

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Investigation of ) DOCKET NO. 960814-WS  
possible overearnings in Manatee ) ORDER NO. PSC-97-0233-FOF-WS  
County by Keith & Clara Starkey ) ISSUED: February 26, 1997  
d/b/a Heather Hills Estates. )  
\_\_\_\_\_ )

The following Commissioners participated in the disposition of this matter:

SUSAN F. CLARK  
JOE GARCIA  
DIANE K. KIESLING

FINAL ORDER APPROVING STIPULATION, SETTING FINAL RATES,  
RELEASING LETTER OF CREDIT,  
AND  
APPROVING ADMINISTRATIVE CLOSING OF DOCKET

BY THE COMMISSION:

BACKGROUND

On October 10, 1995, the Board of County Commissioners of Manatee County, pursuant to Section 367.171, Florida Statutes, adopted Resolution No. R-95-109. The Resolution, effective that same date, made the privately owned water and wastewater utilities in Manatee County subject to this Commission's jurisdiction and the provisions of Chapter 367, Florida Statutes. We acknowledged the Resolution in Order No. PSC-95-1393-FOF-WS, issued November 11, 1995.

Keith & Clara Starkey, d/b/a Heather Hills Estates (Heather Hills or utility) was established in 1967 to serve water and wastewater customers within Heather Hills Estates in Manatee County, Florida. The utility serves 353 single family residential customers as well as a park clubhouse and a golf-course clubhouse/restaurant for a total of approximately 355 water customers and 354 wastewater customers. The golf course has a septic tank for wastewater service.

Heather Hills filed its application for a grandfather certificate on December 7, 1995. The utility was granted Water Certificate No. 577-W and Wastewater Certificate No. 498-S by Order No. PSC-96-0434-FOF-WS, issued on March 28, 1996.

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During our consideration of the grandfather certificate application at the March 5, 1996 Agenda Conference, two customers of Heather Hills expressed their concern about possible overearnings of the utility and their dissatisfaction with the existing minimum gallonage charge for water and wastewater. Our initial review of the utility's 1995 annual report revealed possible 1995 overearnings for the utility.

A review of the historical test year ending December 31, 1995, showed unaudited water operating revenues of \$38,117 resulting in an operating income of \$1,248 for water, and wastewater operating revenues of \$57,175 resulting in an operating income of \$12,737 for wastewater. Therefore, an audit of the utility's records for compliance with our rules and orders was made and we determined all components necessary for rate setting. Our engineer conducted a field investigation of the utility's service area to include the water distribution and wastewater collection systems.

By Proposed Agency Action (PAA) Order No. PSC-96-1126-FOF-WS, issued September 5, 1996, we proposed to restructure the rates and charges of Heather Hills from a quarterly rate with a 9,000 gallon minimum for both water and wastewater, to a quarterly rate using the base facility charge and a gallonage rate for both water and wastewater. Through that Order, we also proposed to require the utility to install a water meter for the recreation center and to find the utility to be overearning by \$1,826 annually, but to not require a refund. Instead, we ordered Heather Hills to implement a meter replacement program. Order No. PSC-96-1126-FOF-WS was timely protested on September 25, 1996, by 14 customers.

Order No. PSC-96-1269-PCO-WS, issued October 9, 1996, advised the parties of the hearing schedule and established the procedures to be followed in this case. Also, by Order No. PSC-96-1415-FOF-WS, issued November 20, 1996, we placed annual revenues in the amount of \$1,826 subject to refund pending final resolution of the hearing. Order No. PSC-96-1433-PCO-WS, issued November 22, 1996, revised the dates of the hearing schedule and procedures.

On December 30, 1996, the Office of Public Counsel (OPC), on behalf of the protestors, filed a Stipulation of Settlement (Stipulation) signed by all of the parties. In order to allow time to analyze and rule on the Stipulation, the hearing schedule was suspended by Order No. PSC-96-1577-PCO-WS, issued on December 30, 1996.

STIPULATION

In the Stipulation, all parties agree to accept the PAA Order No. PSC-96-1126-FOF-WS issued on September 5, 1996, with the following exceptions:

1. The Customers' water rates and the utility's water revenues shall be reduced by \$1,826 per year. This amount is to be removed 50% from the PAA approved base facility charge (BFC) and 50% from the PAA approved gallonage charge;
2. That based on this adjustment, the BFC rate for a 5/8 inch x 3/4 inch meter shall be \$20.73 per quarter and the usage rate would be \$1.28 per 1,000 gallons;
3. That the utility shall replace meters on an as-needed basis; and
4. That should the Commission refuse to accept this Stipulation in its entirety and without modification, the Stipulation shall be void, the Commission will reschedule key activities, and all parties will be free to pursue the full range of legal remedies which otherwise would be available to them.

