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READ AND LANIADO, LLP

ATTORNEYS AT LAW
25 EAGLE STREET
ALBANY, NEW YORK 12207-1901

(518) 465-9313 MAIN
(518) 465-9315 FAX

ORIGINAL

KEVIN R. BROCKS
CRAIG M. INDYKE
DAVID B. JOHNSON
SAM M. LANIADO
HOWARD J. READ

ROBERTO C. BARBOSA
JEFFREY B. DUROCHER
STEVEN D. WILSON

RICHARD C. KING
OF COUNSEL

Via Hand Delivery

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May 28, 2004

Hon. Jaclyn A. Brilling
Secretary
New York State Department of
Public Service
Three Empire State Plaza
Albany, New York 12223-1350

Re: Case No. 03-W-1182 – Proceedings on Motion of the Commission as to the Rates, Charges, Rules and Regulations of Heritage Hills Water Works Corporation for Water Service.

Dear Secretary Brilling:

Enclosed please find an original and twenty-five (25) copies of the Heritage Hills Water Works Corporation's Brief on Exceptions in the above captioned proceeding.

Respectfully submitted,

READ AND LANIADO, LLP
Attorneys for Heritage Hills Water
Works Corporation

By: ______________________
Roberto C. Barbosa

RCB:jas
Enclosure

cc: Hon . William Bouteiller
(via hand delivery)
Active Parties
(via electronic and regular mail)

ORIGINAL

STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

Case No. 03-W-1182 – Proceeding on Motion of the Commission as to the Rates, Charges, Rules and Regulations of Heritage Hills Water Works Corporation for Water Service.

BRIEF ON EXCEPTIONS ON BEHALF OF THE HERITAGE HILLS WATER WORKS CORPORATION

Kevin R. Brocks
Roberto C. Barbosa
READ and LANIADO, LLP
Attorneys for Heritage Hills Water Works Corporation
25 Eagle Street
Albany, NY 12207-1901
(518) 465-9313 Tel.
(518) 465-9315 Fax
krb@readlaniado.com
rcb@readlaniado.com

Dated: May 28, 2004
Albany, New York

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STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

Case No. 03-W-1182 – Proceeding on Motion of the Commission as to the Rates, Charges, Rules and Regulations of Heritage Hills Water Works Corporation for Water Service.

BRIEF ON EXCEPTIONS ON BEHALF OF THE HERITAGE HILLS WATER WORKS CORPORATION

I. STATEMENT OF THE CASE

On August 20, 2003, the Heritage Hills Water Works Corporation ("HHWW" or the "Company") filed revised tariff leaves designed to increase its rates and charges for water service by $463,500, or 40.28%.[1] HHWW serves approximately 2,430 residential customers and 33 commercial customers in a condominium complex known as "Heritage Hills of Westchester," in the Town of Somers in northern Westchester County. By Order dated September 24, 2003, the New York State Public Service Commission (the "Commission") suspended the proposed tariff leaves through January 27, 2004.[2] The Commission later further suspended the filing until July 27, 2004.[3]

[1] The filing was based on a "complete system" analysis. The actual achieved revenue increase in the rate year would be closer to $439,100.

[2] Case No. 03-W-1182, *Proceeding on Motion of the Commission as to the Rates, Charges, Rules and Regulations of Heritage Hills Water Works Corporation for Water Service – Order Suspending Major Rate Filing*, September 24, 2003.

[3] Case No. 03-W-1182, *Proceeding on Motion of the Commission as to the Rates, Charges, Rules and Regulations of Heritage Hills Water Works Corporation for Water Service – Order Regarding Tariff and Further Suspension of Rate Filing*, December 31, 2003.

Public statement and evidentiary hearings were held in Somers, New York on March 2, 2004.[4] At the evidentiary hearing, the direct and rebuttal testimony and exhibits of the three parties to the case, the Company, Staff of the Department of Public Service ("Staff") and the Heritage Hills Society, Ltd. (the "Society") were incorporated into the record. In addition, each party's replies to information requests were introduced into the record. All parties waived cross-examination. Initial briefs were filed on March 12, 2004, and reply briefs were filed on March 22, 2004.

The Recommended Decision of Administrative Law Judge Rafael A. Epstein was issued May 10, 2004.[5] The ALJ recommended that the Company file tariffs designed to increase annual revenues by $216,056 or 18.67% assuming a customer population at full development. In addition, the ALJ directed the Company to collect 5% of the overall revenues through fire protection service charges and to recover the remaining revenue requirement from all other services through increases of 12.84% both in service and volumetric charges. The Notice directs the filing of briefs on exceptions by May 28, 2004 and briefs opposing exceptions no later than June 11, 2004.

II. BACKGROUND

HHWW serves approximately 2,430 residential customers and 33 commercial customers in a condominium complex known as "Heritage Hills of Westchester," in the Town of Somers in northern Westchester County.[6]

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[4] *See, Notice of Public Statement Hearing and Evidentiary Hearing on Heritage Hills Waterworks Corporation's Proposed Rate Increase*, February 13, 2004.

[5] Case No. 03-W-1182 – *Proceeding on Motion of the Commission as to the Rates, Charges, Rules and Regulations of Heritage Hills Water Works Corporation for Water Services - Recommended Decision*, dated May 10, 2004 (the "RD").

[6] Heritage Hills of Westchester (the "Community") is a condominium community. It is located on 1,100 acres of which almost 40% will be forever retained as open space. The Community has two golf courses, an activities center with its own art studios, a private library and a theater. It also includes rooms for billiards, bridge, and woodworking, and features a heated swimming pool, two paddle tennis courts, and

HHWW's initial rates were first set in 1974.[7] Rates were increased for the first time in 1984. The Company's rates were last changed in 1998, when the Company's rates increased by about 12.8%.[8]

In this proceeding, revenues, and the revenue requirement, are projected on a complete system analysis (Tr. 34). The system is projected to be fully developed by the end of 2006. As has been the case since customers began taking service, current customers now pay only their *pro rata* share of the average cost of service that would apply if the system were fully developed. These early customers gain the efficiencies of the larger, fully developed complete system. Despite rates set on this "full development" scheme, and hence realized revenues to the Company well below the cost of supplying service, HHWW has provided excellent service to its customers. Water quality and customer convenience are both excellent. There have been very few customer complaints and no "PSC complaints."

The Heritage Hills complex at full development will have a total of 2,606 residential and 33 commercial units. HHWW also provides public fire protection. The increased revenue requirement is caused by several factors, including increases in property taxes and maintenance expense. A decision by the Town of Somers to limit the number of new units at Heritage Hills has also had an effect on expected revenues. Even given its modest size, the Company's rates

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three tennis courts. An adjacent fitness center includes exercise equipment, whirlpool bath, sauna, and lockers. There are currently three "satellite" recreation areas, each containing a swimming pool, tennis court and cabana. The Community also has its own shuttle service to a nearby commuter train station and shopping areas (*see*, Heritage Development Group webpage at http://www.heritagehills.com/developments/heritage_hills/master.html; *see also*, http://www.heritagehills.com/developments/heritage_hills/lifestyle.html).

[7] Heritage Hills Water Works Corporation 24 NY PSC 4 (1984).

[8] Case No. 97-W-1561, *Proceeding on Motion of the Commission as to the Rates, Charges, Rules and Regulations of Heritage Hills Water-Works Corporation for Water Service - Opinion and Order Determining Revenue Requirement and Rate Design*, August 12, 1998 (the "1998 *Opinion*").

are considerably lower than some of the other water utilities in New York State, including three of the largest.[9]

III. EXCEPTIONS

The RD recommends a level of rates that are not just and reasonable, and are contrary to the public interest. The public interest is not served by starving a water utility system of the funds needed to properly operate and maintain it. HHWW has provided excellent service. No organization can continue to do that if it is squeezed dry. The consequence of shortsighted under funding of the utility will inevitably be to turn HHWW into another problem water company, with inadequate service and without the means to fix it. It is much less expensive to keep a system financially sound, and hence able to provide good service, than it is to try to turn around a company that has gone sour. In exception to the RD, we hope to arrest this slide and keep the Company in a position to provide excellent quality utility service.

