

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Disposition of gross-up )  
funds collected by HYDRATECH ) Docket No. 970275-WS  
UTILITIES, INC. in Martin County. )  
\_\_\_\_\_ )

PETITION ON PROPOSED AGENCY ACTION

Petitioner, HYDRATECH UTILITIES, INC. (hereinafter "Hydratech" or "Petitioner"), by and through its undersigned attorneys, files this Petition for Formal Proceedings pursuant to § 120.57(1), Fla. Stat., and pursuant to Order No. PSC-97-0454-FOF-WS issued in Docket No. 970275-WS on April 21, 1997 and says:

1. This Petition is filed pursuant to the applicable provisions of Rule 25-22.36(7)(a) and (f), Florida Administrative Code (F.A.C.).

2. (a) The name of the Commission is the Florida Public Service Commission ("PSC").

(b) The docket number is 970275-WS.

3. (a) The name and address of the Petitioner is:

HYDRATECH UTILITIES, INC.  
6570 S.E. Federal Highway  
Stuart, Florida 34997-8383

ACK ✓ (b) By Commission Order No. PSC-97-0454-FOF-WS, the  
AFA 1 Commission proposed refund of gross-up monies without including an  
APP \_\_\_\_\_  
CAF \_\_\_\_\_ offset for the legal and accounting costs associated with the  
CMU \_\_\_\_\_ preparation and filing of the gross-up reports. Those costs are  
CTR \_\_\_\_\_ appropriately applicable to the gross-up process and, therefore,  
EAG \_\_\_\_\_  
LE: 2 should be used to reduce the amount of gross-up refundable rather  
LIV \_\_\_\_\_ than being charged to the general body of ratepayers through the  
OFC \_\_\_\_\_  
\_\_\_\_\_

RECEIVED & FILED

DOCUMENT NUMBER-DATE

04723 MAY 12 5

FPSC-RECORDS/REPORTING

EPSC BUREAU OF RECORDS

rate-setting process. To do so would be directly contrary to the requirements of Commission Order Nos. 16971 and 23541 issued to govern the filing and processing of gross-up reports.

(c) The Utility has accumulated all of the legal and accounting costs related to the processing of this gross-up report and an estimate to complete that processing. That analysis is attached hereto as Exhibit "A".

(d) Hydratech has previously proposed to the Commission in Docket No. 961076-WS that a settlement effectively splitting such costs between the rate payer and the contributor be recognized. Hydratech is willing to accept a similar arrangement with regard to this case based upon the attached listing of costs.

4. Petitioner, at this point, knows of several areas which may include combinations of disputed issues of material fact, law or policy:

(a) Is there any duly authorized or adopted rule which requires that the cost of gross-up processing be recovered from anyone other than the contributors of gross-up (specifically the general body of ratepayers), or is there any such rule which requires above-the-line treatment for expenses not previously imbedded in nor likely to be imbedded in the rates of the Utility? If these questions include issues of fact, Petitioner disputes the findings of Order No. PSC-97-0454-FOF-WS and its findings on those facts.

(b) Is there any Order of the Commission which authorizes or requires that the cost of processing gross-up filings

should be included as above-the-line expenses for the purpose of determining an appropriate refund of gross-up monies or if those expenses are appropriately recoverable from the general body of ratepayers. If these issues include issues of fact, Petitioner disputes the findings of Order No. PSC-97-0454-FOF-WS in that regard.

5. Petitioner's undersigned attorneys obtained a copy of Order No. PSC-97-0454-FOF-WS from the PSC's Division of Records and Reporting on April 21, 1997, by facsimile.

6. The Commission's Order failed to recognize costs of preparing and processing the gross-up refund reports as an offset to the refunds, inappropriately assumes that the general body of ratepayers are responsible for such costs and provides the contributors of gross-up the benefit of that assumption despite the requirements of Order No. 16971 and 23541 to the contrary.


WHEREFORE, based upon the above, HYDRATECH UTILITIES, INC. requests that the Commission grant it a hearing pursuant to the provisions of §120.57(1), Florida Statutes, on each of the factual and legal and policy issues outlined herein.