We have reviewed the above proposals and find that they present a reasonable compromise. The Stipulation fairly resolves all of the issues remaining in this docket. Accordingly, we approve the proposed Stipulation, to include the provisions of Proposed Agency Action Order No. PSC-96-1126-FOF-WS, with the exceptions as listed in the Stipulation, and these provisions are hereby reaffirmed and adopted as if set forth herein. The provisions of Proposed Agency Action Order No. PSC-96-1126-FOF-WS accepted by the Stipulation are not adopted as Proposed Agency Action but as a part of this Final Order Approving the Stipulation.

RATES AND CHARGES

With the approval of the Stipulation agreed to by all of the parties, the existing water rates shall change as follows:

Water Rates  
Residential And General Service

<u>Meter Size</u>	<u>Base Facility Charge</u>	
	<u>Existing Quarterly Rate</u>	<u>Approved Quarterly Rate</u>
5/8" x 3/4"	\$ 7.54	\$ 20.73
3/4"	N/A	31.11
1"	7.54	51.84
1-1/2"	N/A	103.65
2"	N/A	165.84
3"	N/A	331.98
4"	N/A	518.25
6"	N/A	1,036.50
 <u>Usage Charge</u>		
First 9,000 gallons	\$ 9.05	N/A
 <u>Administrative Charge</u>		
	\$13.76	N/A
 <u>Gallonage Charge</u>		
	\$ .16*	\$ 1.28**

- \* per 100 gallons in excess of 9,000 gallons per quarter.  
 \*\* per 1,000 gallons of water used, NO MINIMUM.

Using the 353 test year residential water customers with an average use of 5,718.98 gallons/quarter per customer, an average residential QUARTERLY water bill comparison is as follows:

	<u>Average Quarterly Bill Using Existing Rates</u>	<u>Average Quarterly Bill Using Approved Rates</u>	<u>Percent Decrease</u>
Base Facility Charge	\$ 7.54	\$20.73	
Usage Charge (9,000 gallon minimum)	\$ 9.05	N/A	
Administrative Charge	\$13.76	N/A	
Gallonage Charge	<u>\$ 0.00</u>	<u>\$ 7.32</u>	
Total	\$30.35	\$28.05	(7.58%)

Also, the wastewater rates will change as set forth in Order No. PSC-96-1126-FOF-WS and as follows:

Wastewater Rates  
Residential And General Service

<u>Meter Size</u>	<u>Base Facility Charge</u>	
	<u>Existing Quarterly Rate</u>	<u>Approved Quarterly Rate</u>
5/8" x 3/4"	\$18.47	\$ 27.06
3/4"	N/A	40.59
1"	18.47	67.65
1-1/2"	N/A	135.33
2"	N/A	216.51
3"	N/A	433.02
4"	N/A	676.59
6"	N/A	1,353.18
<u>Usage Charge</u>		
First 9,000 gallons	\$20.26	N/A
<u>Administrative Charge</u>		
	\$ 6.88	N/A
<u>Gallonage Charge</u>		
	\$ .31*	\$ 2.88**

- \* per 100 gallons in excess of 9,000 gallons per quarter.
- \*\* per 1,000 gallons of wastewater used, based on 85% of water usage.

With the elimination of the wastewater minimum gallon charge, approximately 60% of wastewater residential customers will also experience a decrease in their quarterly bills. Using the 353 test year customers with an average water usage of 5,718.98 gallons/quarter per customer, an average residential quarterly wastewater bill comparison based on 85% of water usage is as follows:

	<u>Average Quarterly Bill Using Existing Rates</u>	<u>Average Quarterly Bill Using Approved Rates</u>	<u>Percent Decrease</u>
Base Facility Charge	\$18.47	\$27.06	
Usage Charge (Based on 85% of 9,000 gallons)	\$20.26	N/A	
Administrative Charge	\$ 6.88	N/A	
Gallonage Charge	<u>\$ 0.00</u>	<u>\$14.00</u>	
Total	\$45.61	\$41.06	(9.98%)

Pursuant to Rule 25-30.475(1), Florida Administrative Code, the rates shall be effective for service rendered as of the stamped approval date on the tariff sheets, provided the customers have received notice. The tariff sheets shall be approved upon our staff's verification that the tariffs are consistent with our decision and that the customer notice is adequate. The utility shall provide proof of the date notice was given within 10 days after the date of the notice.

