

# Jublic Service Commission

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

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

DATE:	April 16, 2010
TO:	Ann Cole, Commission Clerk, Office of Commission Clerk
FROM:	Erik L. Sayler, Senior Attorney, Office of the General Counsel
RE:	Docket No. 090093-WS - Application for approval of transfer of Keith & Clara Starkey d/b/a Heather Hills Estates' water and wastewater atility, holder of Certificates 577-W and 498-S, to Heather Hills Estates Utilities, LLC, in Manatee County.

Please place into the correspondence side of the docket file the attached letter from Mr. and Ms. Stephens, owners of Heather Hills Estates Utilities, LLC, which is purchasing this utility.

ELS/th Attachment

and the second	CONTRACTOR AND A CONTRACTOR OF
FPSC, CLK - COR	RESPONDENCE
Administrative N	Parties [ Consumer
POCUMENT NO.	01937-09
DISTRIBUTION:	

10 APR 16 PM 1:29

090093WS

Heather Hills Estates 4925 3<sup>rd</sup> Street West Bradenton, Florida 34207



To: Office of Public Counsel 111 West Madison Street Room 812 Tallahassee Florida 32399-1400 Copy to: Commissioner Florida Public Service Commission 2540 Shumard Oak Blvd Tallahassee Florida 32399-0850

Attention Chief Counsel

April 12, 2010

RE: Docket No. 090093-WS

Ref; Visit by Attorney Steve Reilly to Heather Hills Estates, Bradenton Florida on April  $4^{th}$ , 2010

On Monday, April 4<sup>th</sup>, Mr. Reilly addressed a gathering of several property owners of the Heather Hills Sub-Division. The purpose of the meeting was to consider our application to the Public Service Commission (PSC) for transfer of ownership from the current owner through consultation with the property owners. This action was deemed necessary because of a written complaint by an individual property owner objecting to the proposed transfer. Although we ourselves are property owners in the subject subdivision and not yet owners, we were excluded from attendance at the meeting by Mr. Reilly on the grounds of also being the applicant. We understand that your Office of Public Counsel is intended to represent the interests of the consumers in utility ownership transfer matters. Since the Commission received a complaint from an individual property owner, they referred the matter to your Office for possible resolution as distinct from a formal hearing.

It has been reported to us that instead of discussing the specific complaint, Mr. Reilly devoted his time to effectively promoting a "not for profit" co-op as an alternative to the privately owned utility that currently exists. Although he prefaced his remarks with the comment that "should the application for transfer be turned down", here is an alternative. The economic benefits of a "not for profit co-op were argued by Mr. Reilly as the main discussion item at the meeting. We had assumed that the purpose of the meeting was to consider the complaint and that Mr. Reilly would arbitrate some resolution of the matter between those supporting the application and those filing the complaint.

He admitted that he had assisted those proposing the co-op arrangement prior to the meeting and arranged for an engineering firm that he knew to provide estimates for

renovating the utilities for possible acceptance by Manatee County at some future time. He intimated that the privately owned utility would be short-lived over the course of time and that community ownership as a co-op was much preferred and virtually inevitable.

Since the community comprises a majority of property owners, who support our application (192 signatures), his prior contact solely with the complainant et al (a distinct minority) are at odds with democratic principles in the community at large. It has been reported to us that by promoting the "not for profit" co-op as the economic choice, he was encouraging the property owners to find fault with the application as a necessary step in achieving that objective. After the meeting, two property owners insisted that their signatures be removed from our petition, remarking that "Mr. Reilly knows what is best for us". They withdrew their support to make the co-op a relevant choice absent any specific complaint against us. The purpose of the meeting should have been to resolve differences but actually resulted in further divisiveness.

Despite several requests from the floor to identify specific complaints for open discussion, the meeting continued to focus on the alternative of a "not for profit" co-op.

Additionally, Mr. Reilly offered unsolicited comment on the rights of Chapter 723 associations to assert rights of pre-emptive purchase. Rather than determining the will of the property owners with respect to resolving the single complaint, it was completely ignored and effectively denied discussion and possible resolution. We understand that the Office of Public Counsel is set up to help the community as a whole (democratically) and not to favor to some minority part of the community.