Respectfully submitted this  
12<sup>th</sup> day of May, 1997; by:  
ROSE, SUNDSTROM & BENTLEY  
2548 Blairstone Pines Drive  
Tallahassee, Florida 32.2301  
(904) 877-6555

  
F. Marshall Deterding

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of the foregoing was furnished by Hand Delivery to Donna Cyrus-Williams, Esquire, Florida Public Service Commission, Division of Legal Services, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399, this 2<sup>nd</sup> day of May, 1997.

  
F. Marshall Deterding, Esq.

hydra\2petition

HYDRATECH UTILITIES, INC.  
Docket No. 970275

ACTUAL AND ESTIMATED FEES AND COSTS

<u>Actual</u>	<u>Fees</u>	<u>Costs</u>	<u>Total</u>
Legal	\$ 1,032.50	\$ 42.75	\$1,075.25
Accounting	<u>5,620.00</u>	<u>178.00</u>	<u>5,798.00</u>
Total Actual Costs	<u>6,652.50</u>	<u>220.75</u>	<u>6,873.25</u>
<u>Estimated</u>			
Legal	3,500.00	300.00	3,800.00
Accounting	<u>900.00</u>	<u>50.00</u>	<u>950.00</u>
Total Estimate to Complete	<u>4,400.00</u>	<u>350.00</u>	<u>4,750.00</u>
Total Actual and Estimated Costs	<u>\$11,052.50</u>	<u>\$ 570.75</u>	<u>\$11,623.25</u>

**Hydratech Utilities, Inc.  
Actual and Estimated Accounting Costs  
1995 Gross-up Refund Report**

<u>Cronin, Jackson, Nixon &amp; Wilson</u>	<u>Invoice Date</u>	<u>Fees</u>	<u>Out-of- Pocket</u>	<u>Total</u>
September, 1996	10/10/96	\$ 1,520		\$ 1,520
October, 1996	11/28/96	1,140		1,140
November, 1996	12/11/96	1,120	\$ 53	1,173
December, 1996	01/16/97	1,840	125	1,965
<b>Total actual costs</b>		<u>5,620</u>	<u>178</u>	<u>5,798</u>
<b>Estimate to complete:</b>				
<b>Review Final Order -</b>				
R. Nixon - 2 hrs @ \$150		300		300
<b>Review Staff Recommendation</b>				
<b>Re: Legal &amp; Accounting Costs</b>				
<b>Conference with client</b>				
R. Nixon - 4 hrs @ \$150		600	50	650
<b>Total estimate to complete</b>		<u>900</u>	<u>50</u>	<u>950</u>
<b>Total actual and estimated costs</b>		<u>\$ 6,520</u>	<u>\$ 228</u>	<u>\$ 6,748</u>

**Cronin, Jackson, Nixon & Wilson**  
CERTIFIED PUBLIC ACCOUNTANTS, P.A.

JAMES L. CARLSTEDT, C.P.A.  
JOHN H. CRONIN, JR., C.P.A.  
ROBERT H. JACKSON, C.P.A.  
ROBERT C. NIXON, C.P.A.  
MOLLY M. TOWNER, C.P.A.  
JAMES L. WILSON, C.P.A.

240 GULF-TO-BAY BOULEVARD  
SUITE 200  
CLEARWATER, FLORIDA 34623-4419  
(813) 791-4000  
FACSIMILE  
(813) 797-3002

**I N V O I C E**

October 10, 1996

Hydratech Utilities, Inc.  
6570 S.E. Federal Highway  
Stuart, FL 34997

#352

For professional services rendered during  
September, 1996, as follows:

1. Preparation of general ledger and computerized financial statements for the month of July, 1996	\$ 78.75
2. Partial billing for work completed on projected cash flow statements for use in refinancing	806.25
3. Partial billing for work completed on the 1995 PSC CIAC gross-up refund report	1,520.00
4. Final preparation and review of the 1995 state and federal income tax returns	500.