

BERKSHIRE HILLS BANCORP INC

Form S-4

February 03, 2005

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As filed with the Securities and Exchange Commission on February 3, 2005

Registration No. 333-

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# SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

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## Form S-4

### REGISTRATION STATEMENT

*UNDER THE SECURITIES ACT OF 1933*

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## Berkshire Hills Bancorp, Inc.

(Exact name of Registrant as specified in its charter)

Delaware  
(State or other jurisdiction of  
incorporation or organization)

6036  
(Primary Standard Industrial  
Classification Code Number)

04-3510455  
(I.R.S. Employer  
Identification No.)

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24 North Street  
Pittsfield, Massachusetts 01201  
(413) 443-5601

(Address, including zip code, and telephone number, including area code, of Registrant's principal executive offices)

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Gerald A. Denmark

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Senior Vice President, General Counsel and Corporate Secretary

**Berkshire Hills Bancorp, Inc.**

24 North Street

Pittsfield, Massachusetts 01201

(413) 443-5601

(Name, address, including zip code, and telephone number, including area code, of agent for service)

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*Copies to:*

**Lawrence S. Makow, Esq.**  
**Wachtell, Lipton, Rosen & Katz**  
51 West 52nd Street  
New York, NY 10019

**Douglas P. Faucette, Esq.**  
**Lord Bissell & Brook LLP**  
1717 Pennsylvania Avenue N.W., Suite 500  
Washington, DC 20006

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**Approximate date of commencement of proposed sale of the securities to the public:** As soon as practicable after this Registration Statement becomes effective.

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If the securities being registered on this Form are being offered in connection with the formation of a holding company and there is compliance with General Instruction G, check the following box. "

If this Form is filed to register additional securities for an offering pursuant to Rule 462(b) under the Securities Act, check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering. "

If this Form is a post-effective amendment filed pursuant to Rule 462(d) under the Securities Act, check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering. "

**CALCULATION OF REGISTRATION FEE**

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<b>Title of Each Class of Securities to Be Registered</b>	<b>Amount to be Registered</b>	<b>Proposed Maximum Offering Price Per Share</b>	<b>Proposed Maximum Aggregate Offering Price</b>	<b>Amount of Registration Fee</b>
	3,194,447 (1)	N/A	\$112,216,255 (2)	\$13,208 (3)

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Common stock, par value \$0.01 per share of  
Registrant

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- (1) The maximum number of shares of Berkshire Hills Bancorp, Inc. ( Berkshire ) common stock, par value \$0.01 per share ( Berkshire Common Stock ) estimated to be issuable upon the completion of the merger of Woronoco Bancorp, Inc. ( Woronoco ) with and into Berkshire, based on the number of shares of Woronoco common stock, par value \$0.01 per share ( Woronoco Common Stock ), outstanding, or reserved for issuance under various plans, immediately prior to the merger and the exchange of shares of Woronoco Common Stock for shares of Berkshire Common Stock pursuant to the formula set forth in the Agreement and Plan of Merger, dated as of December 16, 2004, by and between Berkshire and Woronoco.
- (2) Estimated solely for the purpose of calculating the registration fee required by Section 6(b) of the Securities Act, and calculated pursuant to Rule 457(f) under the Securities Act. Pursuant to Rule 457(c), (f)(1) and (f)(3) under the Securities Act, based on the aggregate market value on February 1, 2005 of the shares of Woronoco Common Stock expected to be exchanged in connection with the merger, the proposed maximum aggregate offering price is \$112,216,255, which was determined by taking (i) the product of (A) the average of the high and low prices of Woronoco Common Stock as reported on the American Stock Exchange on February 1, 2005 (\$35.33) and (B) 4,154,967, representing the maximum number of shares of Woronoco Common Stock expected to be exchanged in connection with the merger, less (ii) the amount of cash expected to be paid by Berkshire in exchange for shares of Woronoco Common Stock (\$34,578,729).
- (3) Calculated by multiplying (i) the proposed maximum aggregate offering price of \$112,216,255 by (ii) 0.0001177.

**The Registrant hereby amends this Registration Statement on such date or dates as may be necessary to delay its effective date until the Registrant shall file a further amendment which specifically states that this Registration Statement shall thereafter become effective in accordance with Section 8(a) of the Securities Act of 1933 or until the Registration Statement shall become effective on such date as the Commission, acting pursuant to said Section 8(a), may determine.**

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**The information in this joint proxy statement/prospectus is not complete and may be changed. We may not sell these securities until a registration statement filed with the Securities and Exchange Commission is effective. This joint proxy statement/prospectus is not an offer to sell these securities, and we are not soliciting offers to buy these securities, in any state where the offer or sale is not permitted.**