A. Well Rehabilitation

Public water supply wells are subject to heavy use under rough conditions and require extensive periodic maintenance called "well rehabilitation." For example, the well screens must be cleansed, repaired or replaced; the fittings must be replaced, electrical connections repaired and replaced, and pumps must be pulled and attended to. Special equipment is required to handle this complex work (*see, e.g.,* Att. I, which are invoices and other material regarding well rehab work). The Company has five operating wells that serve the Heritage Hills development. It expended about $25,000 refurbishing and rehabilitating three wells in 2001 and about $27,000 in 2002 (which is the base year) on the remaining two wells. For the purpose of projecting rate

[9] As the Company's consultant Mr. Guastella noted: "It is significant to note that, although you would generally expect large companies to have lower rates than small companies due to economies of scale, Heritage Hills' rates are considerably lower than three out of four of the large companies, even if adjusted for any differences related to consumption" (Tr. 20).

year (*i.e.*, full system development) expense, the Company removed the $27,000 of base year expense and replaced it with a normalized amount of $10,525.[10] That normalized amount is based on the annual average cost of doing each well on a five-year cycle (Tr. 44). Well rehabilitation is a normal, prudent, and absolutely unavoidable activity in the water business. The five-year cycle has worked well for HHWW's facilities and is within industry norms.

In his Recommended Decision, the Judge credited Staff's argument – raised for the first time in its *Reply Brief* – that the Company had not adequately explained why its well rehabilitation program is on a five-year cycle versus some other time frame. The Judge eliminated the normalized amount. The result is the total, absolute disallowance of any well rehabilitation expense. The RD is flatly wrong and must be reversed.

HHWW was never asked to explain the five-year well rehabilitation cycle. Staff's testimony (as opposed to its *Reply Brief*) proposed an adjustment disallowing "well rehab" expense on the grounds that the Company had not sought deferral of past well rehab expenditures (Tr. 92). In rebuttal, HHWW explained that it is not seeking to amortize a past deferred expense, but rather is seeking in rates a reasonable average allowance for the rehabilitation of one well per year (*i.e.*, five wells on a five-year cycle). The customary rate-setting treatment for this type of expense is to normalize it. Indeed the Commission included well rehabilitation expenses in the last case. By their nature, well rehabilitation expenses are not costs that recur annually. For each well, they occur, on average, once every five years. Some years, depending on contractor availability and well performance, more than one well will be rehabilitated while in other years none will be rehabilitated. But the five-year average cycle is still needed. No one has suggested that well refurbishing and rehabilitation is not necessary, or that the cost is not computed properly.

[10] The Company, of course, could have simply projected forward the base year expense of $27,000. By using the average cycle approach it reduced projected expenses by $17,000.

Following the testimony, Staff ignored the matter completely in its *Initial Brief.* The idea that the five-year cycle is not adequately supported arose, for the first time, in its *Reply Brief.*[11] It is therefore uncharitable at best for the ALJ to label HHWW's presentation as "anemic" (RD 12). Staff sprang its new justification in a reply brief. It was a tactic clearly born of desperation because its adjustment as proposed in testimony was unsupportable. Now Staff takes a whole new tack. HHWW was not afforded the opportunity to discuss the five-year cycle because it was first raised in a reply brief. Now that we have had an opportunity to address the matter, we believe that Mr. White's testimony (Tr. 44) and the further explanation provided here, provide ample assurance that the five year cycle is reasonable. Clearly, failing entirely to recognize well rehabilitation expenditures is unreasonable.

B. GRT Amortization

In the year 2000, New York State commenced a transition in its taxation policy from a gross receipts tax ("GRT") method of taxation upon utilities to a state income tax scheme. The tax changes are phased-in, in both directions. Since then HHWW's state tax expense has been less than the pure GRT would have been. Staff proposed that tax "over collections" of $160,895[12] since the year 2000 be returned to customers over five years, at the rate of $32,179 per year.

The ALJ, although questioning Staff's proposed amortization period, adopts the Staff explanation that the Commission's 2001 Order[13] "contemplates" flow-through to customers (RD 14). The RD cites nothing in support of that supposed contemplation.

[11] Staff in its *Reply Brief* cited IR SXT-12. That is attached as Att. II. That IR certainly did not ask HHWW to explain the five-year well rehab cycle.

[12] That amount consists of $149,383 in principal and $11,512 in carrying charges.

[13] Case No. 00-M-1556 - *In the Matter of the Proposed Accounting and Ratemaking for the Tax Law Changes Included in the 2000-2001 New York State Budget - Order Implementing Tax Law Changes in a Permanent Basis*, issued June 28, 2001.

In testimony, Staff proposed that the full amount of the tax difference be amortized as a credit in rates to customers over five years. Staff provided no rationale whatsoever for the recommendation that the tax amount be credited to customers (Tr. 77). When asked how the Commission has treated this matter for other companies, Staff's response was unresponsive (*see,* Exh. 34).

Regardless of a policy, or the absence thereof, the circumstances here are unique. It would clearly be unreasonable to make an adjustment for this one item without recognizing all those incidents where expenses were greater than anticipated.

Even excluding the shortfall in revenue related to the complete system analysis, the Company did not achieve the return projected by the Commission in the last case from existing customers from the year 2000 through July 2004. For example, in calendar year 2003, the Company's earnings fell short by $21,762, even excluding the effect of the complete system analysis. In other words, the Company fell short of the already reduced expectation (*see,* Att. III). Requiring the Company to return credits to ratepayers – when the Company did not achieve the expected results, and when in addition it is in the shadow of the full development scheme – is a particularly unbalanced exercise in retroactive ratemaking.

Staff's proposed "GRT amortization" simply reduces the Company's earnings further. Staff's adjustment would simply set the net expenses lower than will be in effect in the rate year. There is no "cost offset" to the adjustment – it is a straight hit to the bottom line. And a very significant hit at that – under Staff's proposed earnings it is a 17% reduction to return on equity ("ROE")[14].

Nonetheless, despite the reasons against flowing these funds through to customers, if indeed the Commission's "contemplation" is a rigid policy, then the flow of benefits to

[14] A concern not reflected in Staff's cost of equity analysis.

ratepayers should not be a five year amortization. A five year pass-through is too damaging to the Company. It is especially so now when the Company is not yet at full development.

We propose the Commission authorize in this case that the Company commence a ten year amortization of $16,000 per year through a credit mechanism. It is especially important to cushion the impact on the Company now when it is not yet at full development. We further propose that the Commission specifically note that it preserves the right to address the treatment of this item again in the next Company rate case. The Company proposes to credit customer bills until the total $160,895 has been credited to customers. A flat credit per customer would come out to $6.53 annually. In the alternative, the Company could provide a volumetric based credit on quarterly bills.

The Company's next rate case should be based upon "full development" in practice, not supposition, so HHWW's financial position will be much clearer. In the meantime, the Commission would preserve its flexibility to alter the treatment in the future, in light of the circumstances then obtaining.

C. <u>Rate Case Expense</u>

The ALJ adopted a Staff (alternative) adjustment reducing rate case expense to $72,000, and a Society adjustment amortizing that amount over four years, or $18,000 per year.

HHWW sought $125,000 in rate case expense, amortized over three years, or $41,666 per year. Through February, HHWW had already spent $153,000 on this proceeding. It is likely that total expenses will approach $200,000. In its last case the Company expended $230,000 in rate case expense, and was "allowed" $66,000, amortized over three years, or $22,000 per year. The Judge's recommendation actually reduces the annual allowance for rate case expense below the level in the last case.

The Judge analyzed and rejected various proposals to reduce rate case expense even more. In the end, however, no doubt discouraged by the wrangling over rate case expense which seems to characterize HHWW rate cases, the Judge simply used the total figure from the last case (escalated by inflation) – although he extended the amortization from three to four years.

The well written analysis in the RD does not support the Judge's conclusion.

The Judge stated that in order to justify a bigger allowance than in the last case HHWW should have shown why this case required more work than the last two. That remark is misplaced for two reasons. First, it didn't. This case required about as much work as the last two cases, although the Company did not seek full recovery. In the last case, the Company spent even more than it will in this case but the Commission simply set an artificially low allowance. Second, the Company did testify extensively to its rate case effort (Tr. 27). Then, in brief, we further explained that:

> [p]reparation of the rate filing was no simple matter. All the financials had to be compiled and put into a rate case format. The forecasts were prepared on a complete system basis. Direct and Rebuttal Testimony was required. Responsive Testimony was provided by Staff and the intervenor Society. There was an extraordinary amount of discovery. There were efforts to narrow the issues, including at least two meetings, and other procedural adventures. This proceeding also included a great deal of work developing public fire service rates. That work arose directly from a Commission directive in the last case (Tr. at 26).[15]
>
> The rate case expense of HHWW is almost entirely for outside service. As Mr. Guastella aptly summarized it: "[a]ll the work involved in the preparation and adjudication of this rate case has been necessary and unavoidable, and the actual cost should be allowed" (Tr. at 27).[16]

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[15] That project was successfully completed, and the rate design now includes a separately stated public fire protection component.

