

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Application For Transfer of Certificate)	DOCKET NO. 940453-WU
No. 522-W From Lake Griffin Utilities, Inc. to)	ORDER NO. PSC-94-1543-FOF-WU
Harbor Hills Utilities, L.P. in Lake County.)	ISSUED: December 13, 1994
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The following Commissioners participated in the disposition of this matter:

J. TERRY DEASON, Chairman
 SUSAN F. CLARK
 JOE GARCIA
 JULIA L. JOHNSON
 DIANE K. KIESLING

ORDER APPROVING TRANSFER

AND

NOTICE OF PROPOSED AGENCY ACTION

ORDER ESTABLISHING RATE BASE FOR
PURPOSES OF THE TRANSFER

BY THE COMMISSION:

NOTICE IS HEREBY GIVEN by the Florida Public Service Commission that the action discussed herein establishing rate base for purposes of the transfer 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

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 is located in Lake County. The utility,

which was owned by Mr. John McNamara, 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 will retain possession of the utility until the Commission approves the transfer to Harbor Hills.

Application

The application is in compliance with Section 367.071, Florida Statutes, and other pertinent statutes and administrative rules. In particular, the application contains a filing fee in the amount of \$1,500, in accordance with Rule 25-30.020, Florida Administrative Code. Evidence has been provided that the utility owns the land upon which its facilities are located. Harbor Hills will receive ownership of the land upon transfer of the utility.

Harbor Hills provided proof of compliance with the noticing provisions set forth in Rule 25-30.030, Florida Administrative Code, including notice to the customers of the system being transferred. No objections to the application have been received and the time for filing such has expired.

According to the information provided, Harbor Hills is retaining the utility's existing staff, including a certified operator, and will employ three additional individuals. Harbor Hills also intends to retain Mr. Tom Felton, a systems and operations engineer, as an independent contractor to advise Harbor Hills in the management and operations of the utility. Mr. Felton is currently managing the utility.

From information provided with the application, it appears that Harbor Hills has the financial ability to operate the utility. Harbor Hills provided a statement that the limited partner, Signature Properties International, L.P. (Signature), has adequate funds to operate the utility and to make improvements in the facility as they may be needed.

The acquisition is being financed by Signature. All investment has been in cash, and no debt has been assumed. The general partner will assume all management responsibilities and the limited partner will assume financial responsibility. It should be noted that the utility is not in compliance with the Department of Environmental Protection's (DEP) regulation relating to chlorine contact tanks. The tanks have been taken off line; there are plans to replace the tanks with one 15,000 gallon capacity tank, which will cost approximately \$41,000. Harbor Hills has indicated that it will assume all responsibility for the costs associated with the replacement.

Based on the foregoing, we find that the transfer of Certificate No. 522-W from Lake Griffin to Harbor Hills is in the public interest and it is approved. The territory which Harbor Hills is authorized to serve is described in Attachment A of this Order, which by reference is incorporated herein.

Harbor Hills shall file a copy of a recorded warranty deed or other evidence that it owns or has continued use of the land upon which the utility's facilities are located within 60 days of the closing of the transfer. In addition, Harbor Hills shall return Certificate No. 522-W to this Commission within 30 days of the date of this Order for entry reflecting the change in ownership.

Rate Base

According to the information provided with the application, the net book value of the system being transferred is \$1,450,000, as of the date of the proposed transfer. As stated previously, all property of the owner of the utility, including the books and records, was seized by the United States Government in 1992. The books and records have been stored in New York since that time. The Commission Staff made every effort to inspect these records, but were unable to do so.

An audit of the available books and records of the utility has been conducted to determine rate base (net book value) at the time of transfer. Upon review of the books and records, it was determined that Harbor Hills has not maintained general ledgers at the utility, and is not in compliance with the National Association of Regulatory Utility Commissioners (NARUC) Uniform System of Accounts. Since there are no general ledgers recorded at the utility for 1992 or 1993, the only classification of accounts has been in the 1990 and 1991 Annual Reports. Annual reports for 1992 and 1993 have apparently not been compiled.

Lake Griffin recorded a plant total of \$1,280,045 in its 1991 Annual Report. However, the utility could not provide documentation for the breakdown of each account balance provided in the Annual Report. Therefore, plant values have been compiled from invoices provided by the utility. Based on the information provided, plant value has been calculated to be \$820,481, reflecting a negative adjustment of \$459,203.