**SUBJECT TO COMPLETION, DATED [                      ], 2005**

**MERGER PROPOSED   YOUR VOTE IS VERY IMPORTANT**

The Boards of Directors of Berkshire Hills Bancorp, Inc. and Woronoco Bancorp, Inc. have each unanimously approved the merger of Berkshire and Woronoco. The combined company will be called Berkshire Hills Bancorp, Inc. If the merger of Woronoco into Berkshire is completed, stockholders of Woronoco will have the right to elect to receive either \$36.00 in cash or one share of Berkshire common stock in exchange for each share of Woronoco held by them, subject to proration so that 75 percent of the outstanding Woronoco common shares are converted into Berkshire common stock in the merger and the balance are converted into the cash consideration. Based upon the closing sales price of Berkshire common stock on the American Stock Exchange on December 16, 2004, the last trading day before we announced the merger, the value of the per share consideration to be received by Woronoco stockholders who receive Berkshire stock in the merger is \$37.00. Based upon the closing sales price of Berkshire common stock as reported on the American Stock Exchange on [                      ], 2005, the latest practicable trading day prior to the mailing of this joint proxy statement/prospectus, the per share consideration to be received by Woronoco stockholders who receive Berkshire stock in the merger is \$[                      ]. The implied value of the stock consideration will fluctuate as the market price of the Berkshire common stock fluctuates and, since elections are subject to proration as described above, there can be no assurance that a Woronoco stockholder will receive Berkshire common stock, rather than cash, as to each Woronoco share for which the stockholder makes a stock election. Berkshire common stock trades on the American Stock Exchange under the ticker symbol BHL. Woronoco common stock trades on the American Stock Exchange under the ticker symbol WRO. You may obtain current market price quotations for each company's common stock from newspapers, over the Internet or from other sources. After completion of the merger, Berkshire stockholders and Woronoco stockholders are expected to own approximately 68.2% and 31.8%, respectively, of the combined company (based on the number of shares issued and outstanding prior to the completion of the merger).

We expect the merger to generally be tax-free to holders of Woronoco common stock for federal income tax purposes except to the extent that they receive cash, including the cash consideration in the merger and any cash that they receive instead of fractional shares of Berkshire common stock.

We cannot complete the merger unless the stockholders of both companies approve it. Each of us will hold a special meeting of our stockholders to consider and vote on this merger proposal and other matters. Your vote is important. Whether or not you plan to attend your company's special meeting, please take the time to vote by completing and mailing the enclosed proxy card to us. If you sign, date and mail your proxy card without indicating how you want to vote, your proxy will be counted as a vote **FOR** the merger and the transactions contemplated by the merger agreement. If you do not return your card, or if you do not instruct your broker how to vote any shares held for you in street name, the effect will be a vote against the merger, although your vote will count for purposes of determining whether a quorum exists.

This document contains important information about Berkshire and Woronoco, the merger, the documents related to the merger and certain other matters. In addition, you may obtain information about Berkshire and Woronoco from reports and other documents that each files with the Securities and Exchange Commission.

The places, dates and times of the special meetings are as follows:



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**Berkshire Hills Bancorp, Inc.**

**24 North Street**

**Pittsfield, Massachusetts 01201**

**NOTICE OF SPECIAL MEETING OF STOCKHOLDERS**

**To Be Held On [DATE]**

Berkshire Hills Bancorp, Inc. will hold a special meeting of stockholders on [DAY], [DATE] at [TIME], local time, at [ADDRESS] for the following purposes:

1. To consider and vote on a proposal to approve and adopt the agreement and plan of merger, dated as of December 16, 2004, as it may be amended from time to time, by and between Berkshire Hills Bancorp, Inc. and Woronoco Bancorp, Inc., pursuant to which Woronoco will merge with and into Berkshire. This proposal is described more fully in the accompanying document;
2. To approve the adjournment of the special meeting, if necessary, to solicit additional proxies in the event that there are not sufficient votes at the time of the special meeting to approve proposal (1); and
3. To transact any other business that properly comes before the special meeting.

You are entitled to notice of, and to vote at, the special meeting or any adjournments or postponements of the meeting only if you were a holder of record of Berkshire common stock at the close of business on [DATE]. A complete list of Berkshire stockholders entitled to vote at the special meeting will be made available for inspection by any Berkshire stockholder at the time and place of the Berkshire special meeting. In order for the merger agreement to be approved, the holders of a majority of the outstanding shares of Berkshire common stock entitled to vote thereon must vote in favor of approval and adoption of the merger agreement.

**Berkshire's board of directors has unanimously determined that the merger is advisable and is fair to and in the best interest of Berkshire and its stockholders, has unanimously approved the merger agreement and the merger, and unanimously recommends that you vote FOR approval and adoption of the merger agreement.**

It is very important that your shares be represented at the special meeting. Whether or not you plan to attend the special meeting, please complete, date and sign the enclosed proxy card and return it as soon as possible in the enclosed postage-paid envelope. A stockholder who executes a proxy may revoke it at any time before it is exercised by giving written notice to Gerald A. Denmark, Senior Vice President, General Counsel and Corporate Secretary of Berkshire, by subsequently filing another proxy or by attending the special meeting and voting in person. Do not send any of your stock certificates with your proxy card or otherwise; Berkshire stockholders will not be exchanging their stock in connection with this merger.

