

BEFORE THE PUBLIC SERVICE COMMISSION

In re: Joint application for authority to transfer facilities of Coolidge-Ft. Myers Realty Limited Partnership d/b/a Heron's Glen Utilities and Certificate No. 456-S to North Fort Myers Utility, Inc., request for cancellation of Certificate No. 456-S, amendment of Certificate No. 247-S, and limited proceeding for authority to charge customers of Heron's Glen Utilities its authorized rates, fees and charges, in Lee County.

DOCKET NO. 050323-SU  
ORDER NO. PSC-06-0055-PAA-SU  
ISSUED: January 23, 2006

The following Commissioners participated in the disposition of this matter:

LISA POLAK EDGAR, Chairman  
J. TERRY DEASON  
ISILIO ARRIAGA  
KATRINA J. TEW  
MATTHEW M. CARTER, II

NOTICE OF PROPOSED AGENCY ACTION  
ORDER APPROVING CHANGE IN RATES  
AND  
FINAL ORDER APPROVING TRANSFER

BY THE COMMISSION:

NOTICE is hereby given by the Florida Public Service Commission that the action approving a change in rates pursuant to a limited proceeding discussed herein is preliminary in nature and will become final unless a person whose interests are substantially affected files a petition for a formal proceeding, pursuant to Rule 25-22.029, Florida Administrative Code.

Background

Coolidge-Ft. Myers Realty Limited Partnership d/b/a Heron's Glen Utilities (Heron's Glen, seller, or utility) is a Class C wastewater utility serving approximately 931 residential service customers and one general service customer in Lee County. The utility is in the South Florida Water Management District. Water service is provided by Lee County. The utility's 2004 annual report shows total operating revenues of \$227,517 and a net operating loss of \$79,627.

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FPSC-COMMISSION CLERK

The utility was granted Certificate No. 456-S in 1989.<sup>1</sup> The utility was granted a name change in 1991.<sup>2</sup> Del Vera was transferred to Heron's Glen in 2000.<sup>3</sup>

On May 12, 2005, Heron's Glen and North Fort Myers Utility, Inc. (NFMU or buyer) submitted a joint application for transfer of the Heron's Glen wastewater facilities to NFMU, amendment of Certificate No. 247-S, cancellation of Certificate No. 456-S, and a limited proceeding to charge the Heron's Glen customers the rates and charges approved for the NFMU customers. NFMU is a Class A utility providing water service to 1,830 residential and 15 general service customers, and wastewater service to 8,281 residential and 310 general service customers. NFMU's 2004 annual report shows total operating revenue of \$387,926 and \$3,376,341 and net operating income of (\$146,363) and \$598,380 for water and wastewater, respectively. Deficiencies were found in this application. The corrections were received on August 23, 2005.

A customer meeting was held in the Heron's Glen Golf and Country Club Ballroom on October 19, 2005. Approximately 65 customers were in attendance.

This Order addresses the transfer of the wastewater facilities from Heron's Glen to NFMU and a limited proceeding to address the rates and charges. We have jurisdiction to consider this matter pursuant to Sections 367.071 and 367.0822, Florida Statutes.

#### Transfer Application

As stated above, Heron's Glen and NFMU applied for a transfer of utility facilities in Lee County from Heron's Glen to NFMU on May 12, 2005. The closing on the transfer of the utility facilities took place on June 22, 2005, subject to approval by this Commission. The purchase price was \$3,000,000.

All of the filing requirements for the application were completed on August 23, 2005. The application as filed and amended is in compliance with the governing statute, Section 367.071, Florida Statutes, and other pertinent statutes and administrative rules pertaining to an application for the sale, assignment or transfer of certificates of authorization. The territory being transferred is described in Attachment A.

Pursuant to Rule 25-30.030, Florida Administrative Code, the application contained the requisite proof of noticing. Two objections to the application were received by the Commission. Both customers objected to the proposed rates by NFMU and one objected to the proposed plant capacity charges, reuse charges and customer deposits. The two objectors were contacted by letter and advised that if the proposed rates were approved, the base facility charge would

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<sup>1</sup> Order No. 22157, issued November 6, 1989, in Docket No. 890975-SU, In re: Application of Del Tura North Limited for a Wastewater Certificate in Lee County, Florida.

