

FLORIDA PUBLIC SERVICE COMMISSION

Fletcher Building  
101 East Gaines Street  
Tallahassee, Florida 32399-0850

M E M O R A N D U M

Date Filed

TO: DIRECTOR, DIVISION OF RECORDS AND REPORTING

FROM: DIVISION OF WATER AND WASTEWATER (OKOME)  
DIVISION OF LEGAL SERVICES (CROSBY)

RE: UTILITY: LAKE GRIFFIN UTILITIES, INC.  
DOCKET NO. 940453-WU  
COUNTY: LAKE

CASE: APPLICATION FOR TRANSFER OF CERTIFICATE NO. 522-W  
IN LAKE COUNTY FROM LAKE GRIFFIN UTILITIES,  
INC. TO HARBOR HILLS UTILITIES, L.P.

AGENDA: AUGUST 15, 1995 - REGULAR AGENDA - INTERESTED PERSONS MAY  
PARTICIPATE

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: I:\PSC\LEG\WP\940453.RCM

---

CASE BACKGROUND

On May 5, 1994, an application was filed with this Commission requesting approval of the transfer of Certificate No. 522-W from Lake Griffin Utilities, Inc. (Lake Griffin or utility) to Harbor Hills Utilities, L.P., (Harbor Hills). Lake Griffin, which is located in Lake County, has been in operation under Commission regulation since September 5, 1989.

In 1992, all property belonging to Mr. John McNamara, including Lake Griffin, was confiscated by the United States Government through a Decree of Forfeiture and Order Appointing a Special Trustee (Civil Action No. 92-2070). The United States Government retained possession of the utility pending Commission approval of the transfer to Harbor Hills.

On December 13, 1994, this Commission issued Order No. PSC-94-1543-FOF-WU approving the transfer and establishing rate base.

That Order held Docket No. 940453-WU open to determine if Harbor Hills should be responsible for filing the 1992 and 1993 annual reports and for paying regulatory assessment fees for 1992 and 1993. Harbor Hills filed the annual reports for 1992, 1993, and 1994 on June 1, 1995.

### DISCUSSION OF ISSUES

**ISSUE 1:** Should Harbor Hills Utilities, L.P. be required to pay regulatory assessment fees for 1992 and 1993?

**RECOMMENDATION:** No. Harbor Hills Utilities, L.P. should not be required to pay regulatory assessment fees for 1992 and 1993. The outstanding regulatory assessment fees should be referred to the Comptroller's office for processing.

**STAFF ANALYSIS:** In 1992, all property belonging to Mr. John McNamara, including Lake Griffin, was confiscated by the United States Government through a Decree of Forfeiture and Order Appointing a Special Trustee (Civil Action No. 92-2070). The United States Government retained possession of the utility pending Commission approval of the transfer to Harbor Hills.

All property forfeited to the United State Government was placed under the management of Mr. Dominic DiNapoli of Price Waterhouse, as special trustee. The utility was managed by Mr. Dominic DiNapoli and his staff and all books and records of the utility were stored in New York after the seizure. The Trustee's office shipped all of the utility's records to Harbor Hills in early 1994, but did not alert Harbor Hills that the records were being shipped to Florida. According to Harbor Hills, the books and records were never received.

Harbor Hills has maintained books and records at the utility office since 1994. However, until recently, books and records of Lake Griffin Utilities were not available with which to prepare annual reports and to determine the appropriate regulatory assessment fees for 1992 and 1993. Harbor Hills was able to obtain Lake Griffin's computer records from backup tapes and has now filed annual reports for 1992 and 1993. From the information in the annual reports, we have determined that the outstanding regulatory assessment fees due for 1992 and 1993, plus interest and penalties, are \$4,172.49, and \$5,485.30, respectively.

Section 367.071, Florida Statutes, provides that the transferor remains liable for any outstanding regulatory assessment fees, fines, or refunds of the utility. Although, technically, the previous owner remains responsible for paying all outstanding regulatory assessment fees, Mr. McNamara forfeited the utility to the United States Government in 1992. The Staff does not believe that Harbor Hills should be held responsible for paying regulatory assessment fees for 1992 and 1993 since the United State Government was in possession of the utility at that time.

Staff believes that any further efforts by the Commission to collect the outstanding regulatory assessment fees would be futile. Therefore, Staff recommends that the outstanding regulatory assessment fees be referred to the Comptroller's office for further processing.

**ISSUE 2:** Should this Docket be closed?

**RECOMMENDATION:** Yes, the docket should be closed.

**STAFF ANALYSIS:** Staff believes no further action is necessary and the docket should be closed.