

FLORIDA PUBLIC SERVICE COMMISSION  
Capital Circle Office Center, 2540 Shumard Oak Boulevard  
Tallahassee, Florida 32399-0850

M E M O R A N D U M

JANUARY 23, 1997

TO: DIRECTOR, DIVISION OF RECORDS AND REPORTING (BAYO)

FROM: DIVISION OF WATER & WASTEWATER (CASEY EDWARDS)  
DIVISION OF LEGAL SERVICES (JAEGER)

RE: DOCKET NO. 960814-WS - KEITH & CLARA STARKEY D/B/A  
HEATHER HILLS ESTATES UTILITY - INVESTIGATION OF POSSIBLE  
OVEREARNINGS  
COUNTY: MANATEE

AGENDA: FEBRUARY 4, 1997 - REGULAR AGENDA - INTERESTED PERSONS  
MAY PARTICIPATE

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: I:\PSC\LEG\WP\960814WS.RCM

DOCUMENT NUMBER-DATE

00859 JAN 23 97

FPSC-RECORDS/REPORTING

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CASE BACKGROUND

On October 10, 1995, the Manatee County Board of County Commissioners adopted Resolution No. R-95-109, pursuant to Section 367.171, Florida Statutes, declaring the privately owned water and wastewater utilities in Manatee County subject to the provisions of Chapter 367, Florida Statutes, effective October 10, 1995. The Florida Public Service Commission (Commission) acknowledged the resolution in Order No. PSC-95-1393-FOF-WS, issued November 11, 1995.

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 in Commission Order No. PSC-96-0434-FOF-WS, issued March 28, 1996.

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

Therefore, staff audited the utility's records for compliance with Commission rules and orders and determined all components necessary for rate setting. The staff engineer also conducted a field investigation of the utility's water distribution and wastewater collection systems along with the service area.

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.

By Proposed Agency Action (PAA) Order No. PSC-96-1126-FOF-WS, issued September 5, 1996, the Commission proposed to restructure the rates and charges of Keith & Clara Starkey d/b/a Heather Hills Estates (Utility). The Commission further found the utility to be overearning by \$1,826 annually, but did not require a refund.

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Instead, the Commission ordered Heather Hills to implement a meter replacement program. However, this Order was timely protested on September 25, 1996, by 14 customers. Order No. PSC-96-1269-PCO-WS, issued October 9, 1996, established the hearing schedule and procedures. As a result of the protest, the Commission, by Order No. PSC-96-1415-FOF-WS, issued November 20, 1996, 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 (attached) signed by all of the parties in this docket. This stipulation states that the parties have resolved the controversies raised in the docket by a proposal that the utility reduce the Commission-approved rates stated in Order No. PSC-96-1126-FOF-WS, in lieu of instituting the required meter replacement program. 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.

This recommendation addresses the proposed stipulation.

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DISCUSSION OF ISSUES

ISSUE 1: Should the Commission accept the parties' stipulation?

RECOMMENDATION: Yes, staff recommends that the Commission accept the parties' stipulation. Further, PAA Order No. PSC-96-1126-FOF-WS, with the exceptions listed in the stipulation, shall become effective and final as of February 4, 1997. (CASEY, JAEGER)

STAFF ANALYSIS: As stated above, on December 30, 1996, the OPC, on behalf of the protestors, filed a stipulation signed by all of the parties in this docket. In that stipulation, all parties agree to the following:

1. To accept the PAA Order No. PSC-96-1126-FOF-WS issued on September 5, 1996, with the following exceptions;
2. The Customer's [sic] 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;
3. That based on this adjustment, the BFC rate for a 5/8" x 3/4" meter shall be \$20.73 per quarter and the usage rate would be \$1.28 per 1,000 gallons;
4. That the utility shall replace meters on an as-needed basis; and
5. 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.

Staff has reviewed the above proposals and believes that they present a reasonable compromise. The stipulation fairly resolves all of the issues remaining in this docket. Accordingly, staff recommends that the Commission approve the proposed stipulation. Staff further recommends that PAA Order No. PSC-96-1126-FOF-WS, as modified by the terms of the stipulation, should become effective and final as of February 4, 1997.

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RATES AND CHARGES

ISSUE 2: In light of the settlement agreement, what are the appropriate water rates for this utility?

RECOMMENDATION: The recommended water rates should be a base facility charge of \$20.73 per quarter and usage rate of \$1.28 per 1,000 gallons for a 5/8" x 3/4" meter as outlined in the stipulation. Other meter size rates are outlined in staff's analysis. The approved rates should be effective for service rendered on or after the stamped approval date on the tariff sheet pursuant to Rule 25-30.475(1), Florida Administrative Code. The rates should not be implemented until proper notice has been received by the customers. The utility should provide proof of the date notice was given within 10 days after the date of the notice. (CASEY)

STAFF ANALYSIS: As stated in Issue No. 1, all parties agreed to a stipulation. The existing rates and staff's recommended rates as agreed to in the stipulation are as follows.

WATER RATES  
RESIDENTIAL AND GENERAL SERVICE

<u>Meter Size</u>	<u>Base Facility Charge</u>	
	<u>Existing Quarterly Rate</u>	<u>Recommended 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

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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 would be as follows:

	Average <u>QUARTERLY</u> Bill Using Existing <u>Rates</u>	Average <u>QUARTERLY</u> Bill Using Recommended <u>Rates</u>	Percent <u>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	
Gallonge Charge	<u>\$ 0.00</u>	<u>\$ 7.32</u>	
Total	\$30.35	\$ 28.05	(7.58%)

The rates should be effective for service rendered as of the stamped approval date on the tariff sheets provided the customers have received notice. The tariff sheets should be approved upon staff's verification that the tariffs are consistent with the Commission's decision, that the customer notice is adequate, and that any required security has been provided. The utility should 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 should 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 should the rates be effective for service rendered prior to the stamped approval date.