Based on the deed for the transfer of land from 347 Corporation of Florida, Inc. to Lake Griffin, it appears the land was sold for \$12,500. According to the 1991 Annual Report, the value of the land is \$26,039. Since the utility failed to provide documentation to support the land value, adjustments have been made to reflect the original value of \$12,500.

The utility did not prepare a ledger for 1992 or 1993; therefore, no depreciation or amortization has been recorded since the 1991 Annual Report. In 1991, the accumulated depreciation was \$59,911. The Commission Staff computed the accumulated depreciation pursuant to Rule 25-30.140, Florida Administrative Code. The adjusted accumulated depreciation totaled

\$137,712, resulting in an increase of \$77,801. Contributions-in-aid-of-construction (CIAC) and related amortization have been calculated using the utility's Application and Agreement for Service. CIAC totals \$208,528 and amortization of accumulated CIAC is \$37,587.

Based on the adjustments set forth herein, we find that the rate base for Lake Griffin is \$404,862 for the water system as of June 1, 1994. Our calculation of rate base is shown on Schedule No. 1, with adjustments shown on Schedule No. 2, which by reference are incorporated herein.

An acquisition adjustment results when the purchase price differs from the rate base. In the absence of extraordinary circumstances, it is Commission policy that the purchase of a utility at a premium or discount shall not affect the rate base calculation. The circumstances in this exchange do not appear to be extraordinary, nor has Harbor Hills requested an acquisition adjustment. Therefore, no acquisition adjustment has been included in the rate base calculation.

The rate base calculation is used purely to establish net book value of the property being transferred and does not include the normal ratemaking adjustments of working capital calculations and used and useful adjustments.

Rates and Charges

Lake Griffin's current rates and charges became effective on June 28, 1990, pursuant to Order No. 23039, issued in Docket No. 890554-WU. Rule 25-9.044(1), Florida Administrative Code, requires the new owner of a utility to adopt and use the rates, classification and regulations of the former operating company until authorized to change by this Commission.

Harbor Hills has not requested to change the rates and charges and we see no reason to change them at this time. Harbor Hills shall continue to charge the rates and charges approved in the utility's tariff until authorized to change by this Commission in a subsequent proceeding. Harbor Hills has filed a tariff reflecting the change in ownership. The tariff shall be effective for service provided or connections made on or after the stamped approval date on the tariff sheets.

Annual Reports and Regulatory Assessment Fees

The Annual Reports for 1992 and 1993 have not been filed by the utility, nor has the utility paid regulatory assessment fees for 1992 and 1993. In its application, Harbor Hills stated that it would fulfill the outstanding commitments, obligations and representations of the Lake Griffin. However, because the books and records of the utility are not available, we do not find it appropriate to address this matter at this time. Therefore, Docket No. 940453-WU shall remain open to consider the Annual Reports and regulatory assessment fees for 1992 and 1993.

It is, therefore,

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ORDERED by the Florida Public Service Commission that the transfer of Certificate No. 522-W from Lake Griffin Utilities, Inc., 530 Fifth Avenue, 5th Floor, New York, New York 10036, to Harbor Hills Utilities, L.P., 2600 Main Place Tower, Buffalo, New York 14202, is hereby approved. Harbor Hills Utilities, L.P. shall return Certificate No. 522-W to the Commission within 30 days of the date of this Order for entry reflecting the change in ownership. It is further

ORDERED that Harbor Hills Utilities, L.P. shall file a copy of a recorded warranty deed or other evidence that it owns or has continued use of the land upon which the utility's facilities are located within 60 days of the closing of the transfer. It is further

ORDERED that rate base for Lake Griffin Utilities, Inc. for purposes of the transfer is \$404,862 as of June 1, 1994. It is further

ORDERED that Harbor Hills Utilities, L.P. shall charge the rates and charges approved in Lake Griffin Utilities, Inc.'s tariff until authorized to change by this Commission. The tariff sheets shall be effective for service provided or connections made on or after the stamped approval date on the tariff sheets. It is further

ORDERED that the provisions of this Order, issued as proposed agency action, shall become final and effective unless an appropriate petition, in the form provided by Rule 25-22.036, Florida Administrative Code, is received by the Director, Division of Records and Reporting, 101 East Gaines Street, Tallahassee, Florida 32399-0870, by the close of business on the date set forth in the "Notice of Further Proceedings or Judicial Review" attached hereto. It is further

ORDERED that Docket shall remain open for consideration of the 1992 and 1993 Annual Reports and regulatory assessment fees.

