense related to the Business, including without limitation, ad valorem Taxes relating to the Assets, utility bills and lease payments and any other monthly recurring payments related to the Assets, shall be prorated as of the Closing Date in such a manner that will result in (i) the Sellers having paid for and received the benefit

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and discharge of all such liabilities (such liabilities herein being defined as the "Excluded Liabilities").

2.6 Joint/Several Liability: Each of member of the Sellers, individually and as trustee of their respective trusts, hereby acknowledge and agree that they shall be jointly and severally liable for all representations, warranties, covenants, obligations and other agreements of the Sellers under this Agreement and that they shall jointly and severally indemnify, defend and hold harmless the Buyer from any liability in connection therewith.

Section III - Representations and Warranties of the Sellers

3.1 Except as set forth in the Disclosure Schedules, each member of the Sellers, jointly and severally, represent and warrant that as of the date hereof and as of the Closing Date:

- (a) the Sellers have all the requisite power and authority and capacity to enter into this Agreement;
- (b) this Agreement has been duly executed and delivered by the Sellers and constitutes a legally binding and enforceable obligation of each of the Sellers enforceable against the Sellers in accordance with its terms;
- (c) this Agreement and its consummation will not conflict with or result in a breach of any agreement, judgment, order or government permit, nor will it result in the creation of a lien, or require consent from a third party or any governmental entity, except for the Regulatory Approval;
- (d) the balance sheet and statement of income for the Sellers for the fiscal period ended December 31, 2007 and the period beginning January 1, 2008 and ending _____, 2008, attached hereto as Schedule 3.1(e), have been prepared and maintained in accordance with generally accepted accounting principles applied on a consistent basis and accurately, completely and fairly present the Sellers' financial position and the results of operations as of the respective dates thereof; other than as disclosed in the financial statements, there are no undisclosed liabilities of any nature associated with the Business; since the date of the last balance sheet contained in the financial statements attached hereto as Schedule 3.1(e), there has not been any material adverse change in the business, operations, properties, prospects, Assets or any condition of the Sellers; no event has occurred or condition exist that may result in such a material adverse change;
- (e) there are and have been no violations by the Sellers of any Environmental, Health and Safety Law and, to the Knowledge of the Sellers, no violations of any such law have been committed on properties owned by the Sellers;
- (f) the Sellers have good and indefeasible title to all Real Property purported to be owned by it in fee, and good and merchantable title to all of the other Assets, in each case free and clear of all liens and other encumbrances, including without limitation, the Real Property described on Schedule 6.1(a);

KPS

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EXHIBIT F

The proposed net book value of the system as of the date of the proposed transfer. If rate base (or net book value) has been established previously by this Commission, state the Order No. and date issued. Identify all adjustments made to update this rate base (or net book value) to the date of the proposed transfer.

Net book value of plant in service is \$902.

The Commission has not established rate base or net book value for Heather Hills.

EXHIBIT G

A statement setting forth the reasons for an acquisition adjustment, if one is requested.

Ni Florida is not requesting an acquisition adjustment at this time.

EXHIBIT I

A statement from the buyer that after reasonable investigation, the system being acquired appears to be in satisfactory condition and in compliance with all applicable standards set by the Department of Environmental Protection.

Ni Florida, after reasonable investigation, notes the assets appear to be in satisfactory condition and in compliance with applicable standards set by the Department of Environmental Protection. The seller currently has no notices of violation to be addressed; however Ni Florida plans to install flush valves throughout the system, as regulators have requested such in the past.

EXHIBIT M

Evidence that the utility owns the land where the utility treatment facilities are located. Or, where the utility does not own the land, a copy of the agreement which provides for the long term, continuous use of the land, such as a 99-year lease. The Commission may consider a written easement or other cost-effective alternative.

Attached is a copy of correspondence and ordinances from Manatee County confirming that Heather Hills receives bulk service on a water and wastewater account for a master meter mobile home park, which does not require an individual contract.

THESE 6 PAGES DATING FROM
9/21/06 TO 3/27/08 SHOW THE
DEP COMPLAINTS AND THE PRESENT
UTILITY OWNERS NOT RESPONDING
AND/OR FIXING THESE PROBLEMS IN
A TIMELY MATTER / ORDER

①

PAGE 1 OF 2

JSF LETTER
FROM DEP
9/21/2006

THEY ACT AS IF THEY ARE ABOVE THE LAW.

Mr. Keith Starkey, Owner
Heather Hills Estates, Inc.
4925 3rd Street West
Bradenton, FL 34207

Re: Complaint Investigation
Heather Hills Estates collection system
Manatee County

Dear Mr. Starkey:

The purpose of this letter is to advise you of possible violations of law for which you may be responsible and to seek your cooperation in resolving the matter. A field inspection conducted at the Heather Hills Estates sanitary sewer collection system on September 21, 2006 indicates that a violation of Florida Statutes and Rules may exist. Department of Environmental Protection personnel observed the following:

1. There were loose manhole covers at several sanitary sewer collection system manholes within Heather Hills Estates. Manhole covers behind 205 50th Avenue Drive West, 410 50th Avenue West, 409 49th Avenue Terrace West, and behind 203 49th Avenue Drive West were loose enough that they could be pushed off center and then pivot into the manhole. These covers are lighter than typical covers and are slightly smaller than the full diameter of the retaining ring. The manholes are located in a utility easement along the rear lot lines and the looseness of the covers may be a hazard to homeowners.
2. There was significant groundwater intrusion to the sanitary sewer collection system. There was water flowing into manholes from points other than inverts at 410 50th Avenue West, 304 49th Avenue Drive West, and 203 49th Avenue Drive West. The sanitary sewer collection system is designed for only domestic sanitary wastewater and precludes the introduction of storm water, surface water, groundwater, roof runoff, subsurface drainage, swimming pool drainage, or air conditioning system condensate water. Since the collection system flows to a lift station operated and maintained by the Manatee County Utilities Department, and the community's domestic wastewater is pumped to the Manatee County Southwest Water Reclamation Facility, you may not be in compliance with County ordinances for the protection of the public utility system.
3. The manhole could not be located behind 409 50th Avenue Terrace West. Department personnel photographed a cave-in near the expected location. A decorative concrete pad adjacent to the cave-in may be concealing the manhole cover.

Section 403.161(1)(b), Florida Statutes, provides that it shall be a violation of this chapter, and it shall be prohibited for any person to fail to obtain any permit required by this chapter or by rule or regulation, or to violate or fail to comply with any rule, regulation, order, permit or certification adopted or issued by the Department pursuant to its lawful authority.

Rule 62-604.500(3), Florida Administrative Code, provides that all equipment necessary for the collection/transmission of domestic wastewater shall be maintained so as to function as intended.

The activities observed during the Department's field inspection that may be contributing to violations of the above-listed statutes or rules should be ceased. (2)

Please respond with the plans you have made to correct these items. This response should be in writing and sent to the Department within 20 days from your receipt of this letter. Please include a schedule, with a time frame for compliance.

If you have any questions, please contact me by telephone at 813-632-7600, extension 308, or via e-mail: Vicki.Wheeler@dep.state.fl.us.

