

**Diamond Williams**

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**From:** DAVIS.PHYLLIS [DAVIS.PHYLLIS@leg.state.fl.us]  
**Sent:** Wednesday, August 03, 2011 1:38 PM  
**To:** Filings@psc.state.fl.us  
**Cc:** 'hh4925@verizon.net'; Andrew Maurey; Paula Mcknight-Robinson; 'ltan@psc.state'; Shannon Hudson; REILLY.STEVE  
**Subject:** Electronic Filing 100472-WS  
**Attachments:** 100472-WS Letter to Shannon Hudson 08-03-11.docx.pdf

On behalf of Stephen C. Reilly, Office of Public Counsel

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1. This filing is to be made in Docket Number: 100472-WS,  
In Re: Application for staff-assisted rate case in Manatee County by Heather Hills Utilities, LLC.
2. Attached for filing on behalf of Office of Public Counsel is OPC's Letter to Shannon Hudson
3. There are a total of three (3) pages for filing

Phyllis W. Philip-Guide  
Assistant to Stephen Reilly

DOCUMENT NUMBER-DATE

05483 AUG-3 =

FPSC-COMMISSION CLERK

8/3/2011

MIKE  
HARIDOPOLOS  
*President of the Senate*



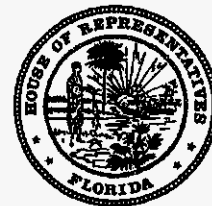
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DEAN CANNON  
*Speaker of the  
House of Representatives*



August 3, 2011

Shannon Hudson  
Regulatory Analyst  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, Florida 32399-0850

RE: Docket No. 100472-WS – Application for staff-assisted rate case in Manatee County by Heather Hills Utilities, LLC

Dear Ms. Hudson:

The Office of Public Counsel requests staff to consider the following important factors before finalizing the recommendation for this docket:

1. Heather Hills Estates is a mobile home community which is comprised of senior citizens that are, for the most part, living on fixed limited incomes. Meeting just the basic necessities of life is a struggle for most of the customers of this utility.
2. The operating expenses need to take into account that this utility has no water or wastewater treatment facilities, but only provides water distribution and wastewater collection. All treatment services are provided by Manatee County.
3. The two owners of the utility work part-time for the utility, while maintaining other full-time employment.
4. Much of the office, furniture, vehicle, equipment, etc, which serves the utility also serves other business enterprises of the utility's owners. This duplication should provide economies that inure to the benefit of the utility's customers, rather than having utility operations subsidize nonutility operations.

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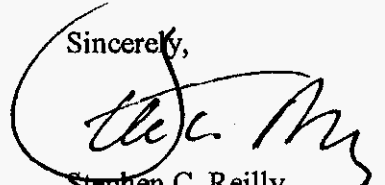
5. Increasing the revenue requirement for the wastewater operation by employing the operating ratio methodology, rather than the normal rate of return on rate base methodology, is not appropriate in this case for the following reasons:

- a. Section 367.0814 (9), F.S., states that the Commission, may **by rule**, establish standards and procedures for utility rates and charges of small utilities using criteria other than those set forth in section 367.081 (1), (2)(a), and (3), F.S. Commission Rule 25-30.456, F.A.C., mentioned in staff's initial report, provides for alternative rate setting. Unfortunately, the subject utility did not request an alternative rate setting proceeding under this rule, as expressly required by the rule. Also, this rule makes no mention of a staff initiated alternative rate setting procedure. Further complicating the matter, is the fact that the criteria relied upon by staff to increase the revenue requirement by employing the operating ratio utilizes criteria that are not provided by rule, as required by Section 367.0814 (9), F.S., but by incipient policy as articulated in a few prior Commission cases. Establishing criteria in this way appears to directly conflict with the requirements of Section 367.0814 (9), F.S.
- b. Even the criteria which have emerged from these prior cases seem to indicate that it is not appropriate to employ an operating ratio methodology in this case. The wastewater operation includes only purchase of wastewater treatment provided by the County, and has only a collection system with no responsibility for any lift stations. The single lift station is owned and maintained by the County. Providing an extra margin of return for this utility to protect it against potential variances in revenues and expenses is not appropriate in this case. The simplicity of the system eliminates most of the potential unforeseen variances. By far the greatest potential wastewater variance is the cost of purchasing the wastewater. The Commission's pass-through procedures protects the utility from any unforeseen increases in the cost of purchasing wastewater treatment from the County. Also, the staff's initial report admits that the Manatee County Health Department's records show no compliance problems and the quality of service appears to be satisfactory. Further, since staff's initial report confirms there is no significant amount of discretionary use, there should not be any significant variance in the utility's revenues. To the extent the utility deems it appropriate, it may also avail itself of the Commission's index procedures. All of these factors undermine the appropriateness of utilizing an alternative rate setting methodology to protect against potential variances for this utility.
- c. Given the limited ability of this customer group to pay rate increases, the staff should not recommend extraordinary increases to the wastewater revenue requirement that were not even requested by the utility, as required by the Commission's rule.

6. In the past, this utility has required its customers to sign a document agreeing to abide by the Heather Hills restrictions, reservations, easements, rules and regulations of the park prior to receiving utility services. The validity of these restrictions, reservations, easements, rules and

regulations are in dispute. Establishing their current validity assures significant nonutility income for the owners of the utility. The Commission's Final Order in this docket should expressly prohibit this utility from imposing any additional conditions to be met by prospective customers before service will be rendered that is not required Commission rule or the utility's tariffs.

Thank you for your consideration of the following concerns prior to finalizing the staff's recommendation for this docket.

Sincerely,  
  
Stephen C. Reilly  
Associate Public Counsel

cc: Pauline Robinson  
Theresa Tan  
Andrew Maurey  
Chris Stevens