

REQUEST TO ESTABLISH DOCKET
(PLEASE TYPE)

Date 11/25/96

Docket No. 961428-W5

1. Division Name/Staff Name DIVISION OF LEGAL SERVICES (LAW) / REYES
2. OPR LEGAL - LAW (REYES)
3. OCR LAW (McCaskey)
4. Suggested Docket Title Response to Commission Order to Show Cause by Forest Hills Utilities, Inc. in Pasco County

5. Suggested Docket Mailing List (attach separate sheet if necessary)

- A. Provide NAMES ONLY for regulated companies or ACRONYMS ONLY regulated industries, as shown in Rule 25-22.104, F.A.C.
- B. Provide COMPLETE name and address for all others. (Match representatives to clients.)

1. Parties and their representatives (if any)

Forest Hills Utilities, Inc.
Rose Sundstrom & Bentley
2548 Blairstone Pines Drive
Tallahassee, FL 32301

2. Interested Persons and their representatives (if any)

6. Check one:

- Documentation is attached.
 Documentation will be provided with the recommendation.

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October 17, 1996

VIA HAND DELIVERY

Blanca S. Bayo, Director
Division of Records and Reporting
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, Florida

Re: Forest Hills Utilities, Inc.; Docket No. 960878-WS
Proposed Rate Reduction to Reflect a Decrease in Purchased
Water and Wastewater Costs to PSC Regulated Utilities By Pasco
County
Our File No. 29062.01

Dear Ms. Bayo:

This letter should be considered to be the response of Forest Hills Utilities, Inc. to the Commission's Show Cause Order No. PSC-96-1226-FOF-WS. Forest Hills Utilities, Inc. does not agree with the general proposition set out in the order that the Commission has authority by use of the pass-through provisions of Section 367.081(4)(b), to require a decrease in rates of a regulated utility based upon decrease in the cost of bulk service received from a governmental provider. Nor does Forest Hills agree that the Commission has authority under this or any other statutory section to reduce rates without first determining that overearning exists. In addition, just as a Utility is not able to pass-through an increase in costs, back to the date of the actual increase, the Commission, under the pass-through or any other statutory provision is not authorized to reduce rates of the Utility back to the date of a decrease, even if the pass-through provisions of the statute could be used to require a decrease. Such a negative pass-through effective to the date of the cost reduction not only utilizes a pass-through provision where it was not intended, but suggests that such statute provides retroactive rate making authority when applied for decreases, but not for increases.

DOCUMENT NUMBER-DATE

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Even without these flaws in the basis for the Commission's proposed action, a negative pass-through or any decrease in rates as proposed under the order, is inapplicable to Forest Hills Utilities, Inc. because of the particular facts surrounding that Utility and its purchases of bulk service. These are outlined for each system separately below:

Forest Hills Utilities, Inc.'s Sewer System

Forest Hills purchases no sewage treatment from Pasco County.

Forest Hills Utilities, Inc.'s Water System

The total water purchased from Pasco County by Forest Hills Utilities, Inc. for 1995 was only 188,000 gallons. This is representative of the recurring purchases by Forest Hills and is an immaterial part of the total water sold by the Utility. When the purchases are multiplied by the reduction in charges for water purchased from Pasco County effective October 1, 1996, the resulting reduction in cost is less than \$30 on an annual basis.

For the reasons outlined above, a pass-through rate reduction is not only inappropriate based upon the legal issues and earnings issues, but is wholly immaterial and would have no effect on rates, even if undertaken. It is also apparent that the cost of preparing this response, much less responding to detailed Commission inquiry, preparation of documents and mailing of notice, would cost many times the amount of any proposed refund.

The second ordering paragraph of Order No. PSC-96-1226-FOF-WS requires that each utility named in the order, file the information required by Rule 25-30.425(1)(a) through (f), Florida Administrative Code, along with a calculation of the rate reduction. Not only does the undersigned believe that this requirement is contrary to the Commission's actual decision at hearing, but the filing of that information prior to a determination that any refund is appropriate as to the Utility's systems is premature and a waste of the Utility's time and resources and consulting fees. Because of the substantial time and cost involved in the preparation of any such information, the Utility hereby requests a waiver of that provision of the order until such time as a determination is made on the rate reduction itself.

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Based upon these facts, Forest Hills Utilities, Inc. asserts that any rate reduction, whether undertaken as a negative pass-through or any other sections of Chapter 367, Florida Statutes, is inappropriate for the Forest Hills system.

Sincerely,

ROSE, SUNDSTROM & BENTLEY


F. Marshall Deterding
For The Firm

FMD/lts

cc: Mr. Robert L. Dreher
Robert C. Nixon, CPA