Sincerely,

Vicki Wheeler
Environmental Specialist
Domestic Wastewater Section

cc: David Shulmister, Manatee County Utilities Department

(3)

JOHN MORELLI

From: "JOHN MORELLI" <fujimocar@msn.com>
To: "Wheeler, Vicki" <Vicki.Wheeler@dep.state.fl.us>
Sent: Friday, December 15, 2006 11:26 AM
Subject: Re: Heather Hills Estates

2ND LETTER
FROM DEP
11/13/2006
NOTHING DONE yet

Ms. Wheeler,

As of today, 12/15/06, This utility STILL has done nothing to fix these problems. They are known for procrastinating and getting away with it. Do you not have ANY authority to enforce your rules. This is ridiculous. John Morelli 941-756-5627

----- Original Message -----

From: Wheeler, Vicki
To: fujimocar@msn.com
Sent: Monday, November 13, 2006 2:54 PM
Subject: Heather Hills Estates

Dear Mr. Morelli,

Thank you for your call. It arrived the same day as a note from Stephanie Gardner, a representative of the owner, who asked me where they can buy the inserts. I sent them several manufacturers names via e-mail. I ask that you let me know if you see action or not in another two weeks, and I will continue to inform you if I hear from them.

Sincerely,
Vicki Wheeler

7/25/2008

(4)

JOHN MORELLI

From: "Wheeler, Vicki" <Vicki.Wheeler@dep.state.fl.us>
To: "JOHN MORELLI" <fujimocar@msn.com>
Cc: "Squitieri, Joe" <Joe.Squitieri@dep.state.fl.us>
Sent: Monday, December 18, 2006 10:47 AM
Subject: RE: Heather Hills Estates

3RD LETTER
 FROM DEP
 DATED 12/18/2006
 STILL NOTHING
 DONE BY UTILITY

Dear Mr. Morelli,

I understand your frustration with the speed of bureaucracy and I share your sense of urgency. While it is an old problem to you, it is less than 60 days since I sent the letter, and administratively, we must give them time to take action.

I sent a second letter by e-mail on Friday, and it will be sent in the mail today, that asks them to take action by December 31, 2006. If they do not take action by that date, the Department intends to begin action for monetary penalties.

Sincerely,

Vicki Wheeler

From: JOHN MORELLI [mailto:fujimocar@msn.com]

Sent: Friday, December 15, 2006 10:26 AM

To: Wheeler, Vicki

Subject: Re: Heather Hills Estates

Ms. Wheeler,

As of today, 12/15/06, This utility STILL has done nothing to fix these problems. They are known for procrastinating and getting away with it. Do you not have ANY authority to enforce your rules. This is ridiculous. John Morelli 941-756-5627

----- Original Message -----

From: Wheeler, Vicki

To: fujimocar@msn.com

Sent: Monday, November 13, 2006 2:54 PM

Subject: Heather Hills Estates

Dear Mr. Morelli,

Thank you for your call. It arrived the same day as a note from Stephanie Gardner, a representative of the owner, who asked me where they can buy the inserts. I sent them several manufacturers names via e-mail. I ask that you let me know if you see action or not in another two weeks, and I will continue to inform you if I hear from them.

Sincerely,

Vicki Wheeler

7/25/2008



papers that they have filed since then state Heather Hills Utilities, Inc. We make our checks/payments out to Heather Hills Utilities not to Starkey. Also, if the agreement to purchase water from the county has expired, does the county have the authority to make them bring us up to code? We are the ones that pay the county so I believe that they have a duty to look out for us. All they have done in the past is to pass the buck and/or ignore their residents (us). This is just a few questions/reasons to be investigated. The more people/organizations that we can get involved may inspire someone to review this transaction a little more carefully.

John Morelli

⑥

4TH LETTER FROM
DEP - DATED 3/27/08STILL NOT ALL
COMPLIED WITH SINCE
9/21/06**JOHN MORELLI**

From: "Wheeler, Vicki" <Vicki.Wheeler@dep.state.fl.us>
To: "fujimocar@msn.com" <'fujimocar@msn.com'>
Cc: "Squitieri, Joe" <Joe.Squitieri@dep.state.fl.us>; "Armstrong, Carolyn E." <Carolyn.E.Armstrong@dep.state.fl.us>; <scott.browning@mymanatee.org>
Sent: Thursday, March 27, 2008 7:38 AM
Attach: Heather Hills second letter 12-15-06.doc
Subject: Heather Hills- Manatee County

Dear Mr. Morelli,

Thank you for calling March 25 regarding your subdivision in Manatee County, Heather Hills. You said the system has been sold and you think some manhole covers are still loose. I have attached a letter sent to the owners of the privately operated collection system in December 2006. I investigated your complaint at that time and the attached letter identifies the addresses where I found loose manhole covers.

Please let me know whether the problems are at the same addresses where the manhole inserts were installed as remedies, or whether there are new problems at different addresses.

In addition, I appreciate your providing the name and any other contact information of the new owner.

Sincerely,

Vicki Wheeler
FDEP Southwest District
13051 N. Telecom Parkway
Temple Terrace, Florida 33637
813.632.7600, Extension 308

The Department of Environmental Protection values your feedback as a customer. DEP Secretary Michael W. Sole is committed to continuously assessing and improving the level and quality of services provided to you. Please take a few minutes to comment on the quality of service you received. Simply click on [this link to the DEP Customer Survey](#). Thank you in advance for completing the survey.

7/25/2008

323616

HEATHER HILLS ESTATES

- UNIT 1 -

A PART OF THE N.E. 1/4 OF THE S.E. 1/4 OF SEC. 11, TWP. 35 S., RGE. 17 E., MANATEE COUNTY, FLORIDA

DESCRIPTION

Begin at the NW corner of the N.E. 1/4 of the S.E. 1/4 of Section 11, Twp. 35 S., Rge. 17 E., thence S 89° 51' N 1/2 E along the North line of said S.E. 1/4, 38.00 ft to the intersection of said line and the East 1/4 of 575 Street W (ZIMMER ROAD) for a P.O.B.; thence southmen S 89° 51' 1/2 E, 375.00 ft; thence S 89° 51' 1/2 E, 323.00 ft to the intersection of said line and the East line of said Section 11; thence S 00° 08' 31" E along the East line of said Section 11, 705.04 ft; thence N 89° 36' 00" W, 1184.44 ft; thence N 00° 23' 30" E, 10.00 ft; thence N 89° 36' 00" W, 10.00 ft to the intersection of said line and the East 1/4 of said 575 Street W; thence N 00° 13' 07" W along said East 1/4, 710.60 ft to the P.O.B. being and lying in Section 11, Twp. 35 S., Rge. 17 E., Manatee County, Florida.

MORTGAGE CERTIFICATE

STATE OF FLORIDA) S.S.
COUNTY OF MANATEE)

I, GEORGE L. MAUSON, as Trustee, under that certain Mortgage dated December 9, 1966 recorded in Official Record Book 305, Page 108, of the Public Records of Manatee County, Florida, hereby consent to and join in the recording of this Plat.

WITNESSES:

John McIlwain George L. Mauson
Joe S. Puelin GEORGE L. MAUSON

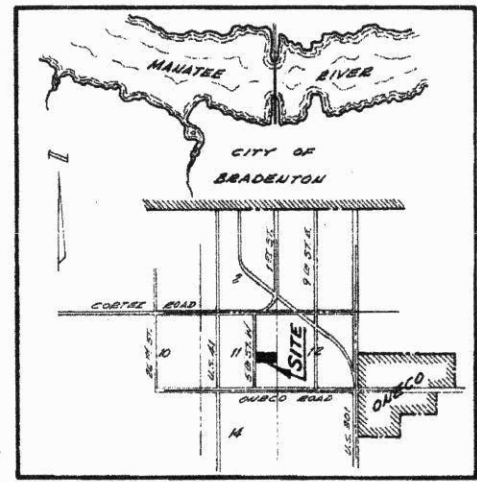
STATE OF FLORIDA) S.S.
COUNTY OF MANATEE)

BEFORE ME, the undersigned Notary Public, personally appeared GEORGE L. MAUSON, to me known to be the individual described in and who executed the foregoing Mortgage Certificate, and he duly acknowledges before me that he executed the same.