<sup>2</sup> Order No. 24805, issued July 11, 1991, in Docket No. 910448-SU, In re: Request for acknowledgement of name change on Certificate No. 456-S in Lee County from Del Tura North Limited Partnership to Del Vera Limited Partnership.

<sup>3</sup> Order No. PSC-00-0758-PAA-SU, issued April 17, 2000, in Docket No. 991056-SU, In re: Application for transfer of Certificate No. 456-S from Del Vera Limited Partnership to Coolidge-Ft. Myers Realty Limited Partnership d/b/a Heron's Glen Utilities in Lee County.

decrease \$3.48 and usage rates would go up by \$1.73 per 1,000 gallons. The point at which an increase in the gallonage charge would result in an increased bill would be at around 2,000 gallons. The second objector was also advised that anyone who had already paid Heron's Glen's plant capacity charge would not have to pay a new one to NFMU, and that NFMU had not requested an increase in reuse charges. Both objectors were asked to advise the Commission by July 11, 2005, if they wished to pursue the formal hearing process. Neither party responded.

The application indicates that the Heron's Glen facility is currently near its service capacity. According to the sales contract included with the application, NFMU will interconnect its system with the Heron's Glen collection system, and Coolidge-Ft. Myers Realty Limited Partnership will dismantle the Heron's Glen wastewater treatment plant and retain the property upon which the wastewater treatment plant is located. NFMU indicated that the cost of continuing to operate the Heron's Glen wastewater treatment plant, when both the Heron's Glen customers and the NFMU customers could be served by the NFMU plant, would not be the best financial solution because there would be duplicative regulatory and operating expenses.

The application contains a statement that the buyer has performed a reasonable investigation of the utility's collection system and found the overall condition to be satisfactory and in general compliance with the requirements of the Florida Department of Environmental Protection (DEP). Our staff contacted DEP and verified that there are no outstanding notices of violation.

The owner of the Heron's Glen system is in the process of shifting its concentration of efforts to property development and no longer wishes to own a utility. NFMU has the necessary facilities and financial and technical abilities to provide adequate, safe, and reliable wastewater service to the Herons Glen Development. The buyer was granted Certificate No. 247-S as a Class C utility in 1977.<sup>4</sup> Since that time, NFMU has grown to a Class A utility through a series of transfers and amendments. NFMU has demonstrated that it has the financial and technical ability to provide quality wastewater treatment. Therefore, we find that the transfer is in the public interest.

The buyer is financing approximately \$2,400,000 of the purchase price through the proceeds of an industrial revenue bond issue. NFMU will also pay for the interconnection of the two systems.

Pursuant to Section 367.071, Florida Statutes, this Commission may set rate base in transfer dockets. Although rate base is typically set in transfer proceedings, no audit was performed in this docket as a cost savings measure for the Commission. According to the contract in this transfer, the buyer and seller agreed that the wastewater treatment facilities will be dismantled and the land retained by the seller. Therefore, only the collection lines, lift stations, and easements are being transferred to the buyer. Rate base was last set for Heron's Glen at \$640,512, as of December 31, 1996, in Order No. PSC-00-0758-PAA-SU. According to the Heron's Glen service availability policy, the developer was to construct the on-site collection lines and donate them to the utility as CIAC. In addition, the utility was paid a plant capacity

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<sup>4</sup> Order No. 8025, issued October 25, 1977, in Docket No. 770709-S, In re: Application of Old Bridge Corporation for a certificate to operate a sewer utility in Lee County, Florida, pursuant to Section 367.171, Florida Statutes.

charge of \$200 for each new connection as CIAC. The 2004 Heron's Glen annual report shows net utility investment of approximately \$2.1 million. Approximately 50% of the gross plant value is for the collection system which will be transferred to NFMU. According to the utility's service availability policy the lines are almost fully contributed. Therefore it appears that the \$3 million paid by NFMU exceeds the net book value of the collection system and there would be no negative acquisition adjustment pursuant to Rule 25-30.0371, Florida Administrative Code.