In summary, we contend that based upon the reports we have received, our application for transfer is being prejudiced by the very process, which requires an independent and objective evaluation. We are not questioning Mr. Reilly's motives in conducting the meeting in the manner reported to us, but we are concerned about the prejudicial effect, intended or not.

Sincerely, MASSAPPEND Rick and Chris Stephens

### **Dorothy Menasco**

# 090093

From:Filings@psc.state.fl.usSent:Thursday, November 12, 2009 11:16 AMTo:Ann Cole; Marguerite McLeanSubject:FW: Damaged Files

FPSC, CLK - CORRESPONDENCE
Administrative Y PartiesConsumer
DOCUMENT NO. 01937-09
DISTRIBUTION:

Ms. Voorheis,

Your questions and comments are very important to us. For future reference, please direct comments to clerk@psc.state.fl.us. If you file attached documents to be placed in a specific docket file, you may file them at filings@psc.state.fl.us.

We apologize for any issues you have experienced using our website. We have had success opening documents in Dockets 090500 and 090093, on the website. We have found that if the public is having issues opening PDF's on our website they may need to update their Adobe software. You may find the latest Adobe software updates at <a href="http://www.adobe.com/downloads/">http://www.adobe.com/downloads/</a>.

Please call our office if you have any questions.

Dorothy Menasco Chief Deputy Commission Clerk Florida Public Service Commission Office of Commission Clerk 850-413-6770

From: J Voorheis [mailto:jvoorheis@ymail.com] Sent: Wednesday, November 11, 2009 6:59 PM To: Filings@psc.state.fl.us Subject: Damaged Files

For your information one file in Docket 090500 WS states the file is damaged and could not be repaired. In Docket 0990093 WS many of the files state the file is damaged and could not be repaired.. Is there something wrong with my computer or is there a problem with the files? For your info there is a telephone conference on this docket at 10:00 on Thursday, November 12, 2009. Thank you for your cooperation.

Page 1 of 1

#### **Dorothy Menasco**

090093

From:	Filings@psc.state.fl.us		
Sent:	Friday, August 07, 2009 3:07 PM	FPSC, CLK - CORRESPONDENCE	
To:	'michael.smallridge@century21.com'	Administrative /PartiesConsumer	
Cc:	Erik Sayler; Ruth Nettles	DOCUMENT NO. 01937-09	
Subject:	Subject: FW: Asset Purchase Agreement 2009 02 03 Scanned.pdf - Adobe Reader		
Attachments: Asset Purchase Agreement 2009 02 03 Scanned.pdf; scan0001.pdf			

Mr. Smallridge:

We have received the attachments referenced in your e-filing below. Please note that per Commission efiling requirements, any cover letter or certificate of service must be included in the electronic document to which it relates, and shall not be submitted as a separate attachment to the email.

A link to the Commission's efiling requirements is included for your convenience: <u>http://www.psc.state.fl.us/dockets/e-filings/</u>

Your filing will need to be revised and resubmitted in order to be eligible for electronic filing.

Please feel free to call our office if you have any questions.

Dorothy Menasco Chief Deputy Commission Clerk Florida Public Service Commission Office of Commission Clerk 850-413-6770

From: mike smallridge [mailto:michael.smallridge@century21.com]
Sent: Friday, August 07, 2009 12:29 PM
To: Filings@psc.state.fl.us
Subject: Asset Purchase Agreement 2009 02 03 Scanned.pdf - Adobe Reader

Dear Commission Clerk,

Please find attached e filing from: Mike Smallridge 1645 W. Main St. Inverness, FL. 34450 352-302-7406

For Docket # 090093-Ws. Application of transfer for Heather Hills Estates Utilities, LLC Containing 76 pages Decribed as a cover letter and the Asset purchase agreement.