[16] Case No. 03-W-1182 – *Proceeding on Motion of the Commission as to the Rates, Charges, Rules and Regulations of Heritage Hills Water Works Corporation for Water Service - Initial Brief on Behalf of the Heritage Hills Water Works Corporation,* March 12, 2004, pp. 17-18.

The Judge correctly observed that there is no "scientific" way to assess a proper rate case expense. But that does not imply that the proper course is to repeatedly provide a laughably inadequate allowance. HHWW does not have an in-house staff to do rate work. Compiling a rate case on the full development approach, involving scaled projections, is a labor intensive process. All the work that was done was performed by outside contractors and was absolutely necessary.

Painfully, the Company spent $232,073 and $144,548, respectively, on the last two cases. In seeking an expense of only $125,000 in this proceeding, the Company was consciously under-stating rate case expense, and absorbing a portion of the cost (about one third of it). That voluntary under-recovery establishes a more than reasonable balance between Company and customer interests. That is especially so when judged in light of the profound imbalance struck in the last few HHWW rate cases. It is more than time to put these unproductive rate case expense quarrels in the past and allow HHWW some modicum of fairness. The ALJ's approach is simply punitive. Therefore, the proper annual expense should be $41,666, and not the $18,000 proposed by the Judge.

D. Sales Tax

In the course of its audit, Staff discovered that HHWW was charged sales tax by New York State Electric and Gas Corporation ("NYSEG") on its electric bills attributable to power used for water production. That is improper invoicing by NYSEG. That observation is now reflected in forecasted purchased power expense. There is no dispute on the question of forecasted power expense.

Staff suggested that the Company may be able to obtain a refund of sales tax already paid. Staff opined that the potential refund for past sales taxes should be used as some sort of "offset" or credit against future expenses, in particular future tank painting expenses (Tr. 45). No reason was given.

The ALJ adopted the adjustment. In so doing, he cited a property tax refund case,[17] involving a significant amount of money (RD 10). In the New York Water Service case he cited, the refund, net of interest, was shared 85:15. The property tax refund allocation was (1) the subject of a Staff/Company joint proposal, and (2) pursuant to the most recent NYWS rate case that authorized "85:15 sharing of this type of refund" (*see, id.* at 3).

The circumstances here are completely different. The policy the ALJ cites is the Commission policy for property tax refunds. Those involve substantial sums, significant litigation and a concern over incentives and equities (*see, e.g., id.* at 2). None of those factors are applicable here. Payment of these sales taxes on electric bills was just a mistake. It is more akin to the everyday run of the mill invoice correction than it is to a challenge to unreasonable property taxes. It is simply a mundane correction. None of the complex and well known incentives and balances that characterize the Commission's property tax litigation policy are in play here, and to invoke that policy is misleading. The public interest is better served to allow a Company to retain corrections to power bills that reduce the amount due, just as the Company would be obligated to cover corrections to power bills that increase the amount due. In this context, grabbing a sales tax refund is simply raw retroactive ratemaking.

E. O&M Adjustments

The Society sponsored a series of adjustments to various operation and maintenance ("O&M") expenses. The Company had forecast this basket of expenses by normalizing (where appropriate) the base year, and escalating that amount by the percentage of customer growth to arrive at the rate year. Under the complete system analysis, every hypothetical dollar of revenue from the total number of customers at full development has been included. Projections of expense growth must also be included to reasonably match projected revenues and expenses.

[17] Case No. 01-W-0817 – *New York Water Service Corp. – Property Tax Refund, Order Adopting Terms of Joint Proposal* (issued April 19, 2002).

The basis of the adjustment by the Society was that no cost escalation should be projected. The Judge accepted two of the Society's adjustments and rejected the others (RD 22) on the basis that some expenses would not be affected by customer growth. He should have rejected them all.

(i) Materials & Supplies ("M&S"). The ALJ rejected the Company's projection that M&S expenses would increase in step with customer growth. There are flaws in the Judge's approach.

First, the basis for his decision is that he assumed that "well rehabilitation expenses" are in M&S, and given that well rehabilitation expenses shouldn't vary with customer growth, no cost escalation is proper (RD 23). The reasoning may be neat but the assumption is wrong. As we explained elsewhere, well rehabilitation expenses were taken out of base year M&S and the average annual cost of the five year well rehabilitation program cycle was put in the extraordinary maintenance category. Since the ALJ's assumption is wrong, and well rehabilitation expenses are not in M&S, the rationale falls.

Second, the precise calculations done in the RD applied the Society's adjustment to Staff's base, and so ended up taking out more escalation dollars than were in. It is an apples and oranges problem. The adjustment understates the Judge's intended M&S allowance by $2,850. The Attachment (Att. IV) to this brief lays out the corrected calculation.

Finally, if the Commission still were to reject customer growth as the escalator, then the account should at least be escalated by inflation.

(ii) Office Expense. The Judge "expect[ed] that office expense will remain constant rather than vary with growth. . ." (RD 24), and so, on that basis, adjusted out any escalation on office expense. The adjustment is improper. Office expense consists of four categories: labor, supplies, postage and bank charges. All of these categories are subject to increased costs due to inflation and customer growth. Labor (time), supplies, postage and bank charges will all go up with more activity. There is no reason to exclude these items from the set of expenses subject to upward pressure. The office space adjustment also suffers the same mechanical flaw as the M&S adjustment. By subtracting the Society's number from Staff's base it understates the Judge's intended allowance by $722.

Neither of these adjustments are correct, nor are they terribly significant financially. But they should be rejected not just because they are technically wrong, but also because the policy implied in making them at all is ill-advised. As we stated above, the Company escalated a basket of small expense items by the percentage growth in the number of customers. The Company did so because it made sense. Staff did not object. The logical alternative would have been to use inflation as an escalator. That is also customary. It is not logical or defensible to use neither inflation nor customer growth, and simply assume no cost escalation. But the significant policy flaw is that such very small tenuous adjustments to very small expense accounts will propagate litigation like dandelions. For decades the Commission has adopted escalation factors for baskets of expenses and encouraged parties in rate cases to not devote resources litigating various techniques for projecting relatively minor costs. Parties should not litigate immaterial items. The O&M adjustments adopted in the RD charge down the path of litigation on very small matters. One can just imagine what rate case costs in future HHWW cases will be like if this policy is pursued.

F. Capital Structure

When HHWW filed its initial case, it projected a borrowing of $2.1 million. Subsequently, after conversations with Staff, the Company went back to the bank and negotiated an increase in the borrowing to $2.5 million.

In its pre-filed case, Staff accepted the $2.5 million debt figure, and applied it to the rate base it had calculated as of that time, and arrived at a 55.2% debt ratio. Since then, over the course of the case, Staff's projection of rate base has increased. Nonetheless, Staff would keep the debt ratio the same. The effect is to impute additional debt above the $2.5 million that HHWW is borrowing.

The ALJ adopts Staff's approach (RD 35). The ALJ cites the "EB Cap Adjustment" as support for the approach. That reliance is misplaced.

The Company will borrow $2.5 million. Staff's debt ratio is simply the product of the $2.5 million debt figure applied to the $4.5 million rate base Staff was projecting at the time of its testimony. The important point is that Staff started with the $2.5 million to arrive at its ratio – not the other way around. In short, Staff backed into the ratio. If Staff had done its calculation at a different time, when the forecast of rate base was higher, say, when it submitted its brief, the debt ratio would have been lower. For example, if Staff computed its ratio at the time of its brief, the ratio would have been 53%. Now it seems that the initial ratio of 55.2% – which is no more than an accidental artifact of a rate base number that has since changed – has been cast in stone.

The effect of the Staff (and ALJ) approach is to impute an additional $552 in debt for every $1,000 in rate base (over the original, now anachronistic $4.5 million). The effect to the Company is the difference between the after tax cost of equity versus the cost of debt. The financial impact is shown on Attachment V.