If the effective date of the new rates falls within a regular billing cycle, the initial bills at the new rate may be prorated. The old charge shall be prorated based on the number of days in the billing cycle before the effective date of the new rates. The new charge shall be prorated based on the number of days in the billing cycle on or after the effective date of the new rates.

In no event shall the rates be effective for service rendered prior to the stamped approval date.

#### REFUND REQUIREMENT AND LETTER OF CREDIT

The parties specifically provided in the Stipulation that should we refuse to accept the Stipulation in its entirety and without modification, the Stipulation would be void. Therefore, it appears that the parties intended it to be a comprehensive settlement. Further, the Stipulation specifically states that PAA Order No. PSC-96-1126-FOF-WS was accepted except as expressly excepted. That PAA Order expressly stated that no refund was required. The major change to the PAA Order, pursuant to the Stipulation, was that the water customers would get an immediate rate reduction, and the utility would only replace meters on an as-needed basis. There was no change to the finding in the PAA Order that there should be no refund. Based on the above, we find that no refund is required, and the utility shall no longer be required to maintain a letter of credit.

#### CLOSING OF DOCKET

Upon the utility filing and staff's approval of revised tariff sheets consistent with our decision herein, no further actions are required in this docket and it shall be closed administratively.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that the Stipulation of Settlement is approved in its entirety. It is further

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ORDERED that the provisions of Proposed Agency Action Order No. PSC-96-1126-FOF-WS, with the exceptions as listed in the Stipulation of Settlement, are hereby reaffirmed and adopted as if set forth in the body of this Order. It is further

ORDERED that the provisions of Proposed Agency Action Order No. PSC-96-1126-FOF-WS accepted by the Stipulation of Settlement are not adopted as Proposed Agency Action but as a part of this Final Order Approving the Stipulation. It is further

ORDERED that there is no requirement for a refund, and Keith and Clara Starkey, d/b/a Heather Hills Estates, shall no longer be required to maintain a letter of credit. It is further

ORDERED that Keith and Clara Starkey, d/b/a Heather Hills Estates, shall charge the rates and charges as approved in this Order. It is further

ORDERED that pursuant to Rule 25-30.475(1), Florida Administrative Code, the rates shall be effective for service rendered as of the stamped approval date on the tariff sheets, provided the customers have received notice. It is further

ORDERED that the tariff sheets shall be approved upon our staff's verification that the tariffs are consistent with our decision and that the customer notice is adequate. It is further

ORDERED that Keith and Clara Starkey, d/b/a Heather Hills Estates, shall provide proof of the date notice was given within 10 days after the date of the notice. It is further

ORDERED that if the effective date of the new rates falls within a regular billing cycle, the bills may be prorated as set forth in the body of this order. It is further

ORDERED that upon Keith and Clara Starkey, d/b/a Heather Hills Estates, filing and our staff approving revised tariff sheets in accordance with the decision herein, this docket shall be administratively closed.

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By ORDER of the Florida Public Service Commission, this 26th  
day of February, 1997.

BLANCA S. BAYÓ, Director  
Division of Records and Reporting

by: Kay Flynn  
Chief, Bureau of Records

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NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), Florida Statutes, to notify parties of any administrative hearing or judicial review of Commission orders that is available under Sections 120.57 or 120.68, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing or judicial review will be granted or result in the relief sought.

Any party adversely affected by the Commission's final action in this matter may request: 1) reconsideration of the decision by filing a motion for reconsideration with the Director, Division of Records and Reporting, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, within fifteen (15) days of the issuance of this order in the form prescribed by Rule 25-22.060, Florida Administrative Code; or 2) judicial review by the Florida Supreme Court in the case of an electric, gas or telephone utility or the First District Court of Appeal in the case of a water and/or wastewater utility by filing a notice of appeal with the Director, Division of Records and Reporting and filing a copy of the notice of appeal and the filing fee with the appropriate court. This filing must be completed within thirty (30) days after the issuance of this order, pursuant to Rule 9.110, Florida Rules of Appellate Procedure. The notice of appeal must be in the form specified in Rule 9.900 (a), Florida Rules of Appellate Procedure.