WITNESS my hand and Official Seal of Manatee County, Florida, this 2nd day of February, A.D. 1967.

Joe S. Puelin
Notary Public, State of Florida at Tampa.

MY Commission Expires: September 9, 1970



LOCATION MAP

EASEMENT DEDICATION

There are hereby expressly reserved, easements of 5' along the rear lines of all lots for underground and overhead utilities, surface and underground drainage and easements of 5' on each side lot line for the same purposes, but limited if used to one side of any one lot. Where more than one lot is intended as a building site, the outside boundaries of said building site shall carry said easement. All other easements shown on this Plat are hereby reserved in perpetuity for the purposes noted.

SURVEYOR'S CERTIFICATE

I, the undersigned, Registered Land Surveyor, hereby certify that this Plat is a true representation of the land described and shown, to the best of my knowledge and belief, and that permanent reference boundary monuments have been placed as required by Manatee County Regulations and the Statutes of the State of Florida thereunto pertaining.

January 30, 1967
Date of Survey:
William B. Roberts
William B. Roberts
Registered Land Surveyor
Florida Cert. No. 1188

CERTIFICATE OF OWNERSHIP AND DEDICATION

STATE OF FLORIDA) S.S.
COUNTY OF MANATEE)

HEATHER HILLS, INC., a Florida Corporation, by its duly elected President, JACK MAUSON, and by its duly elected Secretary, MARY L. HOUSE, acting by and with authority of its Board of Directors, certifies ownership by said Corporation of the property described herein, and does hereby dedicate all of the streets, walks, alleys, easements, parks and other open spaces, curbs and drainage or other easements shown on this Plat to the use of the general public forever.

IN WITNESS WHEREOF, the undersigned Corporation has caused these presents to be executed by its President and attested by its Secretary.

Mary House
Secretary

ATTEST:
Mary House
Secretary

STATE OF FLORIDA) S.S.
COUNTY OF MANATEE)

BEFORE ME, the undersigned Notary Public, personally appeared JACK MAUSON, President, and MARY L. HOUSE, Secretary of HEATHER HILLS, INC., a Florida Corporation, to me known to be the individuals described in and who executed the foregoing Certificate of Dedication, and they each duly acknowledge before me that they executed the same, as such officers for and in behalf of said Corporation.

WITNESS my hand and Official Seal of Manatee County, Florida, this 3rd day of February, A.D. 1967.

Joe S. Puelin
Notary Public, State of Florida at Tampa.

My Commission Expires: 9/26/69

CERTIFICATE OF APPROVAL OF COUNTY COMMISSION

STATE OF FLORIDA) S.S.
COUNTY OF MANATEE)

It is hereby certified that this Plat has been officially approved for record by the Board of County Commissioners of the County of Manatee, Florida, this 22 day of March, A.D., 1967.

APPROVED:

Richard A. Hampton W. P. McIlwain
County Attorney Chairman, Board of County Commissioners

ATTEST: Joe S. Puelin
Notary Public, State of Florida at Tampa.

APPROVED: Donald R. Coveley, P.E.
DATE: Feb. 17, 1967
County Engineer

CERTIFICATE OF APPROVAL OF CLERK OF CIRCUIT COURT

STATE OF FLORIDA) S.S.
COUNTY OF MANATEE)

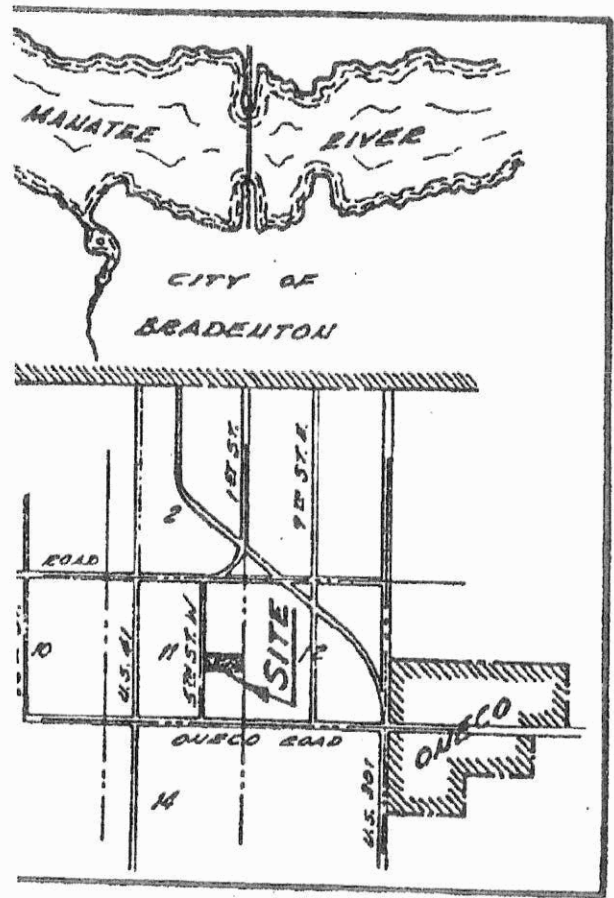
I, M.T. McILWAIN, Clerk of Circuit Court of Manatee County, Florida, hereby certify that this Plat has been examined and that it complies in form with all the requirements of the Statutes of Florida pertaining to Plat Book 15, Page 30, and that this Plat has been filed for record in Plat Book 15, Page 30, Public Records of Manatee County, Florida, this 7 day of March, A.D., 1967.

W. B. Roberts
Notary Public, State of Florida at Tampa.

ROBERTS ENGINEERING ASSOCIATES, INC.
TAMPA, FLORIDA

①
3 PAGES
(1) COPY OF ORIGINAL PLAT W/ DEDICATION
(2) SECTIONED DOWN VIEW
(3) BLOW UP OF DEDICATION
TO: STEVE RILEY
FROM: JOHN MORELLI
941-756-5627

1/4 N.E. 1/4 OF THE S.E. 1/4 OF SEC. 11,
5E. 17 E., MANATEE COUNTY, FLORIDA



LOCATION MAP

MENT DEDICATION

CERTIFICATE OF OWNERSHIP AND DEDICATION

STATE OF FLORIDA)
COUNTY OF MANATEE) S.S.

H.H. INC

HEATHER HILLS, INC., a Florida Corporation, by its duly elected President, JACK HOUSE and by its duly elected Secretary, MARY L. HOUSE acting by and with authority of its Board of Directors, certifies ownership of said Corporation of the property described herein, and does hereby dedicate all of the streets, walks, alleys, thoroughfares, parks and other open spaces, easements and drainage or other easements shown on this Plat to the use of the general public forever.

IN WITNESS WHEREOF, the undersigned Corporation has caused these presents to be executed by its President and attested by its Secretary.

By: Jack House
PRESIDENT

ATTEST:

Mary L. House
SECRETARY

STATE OF FLORIDA)
COUNTY OF MANATEE) S.S.