Staff has not taken the position that \$2.5 million is not a reasonable debt amount. Indeed Staff believes it is the right amount (Tr. 99). But then Staff went on:

> Q. If the Commission establishes Heritage Hills' rate base above the level proposed by Staff how should the increase be financed?
>
> A. I am recommending that any increase in the Company's rate base above the level currently proposed be financed by using the 55.2%/44.8% debt to equity ratio currently being projected by Staff. I am making this recommendation since it is reasonable to assume that the Company will finance future growth consistent with how the overall Company is being financed. As a result, there will be no impact upon the projected capital structure ratios.

Staff's "reasonable assumption" is patently unreasonable. We are here not talking about "future growth" but rather rate making adjustments. The water company is not a vast financial enterprise, with capital of all descriptions flowing in and out. It was able to get a \$2.5 million loan both to refinance its existing (and expiring) debt, and to finance other projects. That debt financing is all there is – the rest is equity. Staff has not claimed that a debt ratio of 47%, which is the result using the Company's projected rate base, is in any way unreasonable. Con Edison, in its recent electric rate case filing, cites a proxy group debt ratio of 45% in the year 2007.[18] Given what is happening in the markets, and given HHWW's small size, HHWW is probably as leveraged at 47% debt as it can be and prudently ought to be.

This adjustment has nothing to do with the "EB Cap Adjustment" (*contra,* RD 33). It is simply an imputation contrary to fact, and based on nothing more than what the ratio happened to be when Staff used preliminary rate case numbers.[19] In the words cited by the Court of Appeals, the "elaborate calculation is at war with the facts" (*New York Telephone Co. v. Public Service Commission,* 29 NY 2d 164 (1971)). In that case, the Court of Appeals held "[t]he law is

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[18] Case No. 04-E-0572 – *Proceeding on Motion of the Commission as to the Rates, Charges, Rules and Regulations of Consolidated Edison Company of New York, Inc. for Electric Service – Direct Testimony of Robert G. Rosenberg,* April 1, 2004 (the "Rosenberg Testimony") at p. 51.

[19] Contrary to the Judge supposition, no debt is being "disallowed." Instead, fictitious debt is being substituted for real equity.

well-settled that the Commission may not rely on a reckoning when actual experience is available. . ." (29 NY 2d at 169). Yet that is precisely what the RD does. The amount of debt is known, and it results in a reasonable capital structure under the circumstances of this Company. There is no reason to rely on reckoning here, when facts are available.

G. Cost of Equity

HHWW requested a return on equity of 12%. The ALJ adopted Staff's proposed return of 9.4%.

Small water companies are not in a position to retain a "rate of return expert" to testify on cost of equity, or to offer a critique of Staff's approach. We believe that such an expense is unjustified and we believe strongly that the Commission agrees with that view. For the small company, and its customers, the return expert is a too costly luxury. Unfortunately, that does raise the concern that Staff's adversarial litigation posture is not rigorously contested or sufficiently "vetted" in a battle of the experts. Therefore, the Commission must take care that small water companies are not punished for doing without so-called rate of return experts. The public interest comes down against incurring the cost of a countervailing expert. The public interest also then mandates that the Commission itself take a "hard look" at Staff's litigation position.

Staff's litigation position certainly bears examination. Its proposed rate of return is based on a Discounted Cash Flow ("DCF") analysis of a proxy group of seven publicly traded electric utilities. Yet HHWW is a small company, its stock untraded. It is the poster child of illiquidity.

Staff's cost of equity presentation thoroughly and conscientiously avoids that reality. Staff used a proxy group of publicly traded electric utilities (Tr. 102). The proxy companies are rated BBB. They all pay dividends (Exh. 24). Staff calculated a return for each of the seven companies in the proxy group. The DCF formula of course requires judgment on a variety of inputs. It requires, for example, for each company, assumptions of future dividends and future

ROE. Staff computed a cost of equity, for the seven proxy companies, ranging from 6.7% to 12.7%. The average is 9.4%.

Implicit in Staff's analysis is the assertion that the average of those large publicly traded electric utilities, with a history of dividends and rosy prospects of a steady stream of dividends to the horizon and beyond, in the eyes of a rational investor poses the identical risk as does investment in HHWW. Yet choosing a group of BBB rated companies does not make them appropriate, without adjustment, as a proxy for the Company. HHWW could never be rated. Investment in HHWW is illiquid. Its revenues are set under the full development fiction. Its earnings are subject to vastly greater sensitivity to erosion. Even if all goes smoothly, its equity return would be $163,000 in total in the rate year. Its rates since its inception have been set on unrealistic cost and sales expectations. Just over the last two cases its rate case expense allowance in rates has been understated by $330,000 (Tr. 27). In light of these factors, to assume that the risk of investment in HHWW is identical to that in a bundle of seven publicly traded utilities is unrealistic. Its cost and terms of debt bears that out. HHWW has obtained a preliminary commitment from a bank for $2.5 million in financing, backed by a mortgage and first lien on all assets – including all accounts receivable – and the owner's pledge of all capital stock. The payments are principal and interest monthly, based on a 15-year amortization. The term is 10 years. The rate is cost of funds plus 2.25%. (This at a time when home equity loans can be had for prime minus a quarter.) The Company's financing is perfectly reasonable for its circumstances but its circumstances are simply not those of the companies in the proxy group. On average that group could raise debt funds at a better rate and on much better terms. To apply to HHWW the proxy DCF outcome without adjustment is unreasonable.

In its recent filing, the Consolidated Edison Company testified that its cost of equity is not less than 12%.[20] That view has yet to be tested. What the Commission does in this

[20] Rosenberg Testimony at 48.

proceeding regarding HHWW certainly is not precedent for the upcoming Con Edison decision. Yet, at the very least, a 12% ROE certainly cannot be dismissed as outlandish. Evidence that the cost of equity for Con Edison approaches (or even exceeds) 12% tends to cast doubt on the view that a fair return on equity for HHWW is 9.4%. It clearly is not. No rational investor would invest in HHWW for the hope of 9.4% when it can invest in the proxy group for the same return. At the very least, the Commission must allow HHWW to earn the upper end of the proxy group range.

H. Computational Corrections

In his RD, the ALJ based consumption on average commercial consumption of 6,691,000 gallons (RD, Appendix; Schedule 1). This is a transcription error from the correct number of 6,961,000 (*see, e.g.,* Tr. 26). When compiling the final schedules, the total Company production computation should be corrected to 6,961,000 gallons of commercial consumption. With respect to residential consumption, the schedule should also be updated to reflect 93,722 thousand gallons, which is the three year average of 2001-2003, as endorsed by the ALJ. The combined total for residential and commercial consumption should be 100,683 thousand gallons (*see,* Att. VI).

With respect to the arithmetic errors related to expenses, previously discussed, the RD revenue requirement of $1,366,865 (RD Appendix, Schedule 2, page 1 of 6) should be $1,370,446. Also on that schedule, the revenues under existing rates should be $1,146,845, not $1,150,809, in order to reflect the latest three-year average consumption accepted by the ALJ. Thus, correcting for arithmetic errors alone, the RD should reflect a required revenue increase of $223,601 or a 19.5% increase over existing revenues for a complete system.

CONCLUSION

For the reasons stated herein, the Heritage Hills Water Works Corporation respectfully requests that the Commission modify the RD as suggested herein.

Respectfully submitted,

READ AND LANIADO, LLP
Attorneys for the Heritage Hills Water
Works Corporation

By: ________________________

Kevin R. Brocks
Roberto C. Barbosa
READ and LANIADO, LLP
Attorneys for Heritage Hills Water
Works Corporation
25 Eagle Street
Albany, NY 12207-1901
(518) 465-9313 Tel.
(518) 465-9315 Fax
krb@readlaniado.com
rcb@readlaniado.com

Dated: May 28, 2004
Albany, New York

ATTACHMENT I

THE STEPHEN B. CHURCH COMPANY FOUNDED 1886

WILLIAM S. DUNCAN, III
JAMES B. DUNCAN, P.E.

49 GREAT HILL ROAD • OXFORD, CT 06478 • PHONE (203) 888-2132 • FAX (203) 888-1863

February 14, 2001

Heritage Hills of Westchester
Heritage Hills Drive
PO Box 304
Somers, NY 10589

Attention: Robert Callahan

Ref: Water Well Maintenance
Well No.1

Dear Mr. Callahan,

We recently redeveloped well No.1 per our original letter to Bob Cox dated September 18, 2001 for wells 4 and 5. In our letter dated February 5, 2001 to you, we stated that we would work a total of 5 days on well No. 1.