By order of the Board of Directors

**Gerald A. Denmark**  
**Senior Vice President,**

**General Counsel and Corporate Secretary**  
Pittsfield, Massachusetts

[DATE]

**YOUR VOTE IS IMPORTANT. PLEASE COMPLETE, SIGN, DATE AND RETURN YOUR PROXY CARD EVEN IF YOU PLAN TO ATTEND THE MEETING.**

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**Woronoco Bancorp, Inc.**

**31 Court Street**

**Westfield, Massachusetts 01085**

**NOTICE OF SPECIAL MEETING OF STOCKHOLDERS**

**To Be Held On [DATE]**

Woronoco Bancorp, Inc. will hold a special meeting of stockholders on [DAY], [DATE] at [TIME], local time, at [ADDRESS] for the following purposes:

1. To consider and vote on a proposal to approve and adopt the agreement and plan of merger, dated as of December 16, 2004, as it may be amended from time to time, by and between Berkshire Hills Bancorp, Inc. and Woronoco Bancorp, Inc., pursuant to which Woronoco will merge with and into Berkshire. This proposal is described more fully in the accompanying document;
2. To approve the adjournment of the special meeting, if necessary, to solicit additional proxies in the event that there are not sufficient votes at the time of the special meeting to approve proposal (1); and
3. To transact any other business that properly comes before the special meeting.

You are entitled to notice of, and to vote at, the special meeting or any adjournments or postponements of the meeting only if you were a holder of record of Woronoco common stock at the close of business on [DATE]. A complete list of Woronoco stockholders entitled to vote at the special meeting will be made available for inspection by any Woronoco stockholder at the time and place of the Woronoco special meeting. In order for the merger agreement to be approved, the holders of a majority of the outstanding shares of Woronoco common stock entitled to vote thereon must vote in favor of approval and adoption of the merger agreement.

**Woronoco's board of directors has unanimously determined that the merger is advisable and is fair to and in the best interest of Woronoco's stockholders, has unanimously approved the merger agreement and the merger, and unanimously recommends that you vote FOR approval and adoption of the merger agreement.**

Pursuant to Section 262 of the Delaware General Corporation Law, you are entitled to exercise your right to dissent and seek appraisal of the fair value of your shares of common stock if the merger is consummated. In order to do so, however, you must properly perfect your appraisal rights in accordance with the procedures described at Appendix D, and summarized on pages 67 to 70 of this document.



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It is very important that your shares be represented at the special meeting. Whether or not you plan to attend the special meeting, please complete, date and sign the enclosed proxy card and return it as soon as possible in the enclosed postage-paid envelope. A stockholder who executes a proxy may revoke it at any time before it is exercised by giving written notice to Terry J. Bennett, Corporate Secretary of Woronoco, by subsequently filing another proxy or by attending the special meeting and voting in person. Do not send your stock certificate with your proxy card.

By order of the Board of Directors

**Terry J. Bennett**

**Corporate Secretary**

Westfield, Massachusetts

[DATE]

**YOUR VOTE IS IMPORTANT. PLEASE COMPLETE, SIGN, DATE AND RETURN YOUR PROXY CARD EVEN IF YOU PLAN TO ATTEND THE MEETING.**

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**SUMMARY**

The following highlights selected information from this document. This summary does not contain all of the information that is important to your decision. Before you vote, you should give careful consideration to all of the information contained in or incorporated by reference into this document to fully understand the merger agreement and the merger. See *Where You Can Find More Information* on page 75. The purpose of this document is to provide information to you about the merger agreement and the merger and to solicit your vote in favor of approving and adopting the merger agreement.

**In the Merger, Woronoco Common Stockholders Will Have the Right to Elect to Receive Either \$36.00 in Cash or One Share of Berkshire Common Stock (page 49)**

If the merger takes place, if you are a Woronoco stockholder you will be entitled to receive, at your election, either \$36.00 in cash, without interest, or one share of Berkshire common stock (with cash paid instead of issuing any fractional shares) for each of your shares of Woronoco common stock, subject to proration as described in this document. For each share of Woronoco common stock you own, you may specify an election to receive one share of Berkshire common stock or \$36.00 in cash. For example, if you own 100 shares of Woronoco common stock, you, for example, could elect to receive cash for 40 shares and Berkshire common stock for the other 60 shares.

Regardless of the elections made by individual Woronoco stockholders, 75% of the outstanding shares of Woronoco common stock will be converted into Berkshire common stock, with the remaining shares converted into cash. Therefore, if Woronoco stockholders elect more stock or cash than provided for under the merger agreement, elections for the over-subscribed form of merger consideration will be prorated so that the overall 75/25 split of the consideration is achieved. For instance, if Berkshire common stock is oversubscribed, Woronoco shares as to which elections to receive Berkshire common stock have been made will instead receive cash, and each stockholder who elected to receive Berkshire common stock will have those elections changed from stock to cash on a pro rata basis. Accordingly, despite the election procedure, there is no assurance that you will receive the particular form of consideration that you elect with respect to each share of Woronoco common stock you hold. See *The Merger Agreement Conversion of Shares; Exchange of Certificates; Elections as to Form of Consideration*.