BEFORE ME, the undersigned Notary Public, personally appeared JACK HOUSE, President, and MARY L. HOUSE, Secretary of HEATHER HILLS, INC., a Florida Corporation, to me known to be the individuals mentioned in and who executed the foregoing certificate of Dedication, and they each duly acknowledged before me that they executed the same, as such officers for and in behalf of said Corporation.

WITNESS my hand and official seal, at Manatee County, Florida, this 31st day of January, A.D., 1967.

31st JAN. 1967

Lee P. Poolittle
Notary Public, State of Florida

My Commission Expires: 9/26/69

CERTIFICATE OF APPROVAL OF COUNTY COMMISSION

STATE OF FLORIDA)
COUNTY OF MANATEE) S.S.

It is hereby certified that this Plat has been officially approved for record by the Board of County Commissioners of the County of Manatee, Florida, this 9th day of March, A.D., 1967.

APPROVED:

7th March 1967

CERTIFICATE OF OWNERSHIP AND DEDICATION

STATE OF FLORIDA)
COUNTY OF MANATEE) S.S.

H. H. INC

HEATHER HILLS, INC., a Florida Corporation, by its duly elected President, JACK HOUSE and by its duly elected Secretary, MARY L. HOUSE acting on and with authority of its Board of Directors, certifies ownership by said Corporation of the property described herein, and does hereby dedicate all of the streets, walks, alleys, thoroughfares, parks and other open spaces, conduits and drainage or other easements shown on this Plat to the use of the general public forever.

IN WITNESS WHEREOF, the undersigned Corporation has caused these presents to be executed by its President and attested by its Secretary.

[Signature]
PRESIDENT

FPSC, CLK - CORRESPONDENCE
 Administrative Parties Consumer
DOCUMENT NO. 06427-08
DISTRIBUTION: ECR/bcl

080428

RECEIVED-FPSC
08 JUL 28 AM 9:39

DISTRIBUTION CENTER
08 JUL 28 AM 7:24

July 25th, 2008
Ms Ann Cole, Director, Office of Commission Clerk, 2540 Shumard Oak Blvd., Tallahassee, FL 32399

Re: FPSC Docket #080428 "Joint Application of M/M Starkey d/b/a Heather Hills Estates & Ni Florida, LLC

COMMISSION
CLERK

Dear Ms Cole,

As a resident/customer, may I present some of my objections with particularities in writing to the "transfer" of the 'water & sewer' utility company known as Heather Hills Utility, a.k.a. Heather Hills Utility, Inc. and Keith & Clara Starkey d/b/a Heather Hills Estates (HHE), from Mr & Mr Starkey to Ni Florida, LLC and why I feel that the FPSC should not grant Regulatory Approval. I believe that there are several major discrepancies stated within the 'Joint Application', which require accurate clarification and that this "transfer" is not in the public interest, especially not in the interest of the owners of the 353 residential properties within the bounds, which the utility serves.

(I downloaded via PDF format the entire 264 page FPSC Document #05672-08 dated 6-30-08 hence my inclusion of page #'s below for your, et al convenience and perusal. I thank you in advance for reading this lengthy yet necessary tome of various synopses).

A possible viable alternative to the above mentioned "transfer" would be for Mr & Mrs Rick Stephens (who purchased "**Heather Hills Estates**" from M/M Starkey in January 2008) to take over the utility company. Mr Starkey was the one who *first* mentioned to me this most acceptable suggestion. Unfortunately, as of this writing they are on vacation in Georgia however they will be available for confirmation/denial upon their return. If perchance M/M Stephens are not amicable to the alternative solution then perhaps the County could step up to the (plate) meter, as apparently there is a "Lift Station" located in our community on 49th Ave. Drive West that Manatee County *already* owns and maintains. Id est, they already have a footprint within this community.

It would be in the best interests of the customers and the people of Florida if the profits from this utility were retained within Florida as opposed to benefiting entities in Texas or Delaware.

See p. 176 of 264: **EXHIBIT D**
A statement describing the financing of the purchase.
The purchase of the Heather Hills water and wastewater system was financed through the use of equity financing by Ni America Capital Management, LLC. (Bolding mine).
"Was financed", HAS THE PURCHASE BEEN COMPLETED? IS MY LETTER OBSOLETE? Polite enquiry.....

Ni Florida has expressed its intention to read water meters on a monthly basis as opposed to the quarterly practice currently in place, which will incur more expenses to the customers, so this intent is not in our best interest.

According to **FS 367.1214** Water & Wastewater Systems
367.1214 Utility name change; notification; commission rulemaking authority.
Utility name change; notification; commission rulemaking authority.--A water and wastewater utility shall notify the commission and its customers before changing its name. The commission may adopt rules that a water and wastewater utility must follow when giving this notice to its customers.
To my knowledge, QUARTERLY invoices from M/M Starkey dba Heather Hills Estates requested the residents to make their water & sewer payment checks out to "Heather Hills Utilities". Period. In February 2006 a corporation was created with the name Heather Hills Utilities, Inc.
The customers were never advised of this name change. Was the FPSC ever advised as per the above Statute? Also, I find it curious that nowhere in the "Joint Application" does this corporate name appear.

According to FPSC Document # 05672-08, page 6, **V. OTHER** (Page 8 of 264).

23. **Exhibit "M"** to the Application is a copy of correspondence and ordinances from 23.

Manatee County confirming that Heather Hills receives bulk service on a water and wastewater account for a master meter mobile home park, which does not require an individual contract.

If an individually binding, contractual AGREEMENT between Manatee County and HHE (Purchaser) in 1967 through subsequent years was required, why, would it not "require an individual contract" now?

See Pages 45 thru 47 of 264, to view actual AGREEMENT.

8. Exhibit "C" See page 5 of 264

.....*The Agreement also addresses accrued interest on customer deposits. Such interest on customer deposits will be a liability assumed by Ni Florida and the amount of such accrued interest will be accounted for as a reduction in the purchase price.*

I personally have never heard of any "customer deposits" hence no "accrued interest" either so I do not comprehend how a **ghost faux "liability"** could possibly result in a reduction in the purchase price. Which segues nicely to that phrase, 'purchase price'.

See p. 25 and p.184 of 264:

\$277,500.00 for a business and with a Net book value of plant in service as \$902!! Such folly!! (Especially as there IS NO "PLANT" PER SE). This figure simply does not equate.

You may deem my mind to be veritably boggled. This issue causes immense pressures and worries.

When and how would the customers have to reimburse Ni Florida? *This* is so *not* in their best interest.

Ni Florida appears to have established a modus operandi of over paying for utilities. Consider the alleged reported \$5 million they paid in Pasco Co. for the utility worth around \$1.7 million.

Their history is present and future bound!! Kindly help us keep it out of Bradenton Florida and grant us such relief as is appropriate.

13. Exhibit "G" See p.6 of 264

to the Application is a statement confirming that Ni Florida is not requesting an acquisition adjustment at this time. (Bolding mine).

Operative words being 'at this time'. It will definitely be detrimental to the customers to have this dismal ominous shroud hanging over their heads. If not now, when? It's an accordance waiting to happen!!

If Ni Florida is willing to pay this exorbitant sum then they should be ordered to sign a pre-purchase writ declaring that the 'acquisition adjustment' and subsequent 'adjustments' for reimbursement of such paid sum shall never be legally obtainable to them.

I wish Ni America/Ni Florida success in their future endeavors ELSEWHERE for I cannot trust a company, which exhibits such irrational business behavior and decisions. They are NIGH on absurd.

FPSC Document #05672-08, **EXHIBIT B**, Paragraph 5 (Page 20 of 264).