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ISSUE 3: Pursuant to Orders Nos. PSC-96-1126-FOF-WS and PSC-96-1415-FOF-WS, is there any requirement for a refund?

RECOMMENDATION: No, pursuant to the stipulation of the parties, the parties accepted PAA Order No. PSC-96-1126-FOF-WS, with very limited exceptions, none of which made any provision for a refund. Therefore, the utility should no longer be required to maintain a letter of credit.

STAFF ANALYSIS: Staff has contacted the OPC and the utility and has questioned them about the understanding regarding the requirement for a refund of any revenues collected subsequent to the issuance of Orders Nos. PSC-96-1126-FOF-WS on September 5, and PSC-96-1415-FOF-WS on November 20, 1996. Both OPC and the utility have stated that no refund was contemplated. Further, the parties specifically provided in the stipulation that "should the Commission refuse to accept this Stipulation in its entirety and without modification, the Stipulation shall be void."

Staff further notes that it was only on October 29, 1996, that the Commission formally voted to require the utility to hold \$1,826 of annual revenues subject to refund. Therefore, when the Commission considers this item at the February 4th Agenda Conference, there will only have been about three months of revenues being held subject to refund. This amounts to about \$455 in revenues being subject to refund, or about \$1.28 per customer.

From the reading of the parties' Stipulation of Settlement, it appears that the parties intended it to be a comprehensive settlement, and that PAA Order No. PSC-96-1126-FOF-WS was accepted with the exception of the provisions set forth in Issue 1. 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 as shown in Issue 2, 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, staff recommends that no refund is required, and the utility should no longer be required to maintain a letter of credit.

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ISSUE 4: Should this docket be closed?

RECOMMENDATION: Yes, upon the utility filing and staff approving revised tariff sheets in accordance with this stipulation and Order No. PSC-96-1126-FOF-WS, this docket should be administratively closed. (CASEY, JAEGER)

STAFF ANALYSIS: Upon the utility filing and staff approving revised tariff sheets in accordance with this stipulation and Order No. PSC-96-1126-FOF-WS, no further actions are required in this docket and it may be closed.



In Re: Investigation of )  
possible overearnings in )  
Manatee County by KEITH & )  
CLARA STARKEY D/B/A )  
HEATHER HILLS ESTATES )

Docket No. 960814-WS

STIPULATION OF SETTLEMENT

The undersigned parties of the above-referenced docket file this Stipulation as settlement of the controversies raised in this docket, and agree to the following:

1. The undersigned agree to accept the Proposed Agency Action Order No. PSC-96-1126-FOF-WS as issued by the Commission on September 5, 1996 with the following exceptions:
2. The Customer's 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.
3. The undersigned parties stipulate that the BFC rate for a 5/8" x 3/4" meter shall be \$20.73 per quarter and the usage rate shall be \$1.28 per 1,000 gallons.
4. The Utility shall replace meters on an as-needed basis.
5. 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.

AGREED TO BY:

Heather Hills Estates, Inc.

By: Keith Starkey

Date: 12/16/96

Date \_\_\_\_\_

See 2nd original  
John J. Morrelli, Sr.

Date 12-17-96

Paul E. Altenberger  
Paul Altenberger

DOCUMENT NUMBER-DATE

13773 DEC 30 96

FPSC-RECORDS/REPORTING

Date 12-17-96

Norma Altenberger  
Norma Altenberger

Date 12-17-96

Thurl Breese  
Thurl Breese

Date 12-16-96

Martin Fredendall  
Martin Fredendall

Date 12-16-96

Mary Fredendall  
Mary Fredendall

Date \_\_\_\_\_

Byron Grooms  
Byron Grooms

Date \_\_\_\_\_

Thelma Grooms  
Thelma Grooms

Date 12-17-96

Rueben Isch  
Rueben Isch

Date 12-17-96

Constance Short  
Constance Short

Date 12-17-96

Robert Sowers  
Robert Sowers

Date \_\_\_\_\_

Mr & Mrs Van Horn  
Mr. & Mrs. Van Horn

Date 12-17-96

Kathy Wilson  
Kathy Wilson

Date \_\_\_\_\_

See 2nd original  
John Schanick

12-17-96

Hesper Breese

In Re: Investigation of )  
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Manatee County by KEITH & )  
CLARA STARKEY D/B/A )  
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By: Keith Starkey

Date: 12/16/96

John J. Morrell, Sr.  
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Date 12/16/96

Date \_\_\_\_\_

\_\_\_\_\_  
Paul Altenberger

Date \_\_\_\_\_

Norma Altenberger

Date \_\_\_\_\_

Thurl Breese

Date 12-16-96

*Martin Fredendall*

Martin Fredendall

Date 12/16/96

*Mary Fredendall*

Mary Fredendall

Date \_\_\_\_\_

Byron Grooms

Date \_\_\_\_\_

Thelma Grooms

Date \_\_\_\_\_

Rueben Isch

Date \_\_\_\_\_

Constance Short

Date \_\_\_\_\_

Robert Sowers

Date \_\_\_\_\_

Mr. & Mrs. Van Horn

Date \_\_\_\_\_

Kathy Wilson

Date 12-16-96

*John Schanick*

John Schanick