Thank You. Mike Smallridge

### 8/7/20094:26:11 PM1age 1 of 1

#### **Ruth Nettles**

From:	Erik Sayler
Sent:	Friday, August 07, 2009 4:22 PM
To:	Marguerite McLean
0	Devotion Monagene, Dritte Matting, P

Cc: Dorothy Menasco; Ruth Nettles; Pat Brady

Subject: RE: Dkt 090093-WS

yes, she is now that she protested.

Erik Sayler 850-413-6084

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FPSC, CLK - CORRESPONDENCE Administrative Parties Consumer DOCUMENT NO. 01937.09 DISTRIBUTION:

From: Marguerite McLean Sent: Friday, August 07, 2009 4:20 PM To: Erik Sayler Cc: Dorothy Menasco; Ruth Nettles Subject: Dkt 090093-WS

Erik, We received a protest in docket 090093-WS from Linda Doepker. Ms. Doepker is on the mailing list. <u>Please let me know if she is to be reflected as a Party of Record.</u> Thank You. Marguerite H. McLean

Dorothy Menasco		FPSC, C' '' - CORRESPONDENCE	090093
From:	Filings@psc.state.fl.us	DOCUMENT NO. 0 1937.09 DISTRIBUTION:	····
Sent:	Friday, May 22, 2009 8:59 AM		
To:	'DOECOTTAGE@aoi.com'		
Cc:	Ruth Nettles; Marguerite McLean; 'reilly.steve@leg.state.	1.us'; Pat Brady; Richard Redemann; Erik S	ayler
Subject:	FW: {BULK} Docket 090093		
Importance:	Low		
A the elemente	Attachmantuctor dos		

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Attachments: Attachmentwater.doc

Ms. Doepker:

The attached e-filing appears to be a duplicate of an e-filing received from you at 4:37 p.m. on 5/21/09. As such, the filing received at 4:46 p.m. on 5/21/09 will not be accepted as an official filing.

A link to the PSC e-filing requirements is being provided for your convenience:

http://www.psc.state.fl.us/dockets/e-filings/

Please call our office if you have any questions.

Dorothy Menasco Chief Deputy Commission Clerk Florida Public Service Commission Office of Commission Clerk 850-413-6770

From: DOECOTTAGE@aol.com [mailto:DOECOTTAGE@aol.com] Sent: Thursday, May 21, 2009 4:49 PM To: Filings@psc.state.fl.us Subject: {BULK} Docket 090093 Importance: Low

- From: Linda Doepker (Doecottage@aol.com)
- Sent: Thursday, May 21, 2009 4:40 PM
- To: Filings@psc.state.fl.us
- Subject: Docket 090093

Attachments: Heather Hills May 21, 2009 Letter of Objection doc.

I would like to formally object to Docket 090093 - Application for approval of transfer of Keith and Clara Starkey dba Heather Hills Estates water and wastewater utilities, holder of Certificate 577-W and 498-S to Heather Hills Utilities, LLC (Rick and Chris Stephens) in Manatee County.

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

763 Treat Blvd.

Tallmadge, Ohlo 44278 330-633-2213

Doecottage@aol.com

Docket #090093

For: Linda Doepker

Total number of pages - 6

A consumer objection of the transfer of the utility from Keith & Clara Starkey to Rick & Chirs Stephens

Director, Division of Commission Clerk and Administrative Service Florida Public Service Commission 2540 Shumard Oak Boulevard Tallahassee, Florida 32399-0850

RE: Docket 090093 Application for approval of transfer of Keith and Clara Starkey d/b/a Heather Hills Estates Certificate 577-W and 498-S, to Heather Hills Estates Utilities, LLC in Manatee County

From: Linda Doepker 303 50th Avenue Plaza West Bradenton, FL 34207 763 Treat Blvd. Tallmadge, Ohio 44278

s/ Linda Doepker

Dear Director:

By this second letter may I further clarify my first letter sent to the Commission this same day. The first letter is attached and made a part of this second letter. (Attachment "A") Please accept the first letter and this second letter as my formal objection to the proposed transfers of the subject water and wastewater certificates to Heather Hills Estates Utilities, LLC ("Proposed Transferee"), and my request for the Commission to conduct a formal evidentiary hearing to determine if the proposed transfers are in the public interest.