..... *The sole focus of Ni Management and its subsidiaries is the provision of high quality water and wastewater services at reasonable prices within the states in which the Ni entities operate.*

"The sole focus".

I deem that comment to be highly irregular, totally unbelievable and frightfully audacious, even irresponsible to the shareholders of Ni Florida. Surely the truthful "sole focus" would be to *soak up* (pun intended) as many dollars as possible from this applied for, soggy "transfer".

Page 20 of 264 Paragraph 5

In addition, the Heather Hills customers will be served by a fiscally sound company that has the capability to finance necessary capital additions.

As a customer I shudder at the *now* known renovations/updates required for utility valves but to read that Ni Florida (based in Houston, Texas) is actually considering "capital additions:" to this utility system is very distressing. Additions, mean additional costs to the customers. The system is 'complete' as is,

with the exception of a few valves. It's just tired and worn out. Like a cow with only one working udder. How would unnecessary "additions" benefit the customers?

See p. 187 Of 264 **EXHIBIT I**

A statement from the buyer that after reasonable investigation, the system being acquired appears to be in satisfactory condition and in compliance with all applicable standards set by the Department of Environmental Protection.

Ni Florida, after reasonable investigation, notes the assets appear to be in satisfactory condition and in compliance with applicable standards set by the Department of Environmental Protection.

*The seller currently has no notices of violation to be addressed; however **Ni Florida plans to install flush valves throughout the system, as regulators have requested such in the past.***

And which should have been complied with IN THE PAST!! From the profits. (Bolding mine).

See p.183 of 264

Letter from Edward Wallace: "so as to ensure the health and safety of our customers".

It is indeed comforting to read his concern to ensure our health, well mental health is a priority too. Elderly retirees of modest means do not thrive on thoughts of stressful costs of higher water rates and valve replacements. It's enough they have to deal with their own knee replacements!!

So it is with humble sentiments that I request that all facts in my letter be digested and considered toward a negative decision regarding this utility sale.

A most compelling concern requiring absolute elucidation is *who* actually owns portions of/all of the 'real estate' which is being "transferred" to Ni Florida. Id est specifically the 7 words '**bolded**' below.

See p.16 of 264 **PART V OTHER**

A) Exhibit M - **Evidence that the utility owns the land** where the utility treatment facilities are located. Or, where the utility does not own the land, a copy of the agreement which provides for the long term, continuous use of the land, such as a 99-year lease.

(P.S. There are no "treatment facilities". I believe that the owners do not perform any form of "treatments", they simply purchase then they resell the water to the retirement community at I think a 10.81% profit margin). (Bolding mine).

See Manatee County Appraisers Office, Plat Book 15, Page 30, Document # 323616 for HEATHER HILLS ESTATES UNIT 1, SHEET 1 OF 3 (COPY ATTACHED)

"CERTIFICATE OF OWNERSHIP AND DEDICATION STATE OF FLORIDA COUNTY OF MANATEE Heather Hills, Inc., a Florida corporation, by its duly elected President, Jack House and by its duly elected secretary, Mary L. House acting by and with authority of its Board of Directors, certifies ownership by said corporation of the property described herein, and does hereby **dedicate all of the streets, walks, alleys, thorough fares, parks and other open spaces, canals and drainage or other easements shown on this Plat to the use of the general public forever.** (Bolding mine).

In witness whereof, the undersigned corporation has caused these presents to be executed by its President and attested by its Secretary".

Signed by Jack House in January 1967, the original developer of HHE (who sold to M/M Starkey).

A letter from Mitchell O. Palmer, Senior Assistant County Attorney (Manatee County) to the Board of County Commissioners and dated February 4, 1998 entitled, **MEMORANDUM** a portion of which reads: "Heather Hills Estates, Unit 1 was platted in March of 1967. Heather Hills Estates, Unit 2, was platted in September of 1967. Heather Hills Estates, Unit 3, was platted in November of 1968. The recorded plat documents contain **certificates of dedication, wherein all of the streets, walks, alleys, thoroughfares, parks and other open spaces, canals, and drainage and other easements, were dedicated to the public forever.** Each of the plats was approved and accepted by the Board of County Commissioners and all requisite signatures are affixed. **Thus, without question, all of the above-named amenities were effectively dedicated to Manatee County.** All of the roads within

Heather Hills Estates are, therefore, County roads".

Continuing with: "As regards the issue of use and ownership of the platted "buffer" areas, the **dedication** language in all three (3) of the recorded Heather Hills Estates plats reads as follows": (a repeat of the above 'certificate of dedication').

Continuing with: "A good argument can be advanced that all of the areas within the plats labeled as **"buffer" areas were effectively dedicated to Manatee County** by virtue of the above comprehensive **dedication** language. Specifically, since there are no areas on any of the three (3) plats which are labeled as "open spaces," then it is logical to conclude that the phrase "open spaces" refers to the "buffer" areas which are specifically depicted on the plats". (Bolding mine).

Now, couple these statements with the attempted "transfer" under FS 367.071 (pursuant to p.10 of 264) and one will observe vast conflictions:

FS 367.071 Sale, assignment, or transfer of certificate of authorization, facilities, or control.--

(6) Any person, company, or organization that obtains ownership or control over any system, or part thereof, through foreclosure of a mortgage or other encumbrance, shall continue service without interruption and may not remove or dismantle any portion of the system previously dedicated to public use which would impair the ability to provide service, without the express approval of the commission. This provision may be enforced by an injunction issued by a court of competent jurisdiction. (Bolding mine).

Section VI - Title Commitment and Survey See p. 31 of 264

Commitment Documentation: 6.1 *Within fifteen (15) days after the date of this Agreement, Sellers, at their sole cost and expense, shall deliver or cause to be delivered to Buyer the following:*

(a) *a Commitment for Title Insurance (the "Title Commitment") from Manatee-Pinellas Title Company (the "Title Company") setting forth the status of title of the **Real Property** and showing all liens, claims, encumbrances, **rights-of-way, easements, reservations, restrictions, outstanding mineral interests and other matters, if any, relating to the Real Property, including the easements described on Schedule 6.Ka). If the Title Commitment indicates that the Real Property is located in any water, sewer, drainage or flood control district, the Title Company shall immediately prepare and deliver to Buyer any required notices, and such notices, and the matters described therein, shall constitute encumbrances relating to the Real Property;***

(b) *a true, correct and legible copy of all documents referred to in the Title Commitment, including, without limitation, plats, deeds, restrictions and **easements**; and* (Bolding mine).

(**Please read Pages 172 and 173 of 264 too long to include here) :

SCHEDULE 6.1 (a) REAL PROPERTY

*The following provisions of each Declaration **are no longer applicable and have been superseded by changes in Florida law:***

Re: **#2 EASEMENTS AND SET BACKS** plus **#9 ASSESSMENT**. These 2 'Declarations' are in the Heather Hills Estates Rules and Regulations Covenants pertaining to the *actual property sold to M/M Stephens*. A moot point however as they apparently "are no longer applicable". If this is accurate are the residents going to be given the opportunity to be privy to the new applicable Florida law? Does this fact indicate that Ni Florida would be required to seek permission from each and every lot owner prior to access to his or her land? I am perturbed that we have not been informed of this. Are more expenditures needed to sort this discrepancy out and to be paid for by whom? (Bolding mine).

An additional concern is the legally rightful owner of the name "Heather Hills Estates". See p. 40 of 264.

