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June 19, 1997

VIA HAND DELIVERY

Tim Vaccaro, Esquire  
Division of Legal Services  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, Florida

Re: Forest Hills Utilities, Inc.; Docket No. ~~961475~~-SU  
Application for Limited Proceeding  
Our File No. 29062.02

Dear Tim:

I am writing to provide you with the additional input and concerns with the Staff recommendation of which I promised to provide you and which should form the basis for our discussion at our meeting on Monday, the 23rd of June. I have organized these by the Staff's issue number. Since rate case expense was not specifically mentioned as an issue, I have treated this matter first and with a totally separate heading:

RATE CASE EXPENSE

ACK \_\_\_\_\_ I provided to you approximately five days ago an outline of  
AFA \_\_\_\_\_ the actual and estimated rate case expense incurred by Forest Hills  
APP \_\_\_\_\_ Utilities in this proceeding. Through an oversight in the  
CAE \_\_\_\_\_ preparation of the original filing, this information was not  
CMI \_\_\_\_\_ included, nor was an estimate of these costs. However, as the  
CTR \_\_\_\_\_ Commission has often found in previous cases, rate case expense is  
EAG \_\_\_\_\_ an appropriate consideration in such a limited proceeding. The  
LED \_\_\_\_\_ information which I provided you last week provides not only actual  
LIP \_\_\_\_\_ costs and invoices but estimates of costs to complete this  
MTH \_\_\_\_\_ proceeding through PAA. In accordance with standard Commission  
SEC \_\_\_\_\_ policy, these costs should be recognized. Failure to do so will  
WAS \_\_\_\_\_ simply result in the requirement that the Utility file for another  
OTH \_\_\_\_\_ limited proceeding for recovery of this one cost which will in and  
\_\_\_\_\_ of itself require substantial additional expenditure of

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professional fees and filing fees. The Commission should recognize the amortization of these costs in rate setting.

RELATED PARTY CAPITAL COSTS - STAFF ISSUE 2

The Staff has proposed to exclude \$13,060 in related party labor and equipment rental for installation of the force main, flow meter and pumping equipment. The Staff recommendation states that the Utility provided only three pages of documentation as justification for these related party expenses. This is not only inaccurate, but is an unfair assessment of the justification provided by the Utility for these costs.

In response to the Staff's January 7, 1997 request for information, the Utility provided two estimates from third parties as noted for the work related to the force main, flow meter, and installation of pump station equipment. These two estimates from outside parties were for \$140,000 and \$159,000. These estimates were for turn key contracts, i.e. where the contractor provides all labor, equipment, engineering, etc. and turns the facilities over to the Utility when complete. As noted in our April 11th response, the Utility chose instead to utilize supervisory services from one of the bidders at substantially reduced costs and to use minor amount of related party equipment and labor (approximately 10% of the total project). Completing the project in this manner saved the Utility and its customers approximately 30% of the total project cost (\$103,000 vs \$140,000 or \$159,000) including related party payments.

The Staff memorandum states that there is closer scrutiny provided by the Commission to related party transactions and that the Utility has the obligation to demonstrate the appropriateness of such transactions. We firmly believe that Forest Hills has done everything within its power to meet this standard. We have provided two estimates from outside contractors as noted above. We instead utilized some in house labor through third party supervision which alternative saved the customer substantial monies. The Utility has demonstrated that use of this related party transaction actually saved the customer substantial money over use of outside contractors.

The Staff recommendation is now requiring that the Utility go a step further and demonstrate the minutia of the related party transaction and the reasonableness of the hours charged or the labor and equipment rates incurred by the Utility. This substantially increases the burden on the Utility far beyond what is envisioned by the Court cases noted in the Staff recommendation

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and far beyond what is reasonable. Under this type of scenario, the Staff could propose to eliminate labor costs because the Utility had failed to prove that the hours billed were reasonable or obtain a bid for this labor alone or for the hourly costs or the hours incurred in this labor. Such a burden is endless and insurmountable. The Utility utilized only minor amounts of labor and, in fact, provided seven pages of time sheets of these employees for each of the weeks in which their labor was utilized. The Utility also provided over two pages of response to question number 8 in our April 11th letter which provided a detailed explanation of the reasons why related party labor was used and the components thereof including the hourly rates for both equipment and labor and the functions performed.