Based upon the closing sales price of Berkshire common stock as reported on the American Stock Exchange on [ ], 2005, the latest practicable trading day prior to the mailing of this joint proxy statement/prospectus, the per share consideration to be received by Woronoco stockholders who receive Berkshire stock in the merger is \$[ ]. The implied value of the stock consideration will fluctuate as the market price of the Berkshire common stock fluctuates and, since elections are subject to proration as described above, there can be no assurance that a Woronoco stockholder will receive Berkshire common stock, rather than cash, as to each Woronoco share for which the stockholder makes a stock election. Berkshire common stock trades on the American Stock Exchange under the ticker symbol BHL. Woronoco common stock trades on the American Stock Exchange under the ticker symbol WRO. You may obtain current market price quotations for each company's common stock from newspapers, over the Internet or from other sources.

**Election Procedures**

Each Woronoco stockholder of record is being sent an election form, which you should complete and return, along with your Woronoco stock certificate(s), according to the instructions printed on the form. The election deadline will be 5:00 p.m. New York City time on [DATE], which is the day prior to the special meeting. A copy of the election form is being provided with this joint proxy statement/prospectus to holders of record at the close of business on [ ], 2005 of Woronoco common stock. If you do not send in the election form with your stock certificates by the election deadline, you will be treated as a non-electing stockholder as described on page 49.



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Do not send your Woronoco stock certificates and/or the election form with your proxy card. These should be returned separately to the address specified on the election form and the letter of transmittal accompanying the election form.

Election forms will only be sent to Woronoco stockholders of record and only record holders are entitled to return forms specifying elections. If you are not a record owner of any of your shares of Woronoco but rather own shares of Woronoco common stock in street name through a bank, broker or other financial institution, and you wish to make an election as to those shares, you should seek instructions from the bank, broker or other financial institution holding your shares concerning how to make your election.

You can revoke your election provided you submit new election materials prior to the election deadline. You may do so by submitting a written notice to Registrar and Transfer Company, the exchange agent for the merger, that is received prior to the deadline at the address included on the form of election.

The revocation must specify the account name and such other information as the exchange agent may request; revocations may not be made in part. New elections must be submitted in accordance with the election procedures described on page 51. If you hold Woronoco shares in street name and instruct a bank, broker or other financial institution to submit an election for your shares, to change your election you must contact them and follow their directions for changing those instructions.

If you are a Berkshire stockholder, you need not take any action with respect to your Berkshire stock certificates as your Berkshire stock will not be exchanged or otherwise changed by the merger. Only Woronoco stock certificates will be converted into the merger consideration in the merger.

### **Information About the Berkshire Special Meeting (page 18)**

Berkshire will hold a special meeting of its stockholders on [DAY], [DATE] at [TIME], local time, at [ADDRESS] for the following purposes:

to vote on the proposal to approve and adopt the merger agreement;

to approve the adjournment of the special meeting, if necessary, to solicit additional proxies in the event that there are not sufficient votes at the time of the special meeting to approve the proposal; and

to transact any other business that properly comes before the special meeting.

### **Information About the Woronoco Special Meeting (page 21)**

Woronoco will hold a special meeting of its stockholders on [DAY], [DATE] at [TIME], local time, at [ADDRESS] for the following purposes:

to vote on the proposal to approve and adopt the merger agreement;

to approve the adjournment of the special meeting, if necessary, to solicit additional proxies in the event that there are not sufficient votes at the time of the special meeting to approve the proposal; and

to transact any other business that properly comes before the special meeting.

**Vote Required to Approve the Merger**

A majority of the outstanding shares of each of Berkshire's common stock and Woronoco's common stock must vote in favor of the merger agreement at each company's respective special meeting for the merger agreement to be adopted and the merger approved. Every Berkshire and Woronoco stockholder's vote is

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important. Because approval and adoption of the merger agreement requires the affirmative vote of both a majority of the outstanding shares of Berkshire common stock and a majority of the outstanding shares of Woronoco common stock, abstentions and broker non-votes will have the same effect as a vote against the proposals, although such non-votes will count for purposes of determining whether a quorum exists. Broker non-votes are shares held on behalf of beneficial owners by banks, brokers and other nominees as to which voting instructions have not been received from the beneficial owners or other persons entitled to vote those shares and with respect to which the bank, broker or other nominee does not have discretionary voting power under applicable stock exchange rules.