11.16 Use of Name: *Following the Closing Date, the Sellers agree that neither they, nor any of their affiliates shall use the names, trade names or slogans of the Business, all of which are transferred to the Buyer pursuant hereto, including the name "Heather Hills Estates, Inc." or any derivation thereof, whether or not that name is a name, trade name or slogan of the Business.*

The Sellers make no representation to the Buyer as to any rights they may have to the use of the

name "Heather Hills Estates, Inc." or any derivation thereof.

How can M/M Starkey be selling a 'water & sewer utility' under "d/b/a Heather Hills Estates" when they already sold "Heather Hills Estates" to Rick & Chris Stephens in January of 2008?

See Book 2243 Page 6579 Docket # 2555386. State of Florida, County of Manatee **"AFFIDAVIT"**

Made in reference to the following described property. :

>>> **"All equipment and inventory located on premises, exclusive rights to the name "Heather Hills Estates"; goodwill of the Business as a going concern; any customer and potential customer lists; Business telephone and facsimile numbers, websites, domain names, and email addresses; signs; Business advertising, any logos, patents, trade or service marks; copies of all Business books and records; tools; supplies;"** COPY ATTACHED (Bolding mine).

Also, see FPSC Document #05672-08, the "Joint Application" **ASSET PURCHASE AGREEMENT**

Section 1 - Definitions 1.1 Definitions (Page 23 of 264)

"Assets" shall mean all right, title, and interest in and to all the assets owned by the Sellers and utilized in the Business, except for the Excluded Assets, including all: (a) fee property, **real property**, leaseholds and subleases, improvements, fixtures, **easements, right-of-way and other appurtenances thereto (the "Real Proper")**, including, without limitation, the property described on Schedule 6.1(a); (b) tangible personal property (including, without limitation, all machinery, **equipment, inventories and supplies** and those items identified on Schedule 3.1(k); (c) customer deposits; (d) licenses and permits associated with the Business, including, without limitation, those items listed on Schedule 3.1(m); (e) contracts, licenses, leases and agreements and other similar arrangements and rights hereunder ("**Contracts**"), (f) franchises, approvals, permits, licenses, orders, registrations, variances and similar rights obtained from governments and the governmental agencies, including the FPSC; (g) intellectual property of any type, including the name "**Heather Hills Estates, Inc.**" or any derivation thereof, any trade names, service marks, trade secrets and know-how; and (h) books, ledgers, files, documents, correspondence, lists, drawings, plans, specifications, warranties and plats.

(Bolding mine).

>>> If all '**BOLDED**' items above were sold with the property to M/M Stephens how can they also be included within the purchase of Ni Florida?

All this land, business name and inventory etc cannot be in two pockets simultaneously.....

Which indicates that seeing as they were initially deeded to M/M Stephens then would Ni Florida have to repurchase such entities causing even *further* expenses to the customers, which again is not in their best interest.

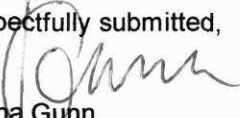
(P.S. The name "Heather Hills Estates, Inc" was filed as Document #311604 on 12-7-66 and became 'inactive' due to 'voluntary dissolution' on 10-7-76. A second Document #L83864 under the same name was filed 6-27-90 and 'administratively dissolved' on 10-9-92. Heather Hills Estates has been in business and managed by M/M Starkey, a married couple).

I wholehearted begrudge the necessity of and the time spent in composing this document.

Keith and Clara Starkey have always performed their duties as owners/operators of Heather Hills Estates to me personally, in a manner most befitting their titles. I understand their need to fully retire and I wish them peace and harmony if my letter fails in it's objective.....

I have endeavored to provide accurate information however, I am not responsible for factual errata.

Respectfully submitted,


Kenna Gunn
116 50th Avenue West
Bradenton FL 34207

cc: Marsha E. Rule, Esq.
Steve Riley, Office of Public Council

329616

HEATHER HILLS ESTATES

- UNIT 1 -

DESCRIPTION

Begin at the 1/4th corner of the N.E. 1/4 of the S.E. 1/4 of Section 11, Twp. 35 S., Rge. 17 E., Manatee County, Florida, thence S 89° 55' 14" W along the North line of said S.E. 1/4, 88.00 ft. to the intersection of said line and the East 1/4 of S 1/2 Street N (CLUBBER ROAD) for a P.O.B.; thence continue S 89° 55' 14" W, 375.00 ft., thence S 89° 34' 08" E, 332.00 ft. to the intersection of said line and the East line of said Section 11; thence S 00° 03' 01" W along the East line of said Section 11, 200.00 ft., thence N 87° 56' 28" W, 128.44 ft.; thence N 00° 23' 38" W, 10.00 ft.; thence N 87° 56' 28" W, 121.22 ft. to the intersection of said line and the East 1/4 of said S 1/2 Street N; thence N 00° 19' 03" W along said East 1/4, 710.60 ft. to the P.O.B., being and lying in Section 11, Twp. 35 S., Rge. 17 E., Manatee County, Florida.

MORTGAGE CERTIFICATE

STATE OF FLORIDA) S.S.
COUNTY OF MANATEE)

I, GEORGE L. MAUSON, as Trustee, under that certain Mortgage dated December 9, 1966 recorded in Official Record Book 305, Page 108, of the Public Records of Manatee County, Florida, hereby consent to and join in the recording of this Plat.

WITNESSES:
John McQueen George L. Mauson
Gene N. Patten George L. Mauson

STATE OF FLORIDA) S.S.
COUNTY OF MANATEE)

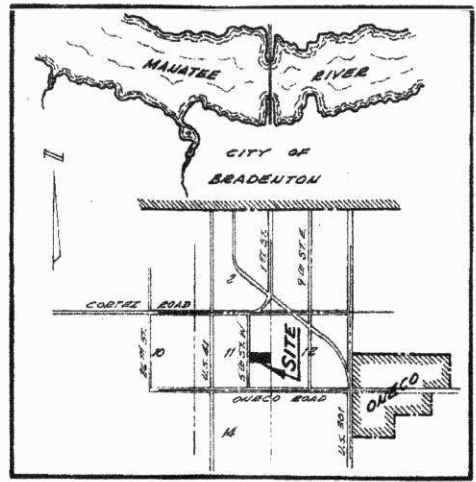
BEFORE ME, the undersigned Notary Public, personally appeared GEORGE L. MAUSON, to me known to be the individual described in and who executed the foregoing Mortgage Certificate, and he duly acknowledged before me that he executed the same.

WITNESS my hand and official Seal of Manatee County, Florida, this 2nd day of February, A.D. 1967.

Gene N. Patten
Notary Public, State of Florida at Large.

MY Commission Expires: September 7, 1970

A PART OF THE N.E. 1/4 OF THE S.E. 1/4 OF SEC. 11,
TWP. 35 S., RGE. 17 E., MANATEE COUNTY, FLORIDA



LOCATION MAP

EASEMENT DEDICATION

There are hereby expressly reserved, Easements of a' along the rear lines of all lots for underground and overhead Utilities, surface and underground drainage and easements of 5' on each side lot line for the same purposes, but limited if used to one side of any one lot where more than one lot is intended as a building site, the outside boundaries of said building site shall carry said easement. All other easements shown on this Plat are hereby reserved in perpetuity for the purposes noted.

SURVEYOR'S CERTIFICATE

I, the undersigned Registered Land Surveyor, hereby certify that this Plat is a true representation of the lands described and shown, to the best of my knowledge and belief, and that permanent reference boundary monuments have been placed as required by Manatee County Regulations and the Statutes of the State of Florida thereunto appertaining.