Our staff discussed with the buyer and seller the need for the buyer to obtain from the seller all records pertaining to utility plant in service, depreciation, and contributions-in-aid-of-construction for the wastewater utility since rate base was last set so that the buyer will have supporting documentation for rate base for any future rate proceeding. The buyer understands the need to maintain this information and is making every effort to obtain the information.

Heron's Glen has no outstanding regulatory assessment fees (RAFs), and no fines or refunds are owed. Heron's Glen paid the 2005 RAFs for January 1, 2005 through June 22, 2005. NFMU will be responsible for the payment of the 2005 RAFs from June 23, 2005 through December 31, 2005. Heron's Glen has no outstanding penalties and interest. Heron's Glen filed the 2004 annual report, and NFMU will be responsible for filing the 2005 annual report.

Based on the above, we find that the transfer of the Heron's Glen facilities to NFMU is in the public interest and is approved. Certificate No. 247-S shall be amended to include the Heron's Glen service area and Certificate No. 456-S shall be cancelled effective January 5, 2006. Heron's Glen is responsible for the regulatory assessment fees (RAFs) for January 1 to June 22, 2005, and NFMU shall be responsible for the remainder of the 2005 RAFs and future RAFs, and the 2005 and future annual reports. The territory being transferred is described in Attachment A.

#### Limited Proceeding for Change in Rates

NFMU and Heron's Glen joint application for transfer included a request for limited proceeding for authorization to charge the Heron's Glen customers the rates and charges approved for NFMU. The application meets the requirements of Section 367.0822, Florida Statutes, and Rules 25-30.445 and 25-30.446, Florida Administrative Code.

Rule 25-9.044(1), Florida Administrative Code, provides that in the case of change of ownership or control of a utility which places the operation under a different or new utility the company which will thereafter operate the utility business must adopt and use the rates, classification and regulations of the former operating company unless authorized to change by this Commission. The rates for Heron's Glen were established in 1990<sup>5</sup>, with its most recent rate index being approved on September 21, 2003. The monthly rates are billed on a quarterly basis. As stated in the case background, Heron's Glen had a net operating loss in 2004 of \$79,627. In addition, Heron's Glen has reported a net operating loss in 2002 and 2003 of \$101,296 and \$77,011, respectively.

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<sup>5</sup> Order No. 22682, issued March 13, 1990, in Docket No. 890975-SU, In re: Application of Del Tura North Limited Partnership for Sewer Certificate in Lee County.

NFMU's last rate case in 1983<sup>6</sup> established base facility and gallonage charges. The current NFMU approved rates were effective August 21, 2005, pursuant to a price index. The monthly rates are billed on a monthly basis. The service availability charges were approved in 1982.<sup>7</sup> NFMU provided information in support of its request to charge its existing rates to the Heron's Glen customers, including its estimated expenses associated with operating the Heron's Glen system.<sup>8</sup> The estimated effect of the transfer on NFMU's earnings for wastewater is as follows:

	NFMU 2004 <u>Annual Report</u>	Heron's Glen <u>Addition</u>	<u>Total</u>
Operating Revenue	\$3,376,341	\$245,689	\$3,622,030
Operating Expenses	<u>2,777,961</u>	<u>283,813</u>	<u>3,061,774</u>
Net Income	\$598,380	\$(38,124)	\$560,256

NFMU's 2004 annual report shows a rate of return on investment of 5.76%. By Order No. 11360, NFMU was authorized to earn a rate of return of 10.8%. NFMU's reported 2004 net income with the addition of Heron's Glen results in a lower estimated net income. Therefore, it does not appear that allowing NFMU to charge the Heron's Glen customers its existing rates will result in NFMU overearning pursuant to Rule 25-30.445(6), Florida Administrative Code.

Through the years, this Commission has approved transfers and amendments to NFMU with the majority of these requesting and receiving approval to charge NFMU's current rates to the added systems and territories. The most recent of these were approved in 2001 and 2002.<sup>9</sup> Therefore, NFMU's request for the limited proceeding to charge its current rates to the Heron's Glen customers is typical of NFMU's transfer and amendment applications. NFMU does have one system which has not been interconnected and continues to have rates that are different from all of the interconnected systems.