## **Voting Procedures**

With respect to the special meeting, indicate on the enclosed proxy card how you want to vote, and sign, date and mail it in the enclosed envelope as soon as possible so that your shares will be represented at the stockholders meeting. If you sign and send in your proxy card, but do not indicate how you want to vote, your proxy card will be voted for approval and adoption of the merger agreement and in the discretion of the proxies with respect to any other matter properly coming before the special meeting.

If you are a stockholder of either Berkshire or Woronoco, you can also choose to attend the special meeting of your company and vote your shares in person.

With respect to your cash and/or stock election if you are a Woronoco stockholder, you should complete and return the election form, together with your stock certificate(s), to Registrar and Transfer Company according to the instructions printed on the form or, if your shares are held in street name, according to the instructions provided to you by your bank, broker or other financial institution. Do not send your Woronoco stock certificates and/or your election form with your proxy card, but only according to the instructions printed on the election form.

If you are a Woronoco stockholder and you do not send in the election form with your stock certificate(s) by the [DATE] deadline, you will be considered a non-electing stockholder and your election to receive cash or Berkshire common stock will be determined automatically in accordance with the merger agreement.

## **Who Can Vote**

If you owned shares of Berkshire common stock at the close of business on [DATE], you are entitled to vote at the Berkshire special meeting. You will have one vote for each share of Berkshire common stock that you owned at that time.

If you owned shares of Woronoco common stock at the close of business on [DATE], you are entitled to vote at the Woronoco special meeting. You will have one vote for each share of Woronoco common stock that you owned at that time.

**If my shares are held in street name by my bank, broker or other financial institution, will they vote my shares for me?**

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Only if you instruct them how you want your shares voted. Your broker or other record holder does not have discretion to vote your shares for you on the merger proposal. If you do not provide your broker with instructions on how to vote any shares they hold on your behalf in street name, your shares will not be deemed present at the special meetings (other than for purposes of establishing the existence of a quorum) and your broker will not be permitted to vote them. You should instruct your broker to vote your shares, following the directions your broker provides. As noted above, failing to properly instruct your broker to vote your shares will have the same effect as a vote against the merger agreement.



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### **Can I change my vote after I have mailed my signed proxy card?**

Yes. If you are a stockholder of Berkshire, there are three ways for you, prior to the Berkshire special stockholder meeting, to revoke your proxy and change your vote. First, you may send a written notice to Gerald A. Denmark, Senior Vice President, General Counsel and Corporate Secretary of Berkshire, stating that you would like to revoke your proxy. Second, you may complete and submit a new proxy card with a later date. Third, you may vote in person at the special meeting. Attendance alone will not revoke a proxy you have previously given or change your vote. If you have instructed a broker or other record holder to vote shares you beneficially own, you must follow the directions you received from them to change your vote.

If you are a stockholder of Woronoco, there are also three ways for you, prior to the Woronoco special stockholder meeting, to revoke your proxy and change your vote. First, you may send a written notice to Terry J. Bennett, Corporate Secretary of Woronoco, stating that you would like to revoke your proxy. Second, you may complete and submit a new proxy card with a later date. Third, you may vote in person at the special meeting. Attendance alone will not revoke a proxy you have previously given or change your vote. If you have instructed a broker or other record holder to vote shares you beneficially own, you must follow the directions you received from them to change your vote.

### **Tax Impact of Transaction to Woronoco Stockholders (page 60)**

Neither Berkshire nor Woronoco will be required to complete the merger unless it receives a legal opinion to the effect that the merger will qualify as a reorganization for United States federal income tax purposes. Accordingly, we expect the transaction to generally be tax-free to holders of Woronoco common stock for federal income tax purposes except to the extent that they receive cash, including the cash consideration in the merger and any cash that they receive instead of fractional shares of Berkshire common stock.

Those holders receiving solely cash for their Woronoco common stock will generally recognize gain or loss equal to the difference between the amount of cash received and their tax basis in their shares of Woronoco common stock. Those holders receiving both Berkshire common stock and cash for their Woronoco common stock will generally recognize gain equal to the lesser of (1) the amount of cash received and (2) the excess of the amount realized in the transaction (i.e., the fair market value of the Berkshire common stock at the effective time of the merger plus the amount of cash received) over their tax basis in their Woronoco common stock. In certain circumstances, the gain or, in the case of recipients of cash only, the entire amount of cash received, could be taxable as ordinary income rather than as capital gain.

For a further summary of the federal income tax consequences of the merger to holders of Woronoco common stock, please see *The Merger Agreement* Material Federal Income Tax Consequences on pages 60 -63.

