

FLORIDA PUBLIC SERVICE COMMISSION

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

M E M O R A N D U M

August 17, 1995

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 29, 1995 - REGULAR AGENDA - INTERESTED PERSONS MAY
PARTICIPATE

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: NONE

LOCATION OF FILE: 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

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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.

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 utility remained in the possession of the Government through 1993.

Section 367.145(1)(a), Florida Statutes, states that "A governmental authority to which ownership or control of a utility is transferred is not liable for any fees owed the commission by the utility as of the date of transfer." (Emphasis added) Since Lake Griffin was in possession of the United States Government, no regulatory assessment fees are due for 1992 and 1993.

For purposes of information, Staff contacted the Comptrollers office regarding the regulatory assessment fees in an effort to confirm what was needed by that office. The Comptroller's office indicated that since no regulatory assessment fees accrued while the United States Government was in possession of the utility, it is not necessary to file anything with the Comptroller.

ISSUE I.: Should this docket be closed?

RECOMMENDATION: Yes, the docket should be closed.

STAFF ANALYSIS: This docket was held 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 has filed the annual reports for 1992, 1993, and 1994. In addition, since the utility was in the possession of the United States Government during the 1992 and 1993, no regulatory assessment fees are due. Therefore, Staff believes no further action is necessary and the docket should be closed.