January 30, 1967
Date of Survey:
William R. Roberts
William R. Roberts
Registered Land Surveyor
Florida Cert. No. 1164

CERTIFICATE OF OWNERSHIP AND DEDICATION

STATE OF FLORIDA) S.S.
COUNTY OF MANATEE)

HEATHER HILLS, INC., a Florida Corporation, by its duly elected President, JACK HANSEN, and by its duly elected Secretary, MARY C. MAUSON, acting by and with authority of its Board of Directors, certifies ownership by said Corporation of the property described herein, and does hereby indicate all of the streets, walks, ways, drainages, ponds and other open spaces, canals and drainage or other easements shown on this Plat to the use of the general public forever.

IN WITNESS WHEREOF, the undersigned Corporation has caused these presents to be executed by its President and attested by its Secretary.

Jack Hansen
President

ATTEST:
Mary Mauson
Secretary

STATE OF FLORIDA) S.S.
COUNTY OF MANATEE)

BEFORE ME, the undersigned Notary Public, personally appeared JACK HANSEN, President, and MARY C. MAUSON, Secretary of HEATHER HILLS, INC., a Florida Corporation, to me known to be the individuals described in and who executed the foregoing Certificate of Dedication and they each duly acknowledged before me that they executed the same, as such officers for and on behalf of said Corporation.

WITNESS my hand and official Seal of Manatee County, Florida, this 3rd day of January, A.D. 1967.

Sheila D. Little
Notary Public, State of Florida at Large.

My Commission Expires: 7/26/69

CERTIFICATE OF APPROVAL OF COUNTY COMMISSION

STATE OF FLORIDA) S.S.
COUNTY OF MANATEE)

It is hereby certified that this Plat has been Officially approved for record by the Board of County Commissioners of the County of Manatee, Florida, this 9th day of March, A.D., 1967.

APPROVED:
Richard Hampton Don P. McClure
County Attorney Chairman, Board of County Commissioners

ATTEST:
James D. ...
Deputy Clerk

APPROVED Donald R. ..., PE.
DATE Feb. 17, 1967 County Engineer

CERTIFICATE OF APPROVAL OF CLERK OF CIRCUIT COURT

STATE OF FLORIDA) S.S.
COUNTY OF MANATEE)

I, M. J. ... Clerk of Circuit Court of Manatee County, Florida, hereby certify that this Plat has been examined and that it complies in form with all the requirements of the Statutes of Florida pertaining to Maps and Plats and that this Plat has been filed for record in Plat Book 15, Page 30 of the Public Records of Manatee County, Florida, this 1st day of March, A.D. 1967.

M. J. ...
Clerk of Circuit Court
Manatee County, Florida.

ROBERTS ENGINEERING ASSOCIATES, INC.
BRADENTON FLORIDA

STEVE RULEY, OFFICE OF PUBLIC COUNCIL HAS A MORE LEGIBLE COPY.

6

2015
6 27.00

AFFIDAVIT

STATE OF FLORIDA
COUNTY OF MANATEE

BEFORE Me, the undersigned authority duly authorized to take acknowledgments and administer oaths, did personally appear the persons well known to me to be **KEITH C. STARKEY** and **CLARA B. STARKEY**, who first being duly sworn and under penalty of perjury, did represent, declare and say as follows.:

- 1 KEITH C. STARKEY is over the age of 18 years.
- 2 CLARA B. STARKEY is over the age of 18 years.
- 3 KEITH C. STARKEY executes this Affidavit individually and as Trustee of the Keith C. Starkey Revocable Trust Under Agreement Dated July 28, 1997.
- 4 CLARA B. STARKEY, executes this Affidavit individually and as Trustee of the Clara B. Starkey Revocable Trust Under Agreement Dated July 28, 1997.
- 5 This affidavit is made in reference to the following described property:

All equipment and inventory located on premises, exclusive rights to the name "Heather Hills Estates"; goodwill of the Business as a going concern; any customer and potential customer lists; Business telephone and facsimile numbers, websites, domain names, and email addresses; signs; Business advertising; any logos, patents, trade or service marks; copies of all Business books and records; tools; supplies; office equipment and furniture; computer, telefax and telephone systems, computer software and files; copying machines; all agreements and leases in which Seller is the lessor or vendor; rights, easements, privileges and servitudes pertaining to the Real Property; contract rights and privileges set forth in governmental orders, resolutions, or grants; transferable permits and licenses pertaining to the Business or Property; and all other assets, equipment, furniture, fixtures, floor coverings, wall hangings, and furnishings used by Seller in connection with the operation of the Business.

- 6 Affiants had received offers for the purchase of the mobile home park amenities as described in Florida Statutes Section 723.071(2), one of which offers was for the purchase of the above described property and which offer resulted in contract (the "Subject Contract:") in connection with the closing of which this Affidavit is provided.
- 7 In connection with that offer, Affiants complied with the provisions of Florida Statutes Section 723.071(2).

This is page 1 of our Affidavit: HCS (K.C.S.) CB S (C.B.S.)

8 Notwithstanding Affiants' compliance with the provision of Florida Statutes Section 723.071(2), no contract has been executed for the sale of the Mobile Home Parker amenities between Affiants and any organization claiming to be a mobile home park or subdivision homeowners association; further, the organization which in the past has claimed the status of a mobile home homeowners association has provided a writing expressly declining to assert any statutory right of purchase pursuant to Florida Statutes Chapter 723. *(A copy of which is attached hereto.)*

sf

IN WITNESS WHEREOF, we hereunto set our hand and seal on January 15, 2008.

Keith C Starkey
KEITH C. STARKEY, individually and as Trustee of the Keith C. Starkey Revocable Trust Under Agreement Dated July 28, 1997.

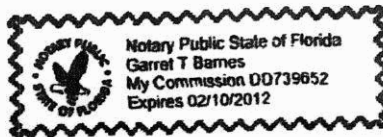
Clara B. Starkey
CLARA B. STARKEY, individually and as Trustee of the Clara B. Starkey Revocable Trust Under Agreement Dated July 28, 1997.

SWORN TO AND SUBSCRIBED BEFORE ME on January 15, 2008.

produced Fla Driver's License

(seal)

[Signature]
Notary Public



RECEIVED-FPSC

08 JUL 28 AM 9:07

COMMISSION
CLERK

Fax cover Four Pages

080428

FAX # 850-413-7118

Attention: Ann Cole

FPSC, CLK - CORRESPONDENCE
<input type="checkbox"/> Administrative <input type="checkbox"/> Parties <input checked="" type="checkbox"/> Consumer
DOCUMENT NO. 0642708
DISTRIBUTION: ECR, GLL

Office of Commission Clerk
2540 Shumard Oak, Boulevard,

Tallahassee, Florida 32399-0850

copy to Marsha E Rule, Esq.,
Rutledge, Eccles & Purwell P.A.

P.O. Box 551 Tallahassee, FL 32302

Questions:

Call 941-962-7364

For Donald Mathews
Pearl Bailey

NOTICE OF APPLICATION FOR
OF WATER AND WASTEWATER CERTIFICATES

Notice is hereby given on the 30th day of June, 2008, pursuant to Section 367.071, Florida Statutes, of the Joint Application for Keith and Clara Starkey d/b/a Heather Hills Estates ("Heather Hills") and Ni Florida, LLC ("Ni Florida") for Approval of the Transfer of Heather Hills's Water and Wastewater Systems and Certificate Nos. 577-W and 498-S to Ni Florida, in Manatee County, Florida, providing water and wastewater service to the following described territory in Manatee County, Florida:

Section 11, Township 35S, Range 17E

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

also

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.