### **Berkshire's Financial Advisor Provided an Opinion to Berkshire's Board of Directors that the Merger Consideration Is Fair, From a Financial Point of View, to Berkshire and Its Stockholders (page 30)**

In deciding to approve the merger, Berkshire's board of directors considered the December 16, 2004 opinion of its financial advisor, Northeast Capital & Advisory, Inc. The opinion concluded that, as of that date and subject to the factors and assumptions set forth in the opinion, the merger was fair to Berkshire and its stockholders from a financial point of view. This opinion is attached as Appendix B to this document. We encourage you to read the opinion carefully in order to more fully understand the assumptions made, matters considered and limitations of the review made by Northeast Capital in providing its opinion. Berkshire has agreed to pay Northeast Capital a transaction fee in connection with

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the merger of approximately \$[ ] thousand (based on the closing price of Berkshire's common stock as of [ ], 2005), of which approximately \$300,000 has been paid (including \$250,000 for rendering its opinion) and the balance of which is

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contingent upon the closing of the merger. In addition, Berkshire has agreed to reimburse Northeast Capital for its reasonable out-of-pocket expenses and indemnify it against various liabilities.

### **Woronoco's Financial Advisor Provided an Opinion to Woronoco's Board of Directors that the Merger Consideration Is Fair, From a Financial Point of View, to Woronoco Stockholders (page 39)**

In deciding to approve the merger, Woronoco's board of directors considered the December 15, 2004 opinion of its financial advisor, Sandler O'Neill & Partners, L.P., subsequently confirmed in writing on December 16, 2004. The opinion concluded that, as of that date and subject to the factors and assumptions set forth in the opinion, the consideration to be received by the holders of Woronoco's common stock in the merger was fair to Woronoco's stockholders from a financial point of view. This opinion is attached as Appendix C to this document. We encourage you to read the opinion carefully and in its entirety. Sandler O'Neill's opinion is directed to the Woronoco board of directors and does not constitute a recommendation to any stockholder as to any matter relating to the merger. Woronoco has agreed to pay Sandler O'Neill a transaction fee in connection with the merger of approximately \$[ ] million (based on the closing price of Berkshire common stock on [ ], 2005), of which approximately \$425,000 has been paid (including \$175,000 for rendering its opinion, which will be credited against the transaction fee due to Sandler O'Neill at closing) and the balance of which is contingent upon the closing of the merger. Woronoco has also agreed to reimburse certain of Sandler O'Neill's reasonable out-of-pocket expenses incurred in connection with its engagement and to indemnify Sandler O'Neill and its affiliates and their respective partners, directors, officers, employees, agents, and controlling persons against certain expenses and liabilities, including liabilities under securities laws.

### **Historical Dividends, Woronoco's Pre-Merger Dividend Policy and Berkshire's Post-Merger Dividend Policy (page 10)**

The dividends paid by Berkshire and Woronoco in recent periods are set forth under "Market Prices and Dividends" on page 10. Additionally, under the terms of the merger agreement, Woronoco will pay its stockholders a one-time \$0.25 special cash dividend. The merger agreement also permits Woronoco to continue to pay its regular quarterly cash dividends provided that Berkshire and Woronoco will coordinate on the Woronoco quarterly dividend payment prior to closing so that Woronoco stockholders do not fail to receive at least one regular quarterly dividend (from Berkshire or Woronoco), but also do not receive two regular quarterly dividends, relating to the same period. Although it is currently expected that Berkshire will continue following the merger to pay quarterly cash dividends on its common stock at levels comparable to its recent practice, the declaration of dividends by Berkshire will be at the discretion of the Berkshire board of directors within the constraints imposed by law and will be determined by the board after the consideration of various factors, including, without limitation, the earnings and financial condition of Berkshire and its subsidiaries.

### **Our Reasons for the Merger (pages 27 and 29)**

The merger offers Berkshire and Woronoco stockholders the opportunity to participate in the growth and potential of a larger and more geographically diverse combined company. Berkshire and Woronoco believe that the combined company will be positioned as a stronger competitor and to achieve greater success than either company standing alone. For more information regarding the companies' reasons for the merger, see "The Merger - Berkshire's Reasons for the Merger" and "The Merger - Woronoco's Reasons for the Merger."

### **The Berkshire Board of Directors Recommends that Berkshire Stockholders Vote FOR Approval and Adoption of the Merger Agreement (page 27)**

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The Berkshire board of directors believes that the merger is in the best interests of Berkshire and its stockholders and has unanimously approved the merger agreement. The Berkshire board of directors unanimously recommends that Berkshire stockholders vote **FOR** approval and adoption of the merger agreement.

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### **The Woronoco Board of Directors Recommends that Woronoco Stockholders Vote **FOR** Approval and Adoption of the Merger Agreement (page 29)**

The Woronoco board of directors believes that the merger is in the best interests of Woronoco and its stockholders and has unanimously approved the merger agreement. The Woronoco board of directors unanimously recommends that Woronoco stockholders vote **FOR** approval and adoption of the merger agreement.

### **Woronoco Directors and Officers Have Financial Interests in the Merger that are Different From or in Addition to Their Interests as Stockholders (page 64)**

Some of Woronoco's directors and executive officers have financial interests in the merger that are different from or in addition to their interests as stockholders of Woronoco. These interests arise as a result of existing change-in-control agreements and existing rights under Woronoco equity and employee benefit plans, as well as new agreements entered into in connection with the merger and under the merger agreement. These interests are described beginning at page 64.