The specific capacity of the well was increased 54 percent to a final yield of 230 gpm at 50 psi at a pumping level of 25.15 feet and a drawdown of 20.9 feet. Enclosed is a diary of the work and the dairy tests on the well.

The performance of the pump was plotted with the original curve and the pump performance was excellent. The pump curve was a little better than the daign curve for this Goulds 225H10 pump. See the attached original and final pump curves.

The 225-gpm 15 Hp submersible was set at 51 feet 9 inches below the top of the well casing. The depth gauge line was set at 48 feet10 inches below the top of the well casing.

The well and pump are now in very good condition in the Heritage Hills well No.1.

Very truly,

Pete Duncan

Pete Duncan

cc: Bob Cox

Diary of Work Done
Heritage Hills of Westchester
Redevelopment of Well No. 1
February 14, 2001

			Time
February 6	Tuesday	Mobilize rig and set up	½ day
February 8	Thursday	Pull pump, install surge surge equipment, redevelop well	1 day
February 9	Friday	Redevelop well	1 day
February 10	Saturday	Redevelop well	1 day
February 12	Monday	Redevelop well	1 day
February 13	Tuesday	Pull surge, install pump, test performance of pump and well, move rig (third man on job)	1 day
		Total	5 ½ days

Heritage Hills Well No. 1
February 2001

Date	Static Feet	Pumping Level Feet	Drawdown Feet	Yield GPM	Specific Capacity GPM/FT	Chemicals Used - Comments
2-8-01	6.0	23.60	17.60	110	6.25	25 lbs. Nu-Weltone, 1 lb. chlorine
2-9-01	5.95	21.90	15.95	125	7.83	25 lbs. Nu-Weltone, 1 lb. chlorine
2-10-01	5.10	20.40	15.30	136	8.88	25 lbs. Nu-Weltone, 1 lb. chlorine
2-12-01	5.20	19.90	14.7	142	9.65	
Note: There was a 54 percent increase in the specific capacity of the well from 6.25 gpm/ft to 9.65 gpm/ft						

Pumping System And Well System Performance

Owner: Heritage Hills

Address: Somers, NY

Contact:

Tele #:

Well No.: 1

Location:

Date Tested: 2-13-01

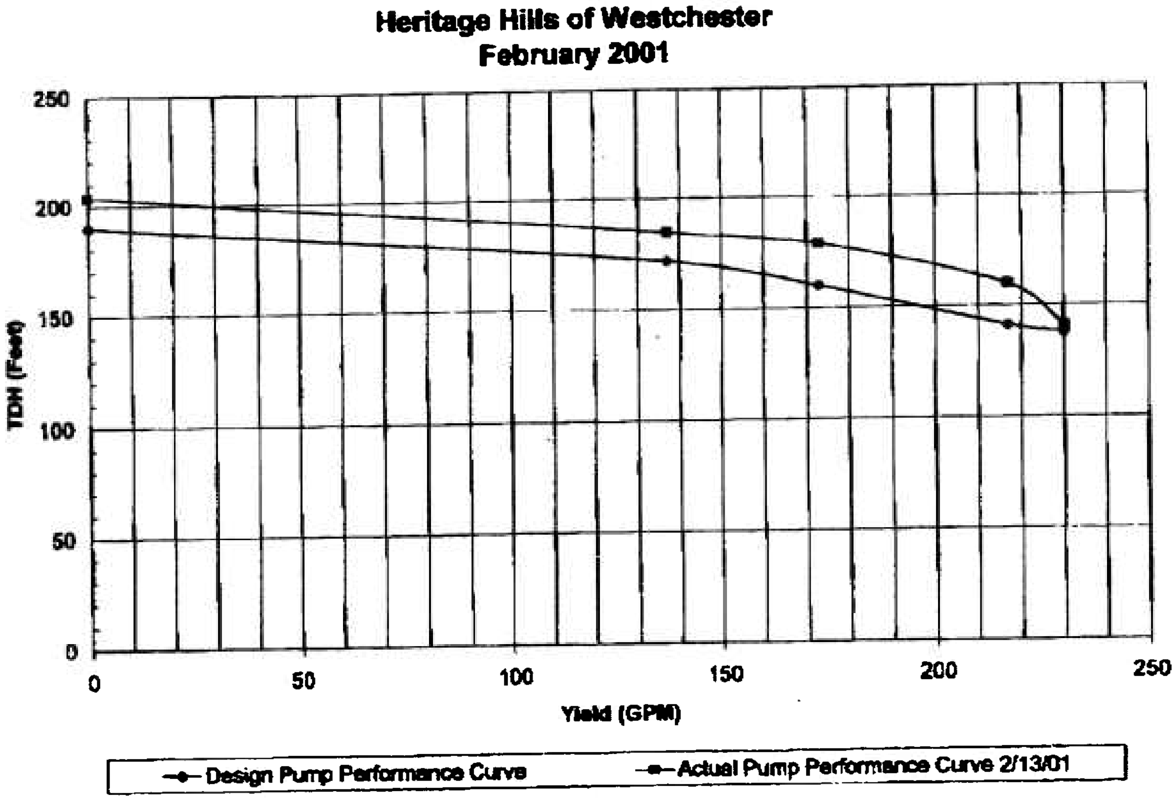
Length of AirLine:

Static from M-scope: 4.25'

Final Performance Test

Amps 3 Readings			Yield GPM	Pressure PSI	Pumping Level Feet	Drawdown Feet	Specific Capacity GPM/FT	TDH Feet
			0	88		Shut Off		204
15	15	15	137	74	13.75	9.50	14.42	185
16	15	15	173	70	16.75	12.50	13.84	179
16	16	16	217	60	21.60	17.35	12.50	160
17	17	17	230	50	25.15	20.9	11.00	141

Remarks: The motor top thrust bearing vibrates


Heritage Hills of Westchester
February 2001
TDH (Feet)
250
200
150
100
50
0
0
50
100
150
200
250
Yield (GPM)
Design Pump Performance Curve
Actual Pump Performance Curve 2/13/01

The Stephen B. Church Company

P O Box 67
Seymour, CT 06483

INVOICE

DATE	INVOICE #
02/28/2001	33

BILL TO
Heritage Water Works Corporation Attention: Robert Callahan P.O. Box 304 Somers, New York 10589

OK
3/7/01

RECEIVED
MAR 7 2001
127 .624. 74280

PO NUMBER	TERMS	PROJECT
	Net 25	01-22

DESCRIPTION	QTY	UNITS	RATE	AMOUNT
Maintenance of well No. 3 Labor, transportation, and use of well machine, compressor, service truck, and redevelopment equipment to pull pump, redevelop well, reinstall and test pump	6	days	1,190.00	7,140.00T
Additional pump work authorized by Bob Cox per letter 2/21/01 service hollowshaft motor and install bronze bushing in stuffing box assembly	1	lump sum	600.00	600.00T
Maintenance of well No. 4 Labor, transportation, and use of well machine, compressor, service truck, and redevelopment equipment to pull pump, redevelop well	2	days	1,190.00	2,380.00T
Additional pump materials authorized by Bob Cox for all new pump materials in the well per letter 2/27/01	1	lump sum	3,100.00	3,100.00T
Sales Tax			6.75%	892.35

RECEIVED MAR 0 9 2001

Total	$14,112.35

Accounts remaining unpaid after 30 days will bear a finance charge of 1.5% per month. Purchaser agrees to pay all costs and expenses of collection.

T'.s Stephen B. Church Company

P O Box 67
Seymour, CT 06483

INVOICE

DATE	INVOICE #
03/09/2001	38

BILL TO
Heritage Water Works Corporation Attention: Robert Callahan P.O. Box 304 Somers, New York 10589

PO NUMBER	TERMS	PROJECT
	Net 25	01-22

DESCRIPTION	QTY	UNITS	RATE	AMOUNT
Final billing Maintenance of well No. 4 Labor, transportation, and use of well machine, compressor, service truck, and redevelopment equipment to pull pump, redevelop well	3.8865	days	1,190.00	4,624.94T
Credit - partial labor, neutralization chemicals, and freight				
Sales Tax			6.75%	312.18
			Total	$4,937.12

RECEIVED MAR 12 2001

RECEIVED

MAR 15 2001

027-624-74280

OK Da. 3/14/01

Cleaning Wells Chem-
Neu-Tralizer !