By ORDER of the Florida Public Service Commission, this 13th day of December, 1994.

/s/ Blanca S. Bayó _____

BLANCA S. BAYÓ, Director
Division of Records and Reporting

This is a facsimile copy. A signed copy of the order may be obtained by calling 1-904-488-8371.

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NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.59(4), 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 establishing rate base for purposes of the transfer is preliminary in nature and will not become effective or final, except as provided by Rule 25-22.029, Florida Administrative Code. Any

person whose substantial interests are affected by the action proposed by this order may file a petition for a formal proceeding, as provided by Rule 25-22.029(4), Florida Administrative Code, in the form provided by Rule 25-22.036(7)(a) and (f), Florida Administrative Code. This petition must be received by the Director, Division of Records and Reporting at 101 East Gaines Street, Tallahassee, Florida 32399-0870, by the close of business on January 3, 1995. In the absence of such a petition, this order shall become effective on the date subsequent to the above date as provided by Rule 25-22.029(6), Florida Administrative Code.

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.

If the relevant portion of this order becomes final and effective on the date described above, any party adversely affected may request judicial review by the Florida Supreme Court in the case of an electric, gas or telephone utility or by 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 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 of the effective date 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.

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 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 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.

ATTACHMENT A
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Lake Griffin Utilities, Inc.

TERRITORY DESCRIPTION

The following described lands located in portions of Sections 13 & 14, Township 18 South, Range 24 East, and Sections 7 & 18, Township 18 South, Range 25 East, Lake County, Florida:

Begin at the Southeast corner of Section 12, Township 18 South, Range 24 East, for the POB; thence run North $00^{\circ}07'21''$ West, along the East boundary of said Section 12 a distance of 66.62 feet to the centerline of Lake Griffin Road and a point on a curve having a radial bearing of North $27^{\circ}13'16''$ West, said curve being concave Northwesterly having a radius of 615.63 feet; thence run Easterly along said centerline an arc distance of 228.02 feet, said arc having a delta of $21^{\circ}13'18''$, a tangent distance of 115.33 feet, a chord bearing of North $52^{\circ}10'04''$ East and a chord distance of 226.72 feet to a point of tangency; thence run North $41^{\circ}33'27''$ East along said centerline a distance of 403.94 feet to a point of curvature, said curve being concave Northwesterly having a radius of 1730.29 feet; thence run Northeasterly along said centerline an arc distance of 240.35 feet, said arc having a delta of $07^{\circ}57'32''$, a tangent distance of 120.37 feet, a chord bearing of North $37^{\circ}34'41''$ East and a chord distance of 240.16 feet to a point of tangency; thence run North $33^{\circ}35'55''$ East along said centerline a distance of 88.27 feet to a point of curvature, said curve being concave Southeasterly having a radius of 234.54 feet; thence run Easterly along said centerline an arc distance of 307.05 feet, said arc having a delta of $75^{\circ}00'30''$, a tangent distance of 180.00 feet, a chord bearing of North $71^{\circ}06'10''$ East and a chord distance of 285.59 feet to a point of tangency; thence run South $71^{\circ}23'35''$ East along said centerline a distance of 606.85 feet to a point of curvature, said curve being concave Northeasterly having a radius of 919.44 feet; thence run Easterly along said centerline an arc

distance of 249.03 feet, said arc having a delta of $15^{\circ}31'06''$, a tangent distance of 125.28 feet, a chord bearing of South $79^{\circ}09'08''$ East and a chord distance of 248.27 feet to a point of tangency; thence run South $86^{\circ}54'41''$ East along said centerline of Lake Griffin Road a distance of 1406.31 feet to the intersection of the East line of the Southwest 1/4 of the Southwest 1/4 of Section 7, Township 18 South, Range 25 East; thence run South $00^{\circ}08'17''$ West along said East line a distance of 72.64 feet to a point on the North boundary of the Northwest 1/4 of Section 18, Township 18 South, Range 25 East, thence run North $89^{\circ}14'04''$ East along the North boundary of said Section 18 a distance of 207.76 feet, thence