### **Dissenters' Appraisal Rights in the Merger for Woronoco Stockholders (page 67)**

Woronoco stockholders are entitled to exercise dissenter's rights of appraisal from the merger if they strictly follow the procedures set forth in Section 262 of the Delaware General Corporation Law and in Appendix D to this document; stockholders who duly perfect dissenter's rights will not receive the merger consideration but will be treated as provided under Delaware law. See page 67.

### **Completion of the Merger is Subject to a Number of Conditions (page 58)**

Berkshire's and Woronoco's obligations to complete the merger are subject to the satisfaction or waiver of the following mutual conditions:

approval and adoption of the merger agreement by both Berkshire and Woronoco stockholders;

receipt of all governmental consents and approvals required to complete the merger and, if determined by Berkshire, the merger of Woronoco Savings Bank and Berkshire Bank;

obtaining all notices, consents or waivers from non-governmental third parties with respect to the transactions contemplated by the merger agreement, except as would not reasonably be expected to have a material adverse effect on Berkshire or on Woronoco;

absence of any legal prohibition on consummation of the merger or the bank combination;

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the registration statement, of which this joint proxy statement/prospectus is a part, having become effective under the Securities Act and no stop order or proceedings seeking a stop order having been entered or pending by the SEC;

receipt of all approvals of the merger required under state securities or blue sky laws; and

approval of listing on the American Stock Exchange of the shares of Berkshire common stock to be issued in the merger to Woronoco stockholders.

Berkshire's and Woronoco's obligations to complete the merger are also separately subject to the satisfaction or waiver of the following conditions:

the accuracy of the representations and warranties made by the other party, unless the failure of any representation or warranty to be accurate is not reasonably likely to have a material adverse effect on the other party (provided that the other party's respective representations regarding its capital structure, and,

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in the case of Berkshire, Woronoco's representation that necessary modifications have been made to Woronoco's director and officer compensation arrangements to bring the cost of such arrangements within agreed limits, must be true in all material respects);

receipt by it of an opinion of its counsel to the effect that the merger will qualify as a reorganization for federal income tax purposes; and

performance in all material respects by the other party of all obligations required to be performed by it at or prior to the closing date of the merger.

In addition, Woronoco's obligation to complete the merger is conditioned on Berkshire having deposited with the exchange agent sufficient cash to pay the aggregate cash consideration in the merger.

### **Regulatory Approvals We Must Obtain to Complete the Merger (page 59)**

We are working to complete the merger as quickly as practicable. While there can be no assurances, we are currently working to complete the merger during the second quarter of 2005.

In order to complete the merger, we must receive regulatory approval from the Office of Thrift Supervision and the Massachusetts Board of Bank Incorporation. In order to complete the merger of Berkshire Bank and Woronoco Savings Bank, we must receive regulatory approval from the Federal Deposit Insurance Corporation and the Massachusetts Commissioner of Banks. As of the date of this joint proxy statement/prospectus, we have not received all the required approvals. We cannot assure you as to when or if we will obtain all the required approvals.

### **Directorships, Advisory Board and Executive Management (pages 52 and 56)**

Upon completion of the merger, three Woronoco directors, including Mr. Cornelius D. Mahoney, Chairman, President and Chief Executive Officer of Woronoco, will be added to the Berkshire board as well as to the board of Berkshire Bank. Berkshire will also establish an advisory board for Woronoco's Hampden and Hampshire County market areas and will offer membership on that board to the Woronoco directors not serving on the Berkshire holding company or bank boards. Berkshire's executive officers will be the executive officers of the combined company after the merger is completed.

### **Termination of the Merger Agreement (page 58)**

The merger agreement can be terminated in the following circumstances:

by mutual written consent of Berkshire and Woronoco;

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by either Berkshire or Woronoco if the merger is not completed by October 16, 2005;

by either Berkshire or Woronoco if the stockholders of either company do not approve the merger;

by either Berkshire or Woronoco if any judgment, order, law or regulation that prevents completion of the merger is in effect and is final and nonappealable;

by either Berkshire or Woronoco if any governmental authority has finally denied a required regulatory approval;

by Berkshire if Woronoco's board of directors fails to recommend the merger, or if Woronoco's board of directors changes its recommendation or breaches its obligation to call and hold the Woronoco stockholder meeting; and



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by either party if there is a breach of the other party's representations, warranties or covenants that, if existing at closing, would give the party the right not to complete the transaction, and which breach is not cured (or is not capable of being cured) within 30 days of written notice of the breach.