Accounts remaining unpaid after 30 days will bear a finance charge of 1.5% per month. Purchaser agrees to pay all costs and expenses of collection.

The Stephen B. Church Company

P O Box 67
Seymour, CT 06483

Invoice

DATE	INVOICE #
02/12/2002	18

BILL TO

Heritage Hills Water Works
Heritage Hills Drive
Attention: Bob Cox
P.O. Box 304
Somers, New York 10589

P.O. NO.	TERMS	PROJECT
	Net 25	02-11

DESCRIPTION	QTY	UNITS	RATE	AMOUNT
Maintenance of well No. 2 per letter July 10, 2001				
Labor	6	Days	1,320.00	7,920.00T
Materials				
Unicid granular	200	Pounds	7.56	1,512.00T
Unicid catalyst	15	Gallons	62.80	942.00T
Chlorine	1	Pounds	2.00	2.00T
Lime	1	Bag	5.00	5.00T
Freight on Unicid	1	Lump Sum	175.00	175.00T
Additional materials authorized by Bob Cox				
Pump end Goulds 70L03	1	Lump Sum	924.00	924.00T
New 2 1/2" galvanized pipe cut and threaded	1	Lump Sum	158.00	158.00T
Chemicals to treat well No. 5				
Unicid granular	200	Pounds	7.56	1,512.00T
Unicid catalyst	15	Gallons	62.80	942.00T
Sales Tax			6.75%	951.21
			Total	$15,043.21

OK to PAY
R.E. Cox
Camo

RECEIVED
FEB 20 2002

~~RECEIVED FEB 22 2002~~

The Stephen B. Church Company

P O Box 67
Seymour, CT 06483

Invoice

DATE	INVOICE #
02/22/2002	22

BILL TO

Heritage Hills Water Works
Heritage Hills Drive
Attention: Bob Cox
P.O. Box 304
Somers, New York 10589

RECEIVED
FEB 25 2002
127-614-74110
JWB

P.O. NO.	TERMS	PROJECT
	Net 25	02-11

DESCRIPTION	QTY	UNITS	RATE	AMOUNT
maintenance of well No. 5 per letter July 10, 2001				
Labor	6	Days	1,320.00	7,920.00T
Materials				
Chlorine	1	Pound	2.00	2.00T
Lime	2	bags	5.00	10.00T
Additional materials authorized by Bob Cox per letter of February 15, 2002				
Pump and Goulds 275H, new 3-inch galvanized pipe cut and threaded, new 3-inch check valve, new #8 cable	1	Lump Sum	3,200.00	3,200.00T
Sales Tax			6.75%	751.41

OK to pay
R. E. Cox
Camo

RECEIVED MAR 11 2002

Total	$11,883.41

The Stephen B. Church Company

P O Box 67
Seymour, CT 06483

INVOICE

DATE	INVOICE #
02/14/2001	24

BILL TO
Heritage Water Works Corporation Attention: Robert Callahan P.O. Box 304 Somers, New York 10589

PO NUMBER	TERMS	PROJECT
	Net 25	01-22

DESCRIPTION	QTY	UNITS	RATE	AMOUNT
Maintenance of Well No. 1				
Labor, transportation, use of well machine, compressor, service truck, and redevelopment equipment to pull pump, redevelop well, reinstall and test pump	5	days	1,190.00	5,950.00T
Materials - Chlorine and Nu Weltone	75	pounds	3.00	225.00T
Materials for wells 3 and 4 per letter October 20, 2000 and February 5, 2001 400 lbs. Unicid granular	8	50 pounds	360.00	2,880.00T
30 gallons Unicid catalyst	6	5 gallons	300.00	1,800.00T
Sales Tax			6.75%	732.71
			Total	$11,587.71

RECEIVED FEB 22 2001

RECEIVED FEB 20 2001

RECEIVED

OcDe
2/21/01

127-624-74280

Accounts remaining unpaid after 30 days will bear a finance charge of 1.5% per month. Purchaser agrees to pay all costs and expenses of collection.

THE
STEPHEN B. CHURCH
COMPANY FOUNDED 1886

WILLIAM S. DUNCAN, III
JAMES B. DUNCAN, P.E.

49 GREAT HILL ROAD • OXFORD, CT 06478 • PHONE (203) 888-2132 • FAX (203) 888-1863

February 14, 2001

Heritage Hills of Westchester
Heritage Hills Drive
PO Box 304
Somers, NY 10589

Attention: Robert Callahan

Ref: Water Well Maintenance
Well No.1

Dear Mr. Callahan,

We recently redeveloped well No.1 per our original letter to Bob Cox dated September 18, 2001 for wells 4 and 5. In our letter dated February 5, 2001 to you, we stated that we would work a total of 5 days on well No. 1.

The specific capacity of the well was increased 54 percent to a final yield of 230 gpm at 50 psi at a pumping level of 25.15 feet and a drawdown of 20.9 feet. Enclosed is a diary of the work and the dairy tests on the well.

The performance of the pump was plotted with the original curve and the pump performance was excellent. The pump curve was a little better than the deign curve for this Goulds 225H10 pump. See the attached original and final pump curves.

The 225-gpm 15 Hp submersible was set at 51 feet 9 inches below the top of the well casing. The depth gauge line was set at 48 feet10 inches below the top of the well casing.

The well and pump are now in very good condition in the Heritage Hills well No.1.

Very truly,

Pete Duncan

Pete Duncan

cc: Bob Cox

WELL AND PUMP SPECIALISTS

Diary of Work Done
Heritage Hills of Westchester
Redevelopment of Well No. 1
February 14, 2001

			Time
February 6	Tuesday	Mobilize rig and set up	½ day
February 8	Thursday	Pull pump, install surge surge equipment, redevelop well	1 day
February 9	Friday	Redevelop well	1 day
February 10	Saturday	Redevelop well	1 day
February 12	Monday	Redevelop well	1 day
February 13	Tuesday	Pull surge, install pump, test performance of pump and well, move rig (third man on job)	1 day
		Total	5 ½ days

Heritage Hills Well No. 1
February 2001

Date	Static Feet	Pumping Level Feet	Drawdown Feet	Yield GPM	Specific Capacity GPM/FT	Chemicals Used - Comments
2-8-01	6.0	23.60	17.60	110	6.25	25 lbs. Nu-Weltone, 1 lb. chlorine
2-9-01	5.95	21.90	15.95	125	7.83	25 lbs. Nu-Weltone, 1 lb. chlorine
2-10-01	5.10	20.40	15.30	136	8.88	25 lbs. Nu-Weltone, 1 lb. chlorine
2-12-01	5.20	19.90	14.7	142	9.65	
Note: There was a 54 percent increase in the specific capacity of the well from 6.25 gpm/ft to 9.65 gpm/ft						

Pumping System And Well System Performance

Owner: Heritage Hills

Address: Somers, NY

Contact:

Tele #:

Well No.: 1

Location:

Date Tested: 2-13-01

Length of AirLine:

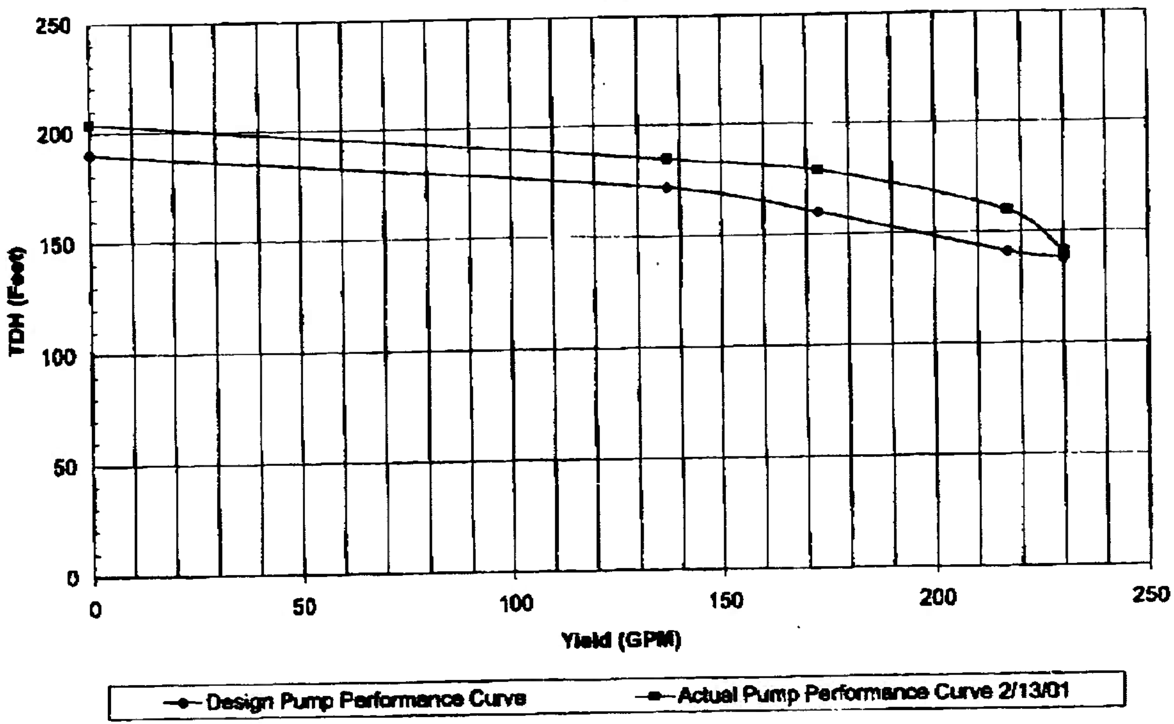
Static from M-scope: 4.25'

Final Performance Test

Amps 3 Readings			Yield GPM	Pressure PSI	Pumping Level Feet	Drawdown Feet	Specific Capacity GPM/FT	TDH Feet
			0	88	Shut Off			204
15	15	15	137	74	13.75	9.50	14.42	185
16	15	15	173	70	16.75	12.50	13.84	179
16	16	16	217	60	21.60	17.35	12.50	160
17	17	17	230	50	25.15	20.9	11.00	141

Remarks: The motor top thrust bearing vibrates

Heritage Hills of Westchester
February 2001



The Stephen B. Church Company

P O Box 67
Seymour, CT 06483

INVOICE

DATE	INVOICE #
02/28/2001	33

BILL TO
Heritage Water Works Corporation Attention: Robert Callahan P.O. Box 304 Somers, New York 10589

OK Dc
3/7/01

RECEIVED
MAR 7 2001
127.624.7280

PO NUMBER	TERMS	PROJECT
	Net 25	01-22

DESCRIPTION	QTY	UNITS	RATE	AMOUNT
Maintenance of well No. 3 Labor, transportation, and use of well machine, compressor, service truck, and redevelopment equipment to pull pump, redevelop well, reinstall and test pump	6	days	1,190.00	7,140.00T
Additional pump work authorized by Bob Cox per letter 2/21/01 service hollowshaft motor and install bronze bushing in stuffing box assembly	1	lump sum	600.00	600.00T
Maintenance of well No. 4 Labor, transportation, and use of well machine, compressor, service truck, and redevelopment equipment to pull pump, redevelop well	2	days	1,190.00	2,380.00T
Additional pump materials authorized by Bob Cox for all new pump materials in the well per letter 2/27/01	1	lump sum	3,100.00	3,100.00T
Sales Tax			6.75%	892.35

RECEIVED MAR 0 9 2001

	Total	$14,112.35

Accounts remaining unpaid after 30 days will bear a finance charge of 1.5% per month. Purchaser agrees to pay all costs and expenses of collection.

The Stephen B. Church Company

P O Box 67
Seymour, CT 06483

INVOICE

DATE	INVOICE #
03/09/2001	38

BILL TO
Heritage Water Works Corporation Attention: Robert Callahan P.O. Box 304 Somers, New York 10589

PO NUMBER	TERMS	PROJECT
	Net 25	01-22

DESCRIPTION	QTY	UNITS	RATE	AMOUNT
Final billing Maintenance of well No. 4 Labor, transportation, and use of well machine, compressor, service truck, and redevelopment equipment to pull pump, redevelop well	3.8865	days	1,190.00	4,624.94T
Credit - partial labor, neutralization chemicals, and freight Sales Tax			6.75%	312.18
			Total	$4,937.12

RECEIVED

127-624-74280

OK Da.
3/14/01

Cleaning Wells Chem-

RECEIVED
MAR 12 2001

MAR 15 2001

Accounts remaining unpaid after 30 days will bear a finance charge of 1.5% per month. Purchaser agrees to pay all costs and expenses of collection.

The Stephen B. Church Company

P O Box 67
Seymour, CT 06483

Invoice

DATE	INVOICE #
02/12/2002	18

BILL TO

Heritage Hills Water Works
Heritage Hills Drive
Attention: Bob Cox
P.O. Box 304
Somers, New York 10589

P.O. NO.	TERMS	PROJECT
	Net 25	02-11

DESCRIPTION	QTY	UNITS	RATE	AMOUNT
Maintenance of well No. 2 per letter July 10, 2001				
Labor	6	Days	1,320.00	7,920.00T
Materials				
Unicid granular	200	Pounds	7.56	1,512.00T
Unicid catalyst	15	Gallons	62.80	942.00T
Chlorine	1	Pounds	2.00	2.00T
Lime	1	Bag	5.00	5.00T
Freight on Unicid	1	Lump Sum	175.00	175.00T
Additional materials authorized by Bob Cox				
Pump end Goulds 70L03	1	Lump Sum	924.00	924.00T
New 2 1/2" galvanized pipe cut and threaded	1	Lump Sum	158.00	158.00T
Chemicals to treat well No. 5				
Unicid granular	200	Pounds	7.56	1,512.00T
Unicid catalyst	15	Gallons	62.80	942.00T
Sales Tax			6.75%	951.21
			Total	$15,043.21

OK to PAY
R.E. Cox
Camo

RECEIVED
FEB 20 2002

MB

RECEIVED FEB 22 2002

The Stephen B. Church Company

P O Box 67
Seymour, CT 06483

Invoice

DATE	INVOICE #
02/22/2002	22

BILL TO

Heritage Hills Water Works
Heritage Hills Drive
Attention: Bob Cox
P.O. Box 304
Somers, New York 10589

RECEIVED
FEB 25 2002
127-614-74110

P.O. NO.	TERMS	PROJECT
	Net 25	02-11

DESCRIPTION	QTY	UNITS	RATE	AMOUNT
maintenance of well No. 5 per letter July 10, 2001				
Labor	6	Days	1,320.00	7,920.00T
Materials				
Chlorine	1	Pound	2.00	2.00T
Lime	2	bags	5.00	10.00T
Additional materials authorized by Bob Cox per letter of February 15, 2002				
Pump end Goulds 275H, new 3-inch galvanized pipe cut and threaded, new 3-inch check valve, new #8 cable	1	Lump Sum	3,200.00	3,200.00T
Sales Tax			6.75%	751.41

OK to PAY
R. F. Cox
Camo

RECEIVED MAR 11 2002

	Total	$11,883.41

The Stephen B. Church Company

P O Box 67
Seymour, CT 06483

INVOICE

DATE	INVOICE #
02/14/2001	24

BILL TO
Heritage Water Works Corporation Attention: Robert Callahan P.O. Box 304 Somers, New York 10589

PO NUMBER	TERMS	PROJECT
	Net 25	01-22

DESCRIPTION	QTY	UNITS	RATE	AMOUNT
Maintenance of Well No. 1				
Labor, transportation, use of well machine, compressor, service truck, and redevelopment equipment to pull pump, redevelop well, reinstall and test pump	5	days	1,190.00	5,950.00T
Materials - Chlorine and Nu Weltone	75	pounds	3.00	225.00T
Materials for wells 3 and 4 per letter October 20, 2000 and February 5, 2001 400 lbs. Unicid granular	8	50 pounds	360.00	2,880.00T
30 gallons Unicid catalyst	6	5 gallons	300.00	1,800.00T
Sales Tax			6.75%	732.71
			Total	$11,587.71

RECEIVED FEB 2 2 2001

RECEIVED FEB 2 0 2001

127-624-74280

DcDe
2/21/01

Accounts remaining unpaid after 30 days will bear a finance charge of 1.5% per month. Purchaser agrees to pay all costs and expenses of collection.