In conclusion, the Utility provided much more than three pages of justification for these costs and, in fact, none of the information concerning invoices from the related party should have been necessary. The Utility showed that the overall contract price when utilizing related party labor (as a small portion of the total project) and in-house coordination rather than a turnkey contract was substantially less than that which a third party contractor would have required. As such, no further inquiry should have been necessary or appropriate. The substantial additional detail provided in response to every question posed by this Staff was submitted to provide additional comfort to the Staff and the Commission even though we believe it should have been unnecessary under the test espoused and the case law referenced in the Staff recommendation. For these reasons, no adjustment whatsoever should be made to these related party costs.

In addition, the Staff is proposing to reduce equipment rental costs by \$1,200 because the Utility was allowed \$1,200 for back hoe rental in its last rate case as part of operating expenses. As the Staff is no doubt aware, any utility has regular need for a back hoe in the maintenance and repair of its water and wastewater lines. As such, it is apparent that that was the reason for inclusion of a regular back hoe rental charge in the Utility's last rate case. The cost being discussed in issue 2 and for which the Staff has now made an adjustment relate to the one time construction of a force main. As such additional back hoe rental, above and beyond that necessary for normal operations, should be recognized, and as such, the Staff's adjustment as inappropriate.

LAND ASSOCIATED WITH THE WASTEWATER TREATMENT PLANT

The Staff has proposed to require the Utility to report any sale or other disposition of the wastewater treatment plant based upon the Staff's conclusion that that land was recognized in rate setting for this Utility in the amount of \$500 in the Utility's previous rate case. We have discussed separately below each of the sub-issues that effect this conclusion by the Staff.

1. The Utility's original filing proposed to retire \$500 for "treatment plant land". We agree that this was included in the Utility's original application, however, as we have stated in our response to Staff's initial inquiries on this issue that was an incorrect characterization of the land rights shown on the books of the Utility. The Utility has never alleged, nor has the Commission found that the Utility had an investment in the wastewater treatment plant site. Neither the final order issued in Docket No. 810176-WS or the audit workpapers in that case make any such statement as the Staff Recommendation suggests. We too have reviewed the Staff workpapers and the Clerk's file from the last two rate cases for this Utility. While there is a line item for \$500 for sewer land, nowhere in those workpapers does it say this is for the wastewater treatment plant site as is suggested by the Staff Recommendation in the last full paragraph of Page 12. The Utility agrees that any land or land rights associated with the wastewater treatment operations should be removed and therefore have agreed to remove this \$500 amount. However, that in and of itself does not in any way suggest that this is the cost for the Utility's original treatment plant site.

2. As noted by the Staff, there was a \$7,200 lease payment recognized in Docket No. 810176-WS specifically for lease of the wastewater treatment plant site. This has been removed by the Staff in Issue No. 7 and the Utility agrees with this adjustment. However, this alone should demonstrate to the Staff that the statements made by the Utility concerning the \$500 land and land rights on the books of the Utility is not cost for the treatment plant land and, as such, the Commission has no authority over that land. That land is not now nor has it ever been owned by the Utility nor has the Utility been treated for rate setting purposes as though they own this property. The lease payment alone demonstrates that the Commission recognized this in the Utility's last rate case. For this reason, it is inappropriate for the Commission to attempt to impose some obligation on the Utility related to the sale of the treatment plant land.

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3. We are ourselves unclear about what the \$500 amount included in land and land rights represents. We have reviewed the Staff audit workpapers and the Utility's records and have been able to find nothing so far on this issue. We believe it either relates to a small lift station site or the costs associated with preparing the lease or other land related issues. However, as noted above, we adamantly disagree with the conclusion reached by the Staff that it is the cost of the treatment plant site. The existence of the lease and the Commission's recognition of the lease costs should clearly demonstrate otherwise. The Commission Staff should not assume such a thing when it is plainly contrary to the evidence available as such action is plainly punitive and not grounded in logic or fact.

