

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Application For Transfer) DOCKET NO. 940453-WU
of Certificate No. 522-W from) ORDER NO. PSC-95-1098-FOF-WU
Lake Griffin Utilities, Inc. to) ISSUED: September 5, 1995
Harbor Hills Utilities, L.P., in)
Lake County.)
_____)

The following Commissioners participated in the disposition of this matter:

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

ORDER CLOSING DOCKET

BY THE COMMISSION:

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.

Section 367.071, Florida Statutes, provides that the transferor remains liable for any outstanding regulatory assessment fees, fines, or refunds of the utility. Although,

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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.

It is, therefore,

ORDERED by the Florida Public Service Commission that Docket No. 940453-WU is hereby closed.

By ORDER of the Florida Public Service Commission, this 5th day of September, 1995.

/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 1-904-413-6770.

(S E A L)

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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

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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.