ATTACHMENT II

CASE 03-W-1182
Heritage Hills Water Works Corporation
Water Rates

RESPONSE TO
STAFF OF THE DEPARTMENT OF PUBLIC SERVICE
INTERROGATORY / DOCUMENT REQUEST

Request No.:	SXT-12
Response No.:	HHW-51
Requested By:	Suresh Thomas
Date of Request:	November 10, 2002
Date Due:	November 26, 2003
Reply Date:	November 26, 2003
Subject:	Extraordinary Repairs

Request:

Does the company anticipate any extraordinary repairs during the rate year? If yes, provide details of the nature of work and related costs.

Response:

The extraordinary repairs expected to be made during the rate year are shown on WP-12 of Schedule in Support of Rate Increase. For the rehab and painting on the one million gallon water tank, see also SXT-6, third response.

Prepared by:	Arthur Martens
Date:	November 26, 2003
Affiliation:	Heritage Hills Water Works Corporation

Heritage Hills Water Works Corp.
Extraordinary Expense Amortization Schedule
(Non-Annual, Reoccurring Projects)

Work Paper 12

	Year	Cost	Amort Period (yrs)	Annual Cost Amortization 2002	2003	2004	2005	2006
Well Rehab Program								
Well 1	2001	$11,588	5	2,318	2,318	2,318	2,318	2,318
Well 2	2002	12,423	5		2,485	2,485	2,485	2,485
Well 3	2001	7,056	5	1,411	1,411	1,411	1,411	1,411
Well 4	2001	7,056	5	1,411	1,411	1,411	1,411	1,411
Well 5	2002	14,503	5		2,901	2,901	2,901	2,901
		$52,626		$5,140	$10,526	$10,526	$10,526	$10,526
Unamortized Bal.				$47,486	$36,960	$26,434	$15,908	$5,382
5 Year Program Cost		$52,626						
Normalized Annual Cost				$10,525	$10,525	$10,525	$10,525	$10,525
Avg. Unamortized Balance				$26,313	$26,313	$26,313	$26,313	$26,313
Meter Refurbish Program								
180 Meters at $80.25/meter	2001	$14,445	15	963	963	963	963	963
180 Meters	2002	14,445	15		963	963	963	963
180 Meters	2003	14,445	15			963	963	963
180 Meters	2004	14,445	15				963	963
180 Meters	2005	14,445	15					963
		$72,225		$963	$1,926	$2,889	$3,852	$4,815
Unamortized Bal.				$71,262	$69,336	$66,447	$62,595	$57,780
15 Year Program Cost		$216,675						
Normalized Annual Cost				$14,445	$14,445	$14,445	$14,445	$14,445
Avg. Unamortized Balance				$108,338	$108,338	$108,338	$108,338	$108,338
Tank Rehab & Painting	2003	$300,000	20			15,000	15,000	15,000
		$300,000		$0	$0	$15,000	$15,000	$15,000
Unamortized Bal.						$285,000	$270,000	$255,000
20 Year Program Cost		$300,000						
Normalized Annual Cost				$15,000	$15,000	$15,000	$15,000	$15,000
Avg. Unamortized Balance				$150,000	$150,000	$150,000	$150,000	$150,000
Total Extraordinary Maint. Programs								
Cost Amortization				**$6,103**	**$12,452**	**$28,415**	**$29,378**	**$30,341**
Unamortized Bal.				**$118,748**	**$106,296**	**$377,881**	**$348,503**	**$318,162**
Normalized Annual Cost				**$39,970**	**$39,970**	**$39,970**	**$39,970**	**$39,970**
Avg. Unamortized Balance				**$284,651**	**$284,651**	**$284,651**	**$284,651**	**$284,651**
Rate Case Costs								
Case Eff. '98	12/01 Bal.	$27,537	Memo Only					
2003 Filing	2003	125,000	3			41,667	41,667	41,666
		$125,000		$0	$0	$41,667	$41,667	$41,666
Unamortized Bal.					$125,000	$83,333	$41,666	$0
3 Year Program Cost		$125,000						
Normalized Annual Cost						$41,667	$41,667	$41,667
Avg. Unamortized Balance						$62,500	$62,500	$62,500

ATTACHMENT III

Heritage Hills Water Works Corp.
Earned Return Calculation

	2002	2003
Utility Plant in Service	$6,108,897	$6,407,107
Accumulated Depreciation	1,926,613	2,035,766
Net Plant	4,182,284	4,371,341
Unamort Rate Case	0	0
Working Cap Allowance	26,347	25,719
Rate Base	$4,208,631	$4,397,060
Net Operating Income	$307,828	$328,244
Earned Return	7.31%	7.47%
Allowed Return (Last Case Adjusted)	7.88%	7.96%
Under Earnings	($23,812)	($21,762)

ATTACHMENT IV

Analysis of ALJ's O&M Expense Adjustments

Materials, Supplies & Repairs -

ALJ accepts Society's adjustment, increases tank painting & meter testing, removes well rehab.
Staff adjustments (workpaper math error & growth factor error) accepted in Company's rebuttal.

	Filing	Staff	Society	ALJ	ALJ Sch 2
2002 M&S - 3 yr avg	63,447	61,384	63,447	61,384	61,384
Growth on M&S-Services	488	346	488	346	346
2004 Expense	63,935	61,730	63,935	61,730	61,730
Growth Impact ('04-'06)	5,442	2,593	0	0	-2,850
Tank Painting	15,000	15,000	15,000	20,436	20,436
Well Rehab	10,525	0	10,525	0	0
Projected Cost	$94,902	$79,323	$89,460	$82,166	$79,315
Alternative Inflation Allowance (Methodology):					
3 Yr Avg M&S-Test Yr	63,447	61,384	63,447	61,384	61,384
2 Yr Inflation Factor	105.58%	105.58%	105.58%	105.58%	105.58%
2004 M&S Expense	66,987	64,809	66,987	64,809	64,809
Tank Painting	15,000	15,000	15,000	20,436	20,436
Well Rehab	10,525	0	10,525	0	0
Alternative Cost	$92,513	$79,810	$92,513	$85,246	$85,246

ATTACHMENT V

Heritage Hills Capital Structure and Impacts of Debt : Equity Ratio

	Amount	Percent of Capitalization	Pre-tax Cost Rate	Pre-tax Weighted Cost	Pre-tax Return Required	Using 55.2%:44.8% Staff Ratio	Pre-tax Return Over (Under) Stated
Prelimary Staff Rate Base:							
Debt	$2,500,000	55.2%	6.95%	3.84%	$173,750	$173,750	$0
Equity	$2,027,667	44.8%	15.65%	7.01%	$317,361	$317,361	($0)
Total	$4,527,667	100.0%		10.85%	$491,111	$491,111	$0
Using Staff Recommended Rate Base and $2.5 million of Debt:							
Debt	$2,500,000	52.8%	6.95%	3.67%	$173,750	$181,688	$7,938
Equity	$2,235,906	47.2%	15.65%	7.39%	$349,954	$332,077	($17,877)
	$4,735,906	100.0%		11.06%	$523,704	$513,765	($9,939)
Using ALJ Recommended Rate Base and $2.5 million of Debt:							
Debt	$2,500,000	50.2%	7.07%	3.55%	$176,750	$194,545	$17,795
Equity	$2,484,959	49.8%	15.65%	7.79%	$388,935	$349,540	($39,395)
Total	$4,984,959	100.0%		11.34%	$565,685	$544,085	($21,600)

ATTACHMENT VI

Calculation errors found in ALJ's Appendix -

ALJ's Calculation of Complete System Billed Consumption:

Complete system annual usage of 101,604.9 tg is incorrect. This miscalculation would create a potential revenue shortfall by reducing the usage charge and therefore producing less usage revenue than is required.

The correct level is 100,683.2 tg calculated as follows:

2,606	Residential Customers at System Completion
35,964	gals. - average annual usage
93,722,184.0	gals. - Total Annual Residential Usage
6,961,000.0	gals. - Total Annual General Service Usage
100,683,184.0	gals. - Total Annual Consumption
or	
100,683.2	thousand gallons (tg)

ALJ's level of annual consumption was determined as follows:

$436,901	Full Development Metered Sales at Existing Rates
$4.30	Existng Rate per 1,000 gals.
101,604.9	thousand gallons (tg)

Potential Revenue Shortfall is calculated as follows:

	Actual	ALJ's
Annual Usage	100,683.2	101,604.9
Proposed Rate / tg (ALJ)	$4.85	$4.85
	$488,313.44	$492,783.69
Revenue Shortfall		$4,470.24