I do not believe the transfer of the two certificates are in the public interest for all of the reasons stated in my earlier letter emailed to you today, as well as for the following additional reasons:

1. The Proposed Transferee does not have adequate experience in water and wastewater utility operations.

2. The Proposed Transferee does not have the financial ability to provide service.

3. Given the information supplied in the application I do not believe the Transferee will be able to fulfill the commitments, obligations and representations of Seller with regard to utility matters.

4. The Proposed Transferee has failed to conduct a reasonable investigation of the current conditions of the water and wastewater systems proposed to be acquired.

5. The Proposed Transferee has failed to adequately inform the customers and the Commission of the list of improvements and repairs that need to be made to the water and wastewater systems and the approximate cost of these needed repairs and improvements.

6. The proposed transfers of these two certificates are substantially inferior to other alternatives available for the future operation of the water distribution and wastewater collection systems currently serving Heather Hills Estates.

Respectfully submitted,

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Dorothy Me	enąsco	FPSC, CLK
From:	Filings@psc.state.fl.us	DOCUMENT NO. 01937.09
Sent:	Friday, May 22, 2009 8:56 AM	DISTRIBUTION:
То:	'DOECOTTAGE@aol.com'	
Cc:	Ruth Nettles; Marguerite McLean; 'reilly.ste	we@leg.state.fl.us'; Pat Brady; Richard Redemann; Erik Sayler
Subject:	FW: {BULK} Docket 09009	
Importance:	Low	
Attachments	: Attachmentwater.doc	

Page 1 of 3

Ms. Doepker:

We are in receipt of your filing below. However, this filing is not eligible for electronic filing. Please see e-filing requirements on the PSC webpage at: <u>http://www.psc.state.fl.us/dockets/e-filings/</u> Specifically:

#### E-Mail Transmitting an Electronically Filed Document

- The e-mail message transmitting the document(s) to be filed is not itself considered a filing. Therefore, documents contained within the text of an e-mail transmission will not be considered filed.
- Multiple documents may be attached to the same e-mail transmittal. However, any cover letter or certificate of service must be included in the electronic document to which it relates, and shall not be submitted as a separate attachment to the e-mail.

Your filing will need to be revised and resubmitted in order to be officially accepted for filing.

Please feel free to call our office if you have any questions.

Dorothy Menasco Chief Deputy Commission Clerk Florida Public Service Commission Office of Commission Clerk 850-413-6770

From: DOECOTTAGE@aol.com [mailto:DOECOTTAGE@aol.com] Sent: Thursday, May 21, 2009 4:40 PM To: Filings@psc.state.fl.us; reilly.steve@leg.state.fl.us Subject: {BULK} Docket 09009 Importance: Low

From: Linda Doepker (<u>Doecottage@aol.com</u>)

Sent: Thursday, May 21, 2009

To: Filings@psc.state.fl.us

Subject: Docket 090093

Attachments: Heather Hills May 21, 2009 Letter of Objection doc.

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

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

Doecottage@aol.com

Docket #090093

For: Linda Doepker

Total number of pages -

A consumer objection of the transfer of the utility from Keith & Clara Starkey to Rick & Chirs Stephens

Director, Division of Commission Clerk and Administrative Service Florida Public Service Commission 2540 Shumard Oak Boulevard Tallahassee, Florida 32399-0850

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s/ Linda Doepker

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Respectfully submitted,

s/ Linda Doepker

Huge savings on HDTVs from Dell.com!

5/12/20099:04:51 AM4age 1 of 4

## **Ruth Nettles**

From:Filings@psc.state.fl.usSent:Tuesday, May 12, 2009 9:04 AMTo:'fujimocar@msn.com'Cc:Dorothy Menasco; Ruth Nettles; Marguerite McLean; Erik Sayler; Pat Brady; 'reilly.steve@leg.state.fl.us'Subject:FW: PROTEST LETTER FPSC DOCKET # 090093

Dear Mr. Morelli:

We are in receipt of your filing below. Per the Commission's e-filing requirements, the e-mail message transmitting the document(s) to be filed is not itself considered a filing. Therefore, documents contained within the text of an e-mail transmission will not be considered filed.