ATTACHMENT A
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run South $09^{\circ}02'54''$ West a distance of 1000 feet, thence run Easterly to the waters edge of Lake Griffin to point, said point to be known as Point "A"; return to the Southeast corner of said Section 12 and the point of reference, thence run South $89^{\circ}40'50''$ West along the North boundary of the Northeast 1/4 of said Section 13 a distance of 278.32 feet; thence continue South $89^{\circ}40'50''$ West along said line a distance of 2374.36 feet to the North 1/4 corner of said Section 13; thence run South $89^{\circ}50'32''$ West along the North boundary of the Northwest 1/4 of said Section 13, a distance of 1959.26 feet; thence run South $01^{\circ}05'13''$ East along the West line of the East 1/2 of the Northwest 1/4 of the Northwest 1/4 of said Section 13 a distance of 1324.76 feet; thence run South $89^{\circ}50'18''$ West along the South line of said Northwest 1/4 of the Northwest 1/4 of said Section 13 a distance of 329.42 feet; thence run South $01^{\circ}15'47''$ East along the West line of the East 30 acres of the Southwest 1/4 of the Northwest 1/4 of said Section 13 a distance of 1324.85 feet; thence run North $89^{\circ}50'05''$ East along the South line of said Southwest 1/4 of the Northwest 1/4 of said Section 13, a distance of 986.58 feet to the Southeast corner of said Southwest 1/4 of the Northwest 1/4 of said Section 13; thence run South $01^{\circ}07'54''$ East along the West line of the East 1/2 of the Southwest 1/4 of said Section 13 a distance of 2426.57 feet; thence run South $89^{\circ}54'49''$ East a distance of 210.00 feet; thence run South $01^{\circ}07'54''$ East a distance of 210.00 feet to the South boundary of said Section 13; thence run North $89^{\circ}54'49''$ West along said Southerly boundary a distance of 210.00 feet; thence run South $00^{\circ}18'48''$ East along the West line of the East 1/2 of the Northwest 1/4 of Section 24, Township 18 South, Range 24 East, a distance of 2676.64 feet to a point on the East-West mid-section line of said Section 24; thence run South $89^{\circ}55'50''$ East along said mid-section line a distance of 663.16 feet; thence run North $00^{\circ}06'52''$ West a distance of 669.10 feet; thence run South $89^{\circ}55'35''$ East a distance of 665.48 feet; thence run North $00^{\circ}05'03''$ East a distance of 9.04 feet; thence run South $89^{\circ}55'19''$ East a distance of 660 feet; thence run North $00^{\circ}05'03''$ East a distance of 1997.99 feet to a point on the North boundary of said Section 24; thence run South $89^{\circ}54'49''$ East along said North boundary line a distance of 613.85 feet; thence continue Easterly along said line to the waters edge of Lake Griffin; thence Northeasterly along the waters edge to said Point "A".

SCHEDULE NO. 1

Lake Griffin Utilities, Inc.

SCHEDULE OF WATER RATE BASE

As of June 1, 1994

<u>DESCRIPTION</u>	<u>BALANCE</u>	<u>COMMISSION</u>	<u>BALANCE PER</u>
	<u>PER UTILITY</u>	<u>ADJUSTMENTS</u>	<u>COMMISSION</u>
Utility Plant in Service	\$1,280,045	(\$459,203)	\$ 820,842
Land	\$ 26,039	(\$ 13,539)	\$ 12,500
Accumulated Depreciation	(\$ 59,911)	(\$ 77,801)	(\$ 137,712)
Contributions-in-aid-of-Construction	(\$ 124,500)	(\$208,528)	(\$ 333,028)
Amortization of Accumulated CIAC	\$ 4,673	\$ 37,587	\$ 42,260
TOTAL	<u>\$1,126,346</u>	<u>(\$721,484)</u>	<u>\$ 404,862</u>

SCHEDULE NO. 2

Lake Griffin Utilities, Inc.

SCHEDULE OF WATER RATE BASE ADJUSTMENTS

<u>EXPLANATION</u>	<u>ADJUSTMENT</u>
Utility Plant in Service	
To remove undocumented plant additions.	(\$459,203)
Land	
To remove undocumented land additions.	(\$ 13,539)
Accumulated Depreciation	
To record depreciation associated with the undocumented plant and depreciation of these amounts from 1992 to June 1, 1994.	(\$ 77,801)
Contributions-in-aid-of-Construction	
To record unrecorded CIAC additions.	(\$208,528)
Amortization of Accumulated CIAC	
To record accumulated amortization of CIAC additions.	\$ 37,587