A customer meeting was held on October 19, 2005. The purpose of the meeting was to hear public comments regarding NFMU's application for the transfer and authority to charge the customers of Heron's Glen its authorized rates and charges.

Prior to the meeting, our staff met informally with officers of the homeowners' association. Some of the officers are also current and former officers of the Heron's Glen

<sup>6</sup> Order No. 12244, issued July 14, 1983, in Docket No. 810477-S, In re: Application of Old Bridge Utilities, Inc., for an increase in sewer rates in Lee County, Florida.

<sup>7</sup> Order No. 11360, issued November 24, 1982, in Docket No. 810477-S, In re: Application of Old Bridge Utilities, Inc. for an increase in sewer rates in Lee County, Florida.

<sup>8</sup> Heron's Glen reported operating expenses of \$307,144 on its 2004 annual report.

<sup>9</sup> Order No. PSC-01-0995-AS-WS, issued April 23, 2001, in Docket No. 000277-WS, In re: Application for transfer of facilities and Certificates Nos. 353-W and 309-S in Lee County from MHC Systems, Inc. d/b/a FFEC-Six to North Fort Myers Utility, Inc., holder of Certificate No. 247-S, amendment of Certificate No. 247-S; and cancellation of Certificate No. 309-S. Order No. PSC-02-0481-FOF-SU, issued April 8, 2002, in Docket No. 011006-SU, In re: Application for amendment of Certificate No. 247-S to extend service area in Lee County by North Fort Myers Utility, Inc.

Recreational District which owns the golf course at Heron's Glen. Topics of discussion included the proposed rates and reuse to the golf course. The officers understood the nature of the proposed transfer and were comfortable with the proposal.

Approximately sixty-five customers attended the customer meeting. Although no customers signed up to speak, four customers had questions concerning treatment plant decommissioning and nonpotable irrigation.

Three customers inquired about who would be paying for treatment plant decommissioning and future ownership of the plant site property. Our staff explained that the sales agreement indicated that ownership of the wastewater treatment plant and the cost for its disposal would be the seller's responsibility. NFMU will provide reused wastewater for the Heron's Glen golf course irrigation system. The ownership of the residential nonpotable irrigation system, which obtains its source water from the local surface waters, will be retained by the seller. With input from representatives of the homeowners association and the Recreation District, it was further learned that the Recreation District is considering purchasing the plant site land, as well as the nonpotable irrigation system.

In addition, our staff explained to the customers that if this Commission approved the proposed change in rates, the customers' monthly wastewater bills would increase if usage exceeds approximately 2,000 gallons. Heron's Glen customer usage averages approximately 2,570 gallons per month. The current Heron's Glen and NFMU rates, and a comparison of current and proposed monthly bills are shown on Attachment B.

Heron's Glen is at capacity with approximately 1,000 customers. The seller anticipates adding approximately 1,900 new connections in its next phase of development. NFMU has sufficient capacity for the existing Heron's Glen customers and the anticipated growth. According to NFMU, it is more cost effective to interconnect the Heron's Glen system with NFMU than to expand the existing Heron's Glen wastewater treatment plant. In addition, Heron's Glen is operating at a loss and would expect to file for a rate case if the plant were expanded. Therefore, we find the request to charge the Heron's Glen customers NFMU's current rates to be reasonable.

NFMU's request to charge its rates and charges to the customers of Heron's Glen is therefore approved. The utility shall file a proposed customer notice to reflect the approved rates shown under the NFMU column on Attachment B. The approved rates shall be effective for service rendered on or after the stamped approval date of the revised tariff sheets pursuant to Rule 25-30.475(1), Florida Administrative Code. In addition, the rates shall not be implemented until our staff has approved the proposed customer notice. The utility shall distribute the notice to the customers no later than with the first bill containing the revised rates and shall provide proof of the date the notice was given no less than ten days after the date of the notice.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that the transfer of the facilities of Coolidge-Ft. Myers Realty Limited Partnership d/b/a Heron's Glen Utilities to North Fort Myers Utility, Inc. is in the public interest and is approved as final agency action. It is further

ORDERED that Certificate No. 247-S shall be amended to include the territory of Heron's Glen as set out in Attachment A, and Certificate No. 456-S shall be canceled effective January 5, 2006. It is further