Please note that any cover letter or certificate of service must be attached to the electronic document to which it relates, and shall not be submitted as a separate attachment to the e-mail.

The link to the Commission's e-filing requirements is included for your convenience:

#### http://www.psc.state.fl.us/dockets/e-filings/

Your filing will need to be revised and resubmitted in order to be officially accepted for filing.

However, we will be placing the comments below in the parties correspondence side file for Docket 090093. For future reference, please direct comments to <u>clerk@psc.state.fl.us</u>. If you file attached documents to be placed in a specific docket file, you may file them at <u>filings@psc.state.fl.us</u>.

Please feel free to contact our office if you have any questions.

Thank you,

Ruth Nettles Office of Commission Clerk 850-413-6770

From: JOHN MORELLI [mailto:fujimocar@msn.com] Sent: Monday, May 11, 2009 10:14 PM To: Filings@psc.state.fl.us Cc: Erik Sayler; Pat Brady; STEVE Reilly Subject: PROTEST LETTER FPSC DOCKET # 090093

**Subject:** PROTEST LETTER FPSC DOCKET # 090093

Florida Public Service Commission

Docket # 090093

FPSC, CLK - CORRESPONDENCE \_\_Administrative Parties\_Consumer DOCUMENT NO. \_\_01937-09 DISTRIBUTION:

110 50th Avenue West

Bradenton, Fl 34207

Phone: 941-756-5627

Fax: 941-756-5627

FUJIMOCAR@msn.com

May 11, 2009

Office of Commission Clerk

Florida Public Service Commission

2540 Shumard Oak Blvd

Tallahassee, FI 32399

To whom it may concern,

This letter/document is in response to your FPSC Docket # 090093. Please read the following associated e-mails:

Per this e-mail, Mr. Morelli has been added to the mailing list as an interested person in Docket 090093.

Kimberley M. Peña Records Management Assistant Office of Commission Clerk Florida Public Service Commission 2540 Shumard Oak Blvd. Tallahassee, FL 32399-0850 (850) 413-6770

From: Erik Sayler Sent: Monday, March 09, 2009 3:05 PM To: Kimberley Pena Subject: Docket 090093: Heather Hills Estates Utility

Kim,

What do I need from Mr. Morelli so he can be added as an "interested party" to this docket?

Docket 090093 -- Application for approval of transfer of Keith & Clara Starkey d/b/a Heather Hills Estates' water and wastewater utility, holder of Certificates 577-W and 498-S, to Heather Hills Utilities, LLC, in Manatee County.

He has expressed interest in being added and his information is below. Thanks.

Erik

5/12/2009

5/12/20099:04:51 AM4age 3 of 4

From: JOHN MORELLI [mailto:fujimocar@msn.com] Sent: Monday, March 09, 2009 2:31 PM To: Erik Sayler Cc: Pat Brady; Patti Daniel Subject: Heather Hills Estates Utility

Hi Erik,

Thank you for your quick return on this transaction. **YES!!!** I do want to be added as an interested party, to say the least. This is of great concern to us. Again they have not been up front and honest with us. This is not the way to get support.

John J. Morelli, Sr.

110 50th Ave. West

Bradenton. Fl 34207

phone/fax 941=756-5627

E-mail: FUJIMOCAR@msn.com

The above confirms the fact that I was down as a "**concerned party**" **on this docket** but at least four (4) more additions were made to this docket and I **was not** made aware of them. Deadlines have come and gone for the applicants without their complying with them and **nothing** has been done about this **BUT we**, the consumers, have had to stick by these deadlines. There were, and still are, many shortcomings made in the application submitted by Mr. Smallridge that will interfere with our giving a complete and accurate review of this proposed sale/transfer. You (the FPSC) have asked us to work with these entities but this will only be accomplished with their support and input. When the Stephens have been asked questions lately they give us the business card of their lawyer and tell us that we will have to pay their lawyers for any info. We are still at the point where the applicants think that they are above the law and can do as they please. For the FPSC to condone such blatant acts is a travesty of justice and our (the consumers) rights.