Any objections to the Joint Application must be made in writing and filed within 30 days from the date of this Notice with the Office of Commission Clerk, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, with a copy to Marsha E. Rule, Esq., Rutledge, Ecenia & Purnell P.A., P. O. Box 551, Tallahassee, Florida 32302. The objection must state the grounds for the objection with particularity.

Keith and Clara Starkey d/b/a Heather Hills Estates
4925 Third Street, West
Bradenton, Florida 34207
(941)755-0123 (Telephone)

-- and --

Ni Florida, LLC
10913 Metronome
Houston, Texas 77043
(713) 574-5952 (Telephone)

FPSC
Docket # 080428

Donald & Helen Mathew
Heather Hills Estates
209 48th Ave W
Bradenton, FL 34207

Office Commission Clerk
2540 Shumard Oak Boulevard,
Tallahassee, FL 32399-0850
Attention Ann Cole

Dear Sir or Madam:

To Whom it may concern.

My Wife & I are residents of
Heather Hills Estates, we are 80 years
of age and living on a fixed income.
and we are objecting To The Transfer
of water & Sewer Utilities To Nl Florida, LLC
10913 Metronome, Houston, Texas 77043.
in any form. We would like To see The
Manatee County Take The Water & Sewer over
because we believe Manatee County
would treat The residents of Heather Hills
which 80% are 80 years old or older more
fairly. If additional charges is put on
The back of senior citizens of the Heather Hill
it would make life very difficult for them.

Donald Mathews & Helen Mathew

FPSC
Docket # 080428

Paul R. Bailey
Heather Hills Estate
207 48th Ave. W
Bradenton, FL
34207

Office Commission Clerk
2540 Shumard Oak Boulevard,
Tallahassee, FL 32399-0850
att. Ann Cole

To Whom it may concern,
I am a 87 yr old woman, and on
a fixed income, I am objecting to
the transfer of the water & sewer utility
to Ni Florida, LLC 10913 Metronome,
Houston, Texas 77043 in any form.
Because I'm afraid that they will
put a charge on the backs of the
residents, that we can not afford, and
could mean ~~at~~ a matter of whether we
eat or not.

Please take this in to consideration
a resident of Heather Hills

Paul R. Bailey

FPSC, CLK - CORRESPONDENCE
 Administrative Parties Consumer
DOCUMENT NO. 080428-08
DISTRIBUTION: ECR, GCL

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080428

COMMISSION CLERK

July 24, 2008

Office of Commission Clerk
2540 Shumard Oak Boulevard
Tallahassee, Florida 32309-0850

Re: FPSC Docket 080428- Joint Application for Heather Hills (HH) and Ni Florida, LLC for Approval of Transfer

I'm against the transfer of HH Utilities as described in Docket 080428. I fear that the \$270,000 plus price and the neglected maintenance of valves will be billed to the residents in this Senior Citizen Subdivision. Before transfer all neglected maintenance of valves needs to be corrected at no expense to the customer. A fair market value needs to be the bases of our utility bills not the outrageous \$270,000 purchase price.

Heather Hills Estates, Inc, Heather Hills Estates dba, Heather Hill Community, Starkey Trusts, Heather Hill Utility, Inc and numerous other names used are very confusing. I have been paying my utility bills to Heather Hills Utilities not Heather Hills Estate dba. Are the names used in the Docket documents correct?

It is my understanding from a presentation by Ni America in April 2008 that Ni America has plans to increase my bills by 50% within a short time. This fact isn't included in the information provided for the FPSC Docket.

Please do not allow this transfer of the utilities under the conditions spelled out in the Docket. If you do, it will provide the Corporations (LLC) with future huge utility bill increases and very big profits from our very limited income Senior Citizens in HH.

Your cooperation is appreciated.

Sincerely,

Rose Mears

Rose Mears
110 50th Ave. W.
Bradenton, Florida, 34207
Heather Hills Estates

- COM _____
- ECR |
- GCL |
- OPC _____
- RCP _____
- SSC _____
- SGA _____
- ADM _____
- CLK _____

COMMISSIONERS:
MATTHEW M. CARTER II, CHAIRMAN
LISA POLAK EDGAR
KATRINA J. MCMURRIAN
NANCY ARGENZIANO
NATHAN A. SKOP

STATE OF FLORIDA



OFFICE OF THE GENERAL COUNSEL
MICHAEL G. COOKE
GENERAL COUNSEL
(850) 413-6199

RECEIVED
08 JUL 24 AM 10
COMMISSION
CLERK

Public Service Commission

July 23, 2008

CONSUMER

Thadeus J. Ryba
7815 Chippewa Rd. Apt 3
Brecksville, OH 44141

Re: Docket No. 080428-WS, Joint Application for transfer of water and wastewater systems from Keith and Clara Starkey d/b/a Heather Hills Estates to Ni Florida, LLC, in Manatee County.

Dear Mr. Ryba,

Thank you for your letter in which raised your objections to the sale of Heather Hills Estates water and wastewater systems to Ni Florida, LLC. Thank you for taking some time to discuss your concerns with me on July 18, 2008. In our discussion, you reiterated that you believed Keith and Clara Starkey, d/b/a Heather Hills Estates, was cited by Manatee County Water Department for failing to repair some of the water system's valves. In addition, you stated you would like Mr. & Ms. Starkey to make the needed repairs to those valves at their cost before the sale or transfer to Ni Florida, LLC, in order to prevent those repair costs from being passed along to the customers. As part of staff's review of this docket, staff will look into these concerns. With regards to your letter, you stated you did not want to pursue your objection to a formal hearing. Instead, at your request, I will place your letter in the correspondence file of the docket where it will remain available for review by Commissioners, staff, and members of the public.

Going forward, if you would like to participate further in this matter, you may request a copy of staff's recommendation, or download it from our website (<http://www.psc.state.fl.us/dockets/crns/>). You may also participate at the Agenda Conference when this docket will be addressed and personally convey your concerns about the transfer to the Commissioners. If you wish to participate at the Agenda Conference, please contact me in advance so I can provide you with the necessary dates and procedural information. Please note the Agenda Conference date has not yet been set.

Finally, I would like to inform you that there is a separate state agency, the Office of Public Counsel, which represents the interests of customers in certain proceedings before the Commission. For more information, you may wish to contact the Office of Public Counsel with regard to your concerns at (800) 342-0222 or at <http://www.floridaopc.gov/contact.cfm>.

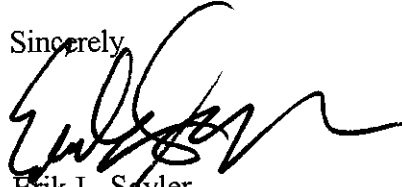
DOCUMENT NUMBER
06427 JUL 24 08

FPSC-COMMISSION CLERK

Mr. Thadeus J. Ryba
Page 2
July 23, 2008

If you have any questions or would like to discuss this matter further, please do not hesitate to contact me at (850) 413-6199, or via email at erik.sayler@psc.state.fl.us.

Sincerely,



Erik L. Sayler
Attorney
Office of the General Counsel

ELS:es

cc: Marsha E. Rule, Esq.
Keith & Clara Starkey, d/b/a Heather Hills Estates
Ni Florida, LLC
Patricia Brady, ECR
Office of Commission Clerk