ORDERED that Coolidge-Ft. Myers Realty Limited Partnership d/b/a Heron's Glen Utilities shall be responsible for the regulatory assessment fees from January 1, 2005, through June 22, 2005. It is further

ORDERED that North Fort Myers Utility, Inc. shall be responsible for the remainder of the 2005 and future regulatory assessment fees, and the 2005 and future annual reports. It is further

ORDERED that North Fort Myers Utility, Inc.'s request to charge its rates and charges to the former customers of Coolidge-Ft. Myers Realty Limited Partnership d/b/a Heron's Glen Utilities is approved. It is further

ORDERED that North Fort Myers Utility, Inc. shall file a proposed customer notice to reflect the approved rates. It is further

ORDERED that the approved rates shall be effective for service rendered on or after the stamped approval date of the revised tariff sheets pursuant to Rule 25-30.475(1), Florida Administrative Code. In addition, the rates shall not be implemented until our staff has approved the proposed customer notice. It is further

ORDERED that North Fort Myers Utility, Inc. shall distribute the notice to the customers no later than with the first bill containing the revised rates and shall provide proof of the date the notice was given no less than ten days after the date of the notice. It is further

ORDERED that the provisions of this Order for the approval of North Fort Myers Utility, Inc.'s rates and charges to the former customers of Coolidge-Ft. Myers Realty Limited Partnership d/b/a Heron's Glen Utilities, issued as proposed agency action, shall become final and effective upon the issuance of a Consummating Order unless an appropriate petition, in the form provided by Rule 28-106.201, Florida Administrative Code, is received by the Director, Division of the Commission Clerk and Administrative Services, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on the date set forth in the "Notice of Further Proceedings" attached hereto. It is further

ORDERED that if no timely protest to the Proposed Agency Action portion of this Order is filed by a substantially affected person within 21 days of the date of this Order, a Consummating Order shall be issued and the docket shall be closed. It is further

ORDERED that in the event there is a timely protest, this docket shall remain open pending resolution of the protest.

By ORDER of the Florida Public Service Commission this 23rd day of January, 2006.

BLANCA S. BAYÓ, Director  
Division of the Commission Clerk  
and Administrative Services

By: Kay Flynn  
Kay Flynn, Chief  
Bureau of Records

( S E A L )

RRJ

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.

As identified in the body of this order, our action for the approval of North Fort Myers Utility, Inc.'s rates and charges to the former customers of Coolidge-Ft. Myers Realty Limited Partnership d/b/a Heron's Glen Utilities is preliminary in nature. Any person whose substantial interests are affected by the action proposed by this order may file a petition for a formal proceeding, in the form provided by Rule 28-106.201, Florida Administrative Code. This petition must be received by the Director, Division of the Commission Clerk and Administrative Services, at 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on February 13, 2006. If such a petition is filed, mediation may be available on a case-by-case basis. If mediation is conducted, it does not affect a substantially interested person's right to a hearing. In the absence of such a petition, this order shall become effective and final upon the issuance of a Consummating Order.



Any objection or protest filed in this docket before the issuance date of this order is considered abandoned unless it satisfies the foregoing conditions and is renewed within the specified protest period.

Any party adversely affected by the Commission's final action in regards to the transfer and amendment and cancellation of certificates may request: (1) reconsideration of the decision by filing a motion for reconsideration with the Director, Division of the Commission Clerk and Administrative Services 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 or wastewater utility by filing a notice of appeal with the Director, Division of the Commission Clerk and Administrative Services 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.