Following will be some of the points that I want to bring to your attention at this time but you must take into consideration that I/we are working with an incomplete application that is riddled with unknown facts and incomplete information. After the two (2) parties complete and up-date their request for certificate transfers I/ we would request ample time to review these documents and to see if our questions/doubts are answered or if we have more concerns.

(1) Last year when Ni Fl tried to purchase this utility for \$276,000.00 the book value was only \$902.00. (NOTE!!! This transfer (080428) consisted of 264 pages in just the initial docket and was quite complete with more additions, not like the present 45 page docket). Now the present owners (STARKEY) is trying to sell to Stephens for over \$123,000.00. This is still way too much for this over 40 year old dilapidated rundown utility.

(2) The Stephens just bought (on credit) the clubhouse and amenities from STARKEY for \$1.333 million dollars in January of 2008. They will be paying on this note for way over 10 more years. Just the payments on these 2 notes are bad enough but the Stephens have many more debts including their main home, rental properties, vehicles, etc. To get a clearer picture of their financial standing to see if they can afford to run the utility the FPSC should request an accounting of all their outstanding financial obligations.

5/12/2009

(3) Mr.Smallridge said (in our meeting) that all that the Stephens know about running and operating a utility was learned from the STARKEYS. If this is true then all I have to say is **"GOD help us!!!"**. Maybe reading and taking a test on chapter 367 should be a prerequisite to owning a utility.

(4) Both Mr. And Mrs. Stephens hold down several jobs requiring a great deal of their time besides raising a small child. We believe that this will jeopardize running a utility promptly and efficiently. They spend very little time here as it now stands. But they do operate a full time reality office from the clubhouse, even on Sunday. Of course this is manned by another realtor most of the time.

(5) Another main point is their reported income. They are showing an income from Heather Hills Estates of over \$206,000.00 a year from our "assessment". We have talked with many lawyers including some in government positions in Tallahassee. Everyone that we have spoken with has said that we are operating under antiquated laws from the 60s that have been revised, rewritten or literally voided by changes in State, Local and Federal Laws. We have hired an attorney from Tampa to bring this to trial and when we win we will be asking that this assessment be voided and that we want reimbursed for all monies collected illegally. When this happens how will they survive as a Utility or any other entity?

I and many others are against this transaction. I/we would appreciate you (the FPSC) taking a closer look at this transaction and giving us (the consumers) a chance to view and act upon a fully completed docket, not the one that is presently before us. My other concerns will come at a later date.

Sincerely,

S/John J. Morelli, Sr.

110 50<sup>th</sup> Avenue West

Bradenton, Fl 34207

941-756-5627

FUJIMOCAR@msn.com

# **Kimberley Pena**

From:Kimberley PenaSent:Tuesday, March 10, 2009 8:38 AMTo:Erik Sayler; 'fujimocar@msn.com'Cc:Dorothy MenascoSubject;RE: Docket 090093: Heather Hills Estates Utility

Per this e-mail, Mr. Morelli has been added to the mailing list as an interested person in Docket 090093.

Kimberley M. Peña Records Management Assistant Office of Commission Clerk Florida Public Service Commission 2540 Shumard Oak Blvd. Tallahassee, FL 32399-0850 (850) 413-6770



PARTIES

From: Erik Sayler Sent: Monday, March 09, 2009 3:05 PM To: Kimberley Pena Subject: Docket 090093: Heather Hills Estates Utility

Kim,

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Docket 090093 -- Application for approval of transfer of Keith & Clara Starkey d/b/a Heather Hills Estates' water and wastewater utility, holder of Certificates 577-W and 498-S, to Heather Hills Utilities, LLC, in Manatee County. He has expressed interest in being added and his information is below. Thanks.

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John J. Morelli, Sr. 110 50th Ave. West Bradenton. Fl 34207 phone/fax 941=756-5627 E-mail: FUJIMOCAR@msn.com

3/10/2009

DOCUMENT NUMBER-DATE

01937 MAR 108

**FPSC-COMMISSION CLERK**