#### SALARIES - STAFF ISSUE 7

The Staff first proposes to eliminate 50% of the portion of Mr. Dreher's salary charged to sewer operations to reflect a decrease in responsibilities associated with the wastewater treatment plant retirement. There has been no attempt whatsoever in the Staff Recommendation to relate the administrative duties of the general manager and president or his obligations and responsibilities to the elimination of the wastewater treatment facility. Eliminating one half of the total salary for the Chief Executive Officer and General Manager of the Utility because of the retirement of the treatment facilities is wholly unreasonable. The Utility has in the past hired appropriate operation and maintenance personnel whose salaries were eliminated in the Utility's filing. The President and General Manager's responsibilities will not be substantially reduced and no questions whatsoever were posed to the Utility concerning any such suggestion of reduced duties by the Utility's President resulting from this interconnection. The President will still have to oversee all office personnel who will perform the exact same functions with the addition of billing from the County and relationships with the County and will eliminate a minor amount of field labor on an annual basis due to the elimination of maintenance personnel. The Staff Recommendation is, in effect, suggesting that because approximately \$10,000 in operations labor will be eliminated, the Commission should reduce the President and General Manager's salary by a similar dollar amount and by a substantially higher percentage than the amount of eliminated field personnel. There is absolutely no justification, precedent or logic for such a proposal.

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#### BILLING CLERK AND OFFICE MANAGER'S SALARY ALLOCATION

The Staff is proposing to eliminate one-third of the amount charged to sewer operations by the office manager and billing clerk. These functions have absolutely nothing to do with the change in operations resulting from the interconnect of the Utility's sewer system to Pasco County for bulk treatment and are inappropriate for consideration in this limited proceeding case.

However, more importantly, the Staff is proposing to eliminate one-third of the salaries of these individuals as related to non-utility operations because these individuals work on non-utility operations which produce approximately one-third of the revenue of the Utility operations. As indicated in the response to question No. 6 in my March 10th letter and in response to question No. 2 in my April 11th letter, there is absolutely no relationship whatsoever between the revenues collected from the non-utility services and the amount of time devoted to them. We provided to the Staff a detailed response concerning the reasons why so little time was spent on these non-utility operations which key points are outlined below:

1. Because all non-utility operations are flat rate, no separate determination of bills by customer is necessary and record keeping and billing functions are virtually automatic.
2. All of the actual operations of both non-utility services giving rise to this revenue are subcontracted out to third parties. These billing office manager and billing clerk have extremely minimal responsibilities with regard to accounting for revenue only and since that revenue is a flat amount each month included with the total bill payment, the time associated is virtually insignificant. Allocating a full one-third of their salaries to these functions is not only wholly inappropriate, but is contrary to previous findings of the Commission in prior rate cases as well as being contrary to reason and logic. As noted previously, it is also well outside the scope of this limited proceeding.

I am attaching a copy of my correspondence of March 10th and April 11th for yours and the other Staff members' ready reference, with specific highlighting of those provisions related to these issues.

If you have any questions concerning this material prior to our meeting on Monday, please let me know. We will be happy to

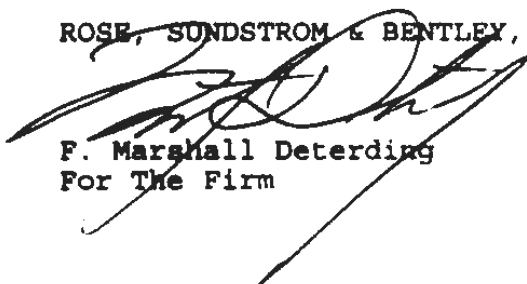
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respond to any additional inquiries from the Staff concerning these issues or provide any additional information that we can.

I trust that you and the members of the Staff will give these items your full consideration in hopes that we can avoid a full rate hearing on these matters which we believe are relatively clear cut.

Sincerely,

ROSE, SUNDSTROM & BENTLEY, LLP



F. Marshall Deterding  
For The Firm

FMD/lts  
Enclosures

cc: Blanca Bayo, Clerk  
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