ATTACHMENT A

LEGAL DESCRIPTION  
Docket No.: 050323-SU  
(Heron's Glen)

Township 43 South, Range 24 East  
Sections 2, 3, 4, 5, & 10

A parcel of land in Sections 2, 3, 4, 5, & 10, Township 43 South, Range 24 East, Lee County, Florida, more particularly described as follows:

Commence at the NE corner of Section 3, Township 43 South, Range 24 East; thence N.89°57'30"W., along the north line of the NE 1/4 of said Section 3 for a distance of 355.01 feet to an intersection with the westerly right of way line of the former S.A.L. Railroad and the Point of Beginning of the herein described parcel of land; thence continue N.89°57'30"W., along said north line for a distance of 2,313.55 feet to the NE corner of the NW 1/4 of said Section 3; thence S.89°48'38"W., along the north line of said NW 1/4 for a distance of 2,667.53 feet to the NW corner of said Section 3; thence N.89°42'40"W., along the north line of Section 4, Township 43 South, Range 24 East, for a distance of 5,335.96 feet to the NW corner of said Section 4; thence S.89°33'20"W., along the north line of the NE 1/4 of Section 5, Township 43 South, Range 24 East, for a distance of 1,871.76 feet to an intersection with the northeasterly line of North Fort Myers Park according to the plat thereof as recorded in Plat Book 9, Page 113 of the public records of Lee County, Florida; thence S.26°03'40"E., along said northeasterly line for a distance of 318.66 feet to an intersection with the southeasterly line of Lot 3 of said plat of North Fort Myers Park; thence S.63°56'20"W., along said southeasterly line for a distance of 300.77 feet to an intersection with the northeasterly right of way line of Tamiami Trail (State Road 45, U.S. 41) being a point on the arc of a circular curve concave to the southwest, said point bearing N.63°13'24"E., from the radius point of said curve; thence southeasterly along the arc of said curve having for its elements a radius of 7,739.44 feet and a central angle of 0°42'56" for a distance of 96.66 feet to the point of tangency; thence S.26°03'40"E., along said northeasterly right of way line for a distance of 1,943.40 feet to an intersection with the southeasterly line of the northwesterly one half of lot 24 of the aforementioned plat of North Fort Myers Park; thence N.63°56'20"E., along said southeasterly line for a distance of 300.17 feet to an intersection with the aforementioned northeasterly line of North Fort Myers Park; thence N.26°03'40"W., along said northeasterly line for a distance of 4.46 feet to an intersection with the southerly line of that certain parcel of land described in Official Record Book 1032 at Page 707 of the aforementioned public records; thence N.89°48'47"E., along said southerly line for a distance of 3,357.09 feet to an intersection with the east line of that certain parcel of land described in Official Record Book 410 at Page 690 of the aforementioned public records; thence S.00°06'41"E., along said east line for a distance of 2,040.37 feet to an intersection with the south line of that certain parcel of land described in Deed Book 224 at Page 437 of the aforementioned public records; thence S.89°48'47"W., along said south line for a distance of 2,698.40 feet to an intersection with the aforementioned northeasterly right of way line of Tamiami Trail; thence S.26°03'40"E., along

said northeasterly right of way line for a distance of 370.00 feet; thence N.89°48'47"E., for a distance of 3,845.26 feet; thence N.00°11'13"W., for a distance of 332.91 feet to an intersection with the aforementioned south line of that certain parcel of land described in Deed Book 224 at Page 437 of the aforementioned public records; thence N.59°48'47"E., along said south line for a distance of 4,368.87 feet to an intersection with the northerly extension of the west line of that certain parcel of land described in Official Record Book 388 at Page 80 of the aforementioned public records; thence S.00°02'36"W., along said northerly extension and along the west line of said parcel for a distance of 2,553.91 feet; thence S.89°56'45"E., along the south line of said parcel for a distance of 1,711.91 feet; thence N.00°02'36"E., along the east line of said parcel for a distance of 16.72 feet to an intersection with the south line of that certain parcel of land described in Official Record Book 1516 at Page 1802 of the aforementioned public records; thence S.89°56'45"E., along said south line for a distance of 441.17 feet; thence N.00°02'36"E., along the east line of said parcel for a distance of 2,546.26 feet to an intersection with the aforementioned south line of that certain parcel of land described in Deed Book 224 at Page 437 of the aforementioned public records; thence N.89°48'47"E., along said south line for a distance of 775.85 feet to an intersection with the aforementioned westerly right of way line of the former S.A.L. Railroad; thence N.11°11'01"W., along said westerly right of way line for a distance of 4,190.51 feet to the Point of Beginning.