**Woronoco Must Pay Berkshire a Termination Fee under Certain Circumstances (page 59)**

Woronoco must pay a termination fee of \$6,000,000 to Berkshire if:

a third party makes a bona fide proposal to acquire Woronoco, and the party does not withdraw the proposal at least five business days prior to the special meeting; and

thereafter either Berkshire or Woronoco terminates the merger agreement as a result of the failure of the Woronoco stockholders to approve the agreement, or if Berkshire terminates the agreement because:

Woronoco's board of directors fails to recommend that its stockholders approve the merger agreement, or because Woronoco's board of directors changes its recommendation that its stockholders approve the merger agreement or fails to hold a special meeting to approve and adopt the merger agreement; or

Woronoco materially breaches its representations and obligations under the merger agreement; and

within fifteen months after the date of termination of the merger agreement, Woronoco completes an acquisition transaction or enters into a merger agreement or other similar document related to such acquisition transaction.

**Differences in the Rights of Stockholders (page 71)**

The rights of the Woronoco stockholders after the merger who continue as Berkshire stockholders will be governed by the certificate of incorporation and bylaws of Berkshire rather than the certificate of incorporation and bylaws of Woronoco. Both Berkshire and Woronoco are incorporated in Delaware.

**The Companies Involved in the Merger (page 24)**

**Berkshire Hills Bancorp, Inc.**

**24 North Street**

**Pittsfield, Massachusetts 01201**

**(413) 443-5601**

Berkshire is a Delaware corporation and the holding company of various entities, including Berkshire Bank. Berkshire is headquartered in Pittsfield, Massachusetts. At September 30, 2004, Berkshire had total consolidated assets of approximately \$1,310,509,000, total deposits of approximately \$853,115,000, and stockholders' equity of approximately \$128,488,000, or 9.80% of total assets.

**Woronoco Bancorp, Inc.**

**31 Court Street**

**Westfield, Massachusetts 01085**

**(413) 568-9141**

Woronoco is a Delaware corporation and the holding company of various entities, including Woronoco Savings Bank. Woronoco is headquartered in Westfield, Massachusetts. At September 30, 2004, Woronoco had total consolidated assets of approximately \$898,479,000 total deposits of approximately \$462,200,000, and stockholders' equity of approximately \$81,276,000, or 9.05% of total assets.

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**Share Information and Market Prices**

Berkshire's common stock is traded on the American Stock Exchange under the trading symbol BHL. Woronoco's common stock is traded on the American Stock Exchange under the trading symbol WRO. The table below presents the per share closing prices of Berkshire's and Woronoco's common stock on December 16, 2004, the last trading date before public announcement of the merger agreement and (2) [ ], 2005, the latest practicable date before printing of this joint proxy statement/prospectus. The equivalent price per share column is calculated by multiplying the closing market price of the Berkshire common stock on the relevant date by the 1.0 share of Berkshire common stock to be issued in the merger for each share of Woronoco common stock to those stockholders electing the stock consideration, assuming no proration. For more information about the exchange ratio, see The Merger Agreement Merger Consideration beginning on page 49, and for more information about the stock prices and dividends of Berkshire and Woronoco, see Market Prices and Dividends beginning on page 10.

<u>Date</u>	<u>Last Reported Sale Price</u>		
	<u>Berkshire Common Stock</u>	<u>Woronoco Common Stock</u>	<u>Equivalent Per Share Price</u>
December 16, 2004	\$ 37.00	\$ 37.29	\$ 36.75
[ ]	\$ [ ]	\$ [ ]	\$ [ ]

Woronoco stockholders are advised to obtain current market quotations for Berkshire's common stock. The market price of Berkshire's common stock will fluctuate between the date of this joint proxy statement/prospectus and the date on which the merger takes place, as well as after completion of the merger. No assurance can be given as to the market price of Berkshire's common stock at the time of the merger.

**If you have questions or if you need additional copies of this joint proxy**

**statement/prospectus or other documents, you should contact:**

**For Berkshire stockholders:  
MacKenzie Partners, Inc.**

**105 Madison Avenue**

**New York, NY 10016**

**(800) 322-2885**

**For Woronoco stockholders:  
Georgeson Shareholder Communications, Inc.**

**17 State Street, 10th Floor**

**New York, NY 10004**

**(877) 278-6775**

**Banks and brokers should call:**

**(212) 929-5500**

**Banks and brokers should call:**

**(212) 440-9800**



**Table of Contents****MARKET PRICES AND DIVIDENDS**

The following tables set forth, for the periods indicated, the high and low sale prices per share of Berkshire's and Woronoco's common stock as reported on the American Stock Exchange, as well as cash dividends paid on Berkshire's and Woronoco's common stock during the periods indicated. You are urged to obtain current quotations for Berkshire and Woronoco common stock shares.

**Berkshire****Common Stock**

	<u>Market Price</u>		<u>Cash</u>
	<u>High</u>	<u>Low</u>	<u>Dividends</u>
			<u>Paid</u>
Quarter Ended:			
December 31, 2004	\$ 38.20	\$ 34.55	\$ 0.12
September 30, 2004	39.20	34.80	0.12
June 30, 2004	37.30	32.46	0.12
March 31, 2004	39.20	34.40	0.12
December 31, 2003	37.60	33.40	0.12
September 30, 2003	34.30	28.00	