Township 43 South, Range 24 East  
Section 4

A tract or parcel of land lying in Section 4, Township 43 South, Range 24 East, Lee County, Florida, which tract or parcel is described as follows:

From the SE corner of Lot 45 of Unit No. 1, North Fort Myers Park according to a plat thereof recorded in Plat Book 9 at Page 113 public records of Lee County, Florida, run S.89°59'E., along the south line of the lands conveyed by Deed recorded in Deed Book 224 at Page 437 of said public records and along the south line of Section No. 1, Unit No. 1, Lakeville, according to a plat thereof recorded in Plat Book 10, Page 48 of said public records and Section No. 1, Unit No. 2, Lakeville, according to a plat thereof recorded in Deed Book 298 at Pages 303 to 306, inclusive, of said public records for a distance of 1,940 feet to the SE corner of said Section No. 1, Unit No. 2 and the Point of Beginning of the lands herein described:

From said Point of Beginning continue S.89°59'E. along the south line of the lands conveyed by said Deed recorded in Deed Book 224 at Page 437, for a distance of 425 feet to a concrete monument at the SW corner of the lands described in and conveyed by Deed recorded in Deed Book 300, Page 633, of said public records; thence run N.00°01'E., along the west line of said lands for a distance of 2,040 feet to a point in the centerline of a roadway easement 80 feet wide which point is marked by a concrete monument; thence run N.89°59'W., along said centerline for a distance of 500 feet to a point on a prolongation of the east line of said Section No. 1, Unit No. 2, Lakeville, which point is 40 feet north of the NE corner of said Section No. 1, Unit No. 2; thence run south along said prolongation and along the easterly boundary of said Section No. 1, Unit No. 2, S.00°01'W., for a distance of 335 feet, thence run S.89°59'E., for a distance of 60 feet, thence run S.00°01'W., for a distance of 600 feet to a point of curvature; thence run southeasterly along the arc of a curve of radius 236.25 feet for a distance of 131.72

feet, thence run S.89°59'E., for a distance of 39.71 feet, thence run S.00°01'W., for a distance of 125 feet, thence run N.89°59'W., for a distance of 35.48 feet, thence run S.00°01'W., for a distance of 650 feet, thence run N.89°59'W., for a distance of 25 feet, and thence run S.00°01'W., for a distance of 205 feet to the SE corner of said Section No. 1, Unit No. 2, Lakeville, and the Point of Beginning.

Subject to roadway easements over and along the north 40 feet and over and along the north 80 feet of the south 855 feet being an extension of Lakeville Drive as shown on said plat of Section No. 1, Unit No. 2, Lakeville. Also granting an easement for roadway purposes over and along a strip of land 40 feet in width north of and adjacent to the northern boundary of the above described lands and an easement for roadway purposes 80 feet in width extending from the westerly boundary of the above described lands westerly along the northern boundaries of said Section No. 1, Unit No. 2, and Section No. 1, Unit No. 1 of Lakeville and through Lot 24 of said Unit No. 1, Fort Myers Park to the Tamiami Trail (State Road No. 45).

**Monthly Service Rates**

**Residential Service**

	<b>Heron's Glen</b>	<b>NFMU</b>
All Meter Sizes	\$14.91	\$11.43
Charge per 1,000 gallons (Maximum 10,000 gallons)	\$2.38	\$4.15

**Sample Residential Bills**

			Increase
2,000 gallons	\$19.67	\$19.73	0.5%
3,000 gallons	22.05	23.88	8.3%
5,000 gallons	26.81	32.18	20.0%

**General Service**

Base Facility Charge by Meter Size:

5/8" x 3/4"	\$14.91	11.26
1"	37.29	28.11
1 1/2"	74.56	56.22
2"	119.30	89.94
3"	238.61	179.87
4"	372.85	281.03
6"	745.68	562.17
Charge per 1,000 gallons:	\$2.38	\$4.15

**Reclaimed Water**

Golf Course Irrigation System Per 1,000 gallons	\$0.05	\$0.00
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**Customer Deposits**

5/8" x 3/4" Meter Size	\$0.00	\$31.00
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**Service Availability Charges**

Plant capacity charge	\$200.00 per ERC (200 GPD)	\$635.00 per ERC (275 GPD)
All others	\$1.00 per gallon	\$2.31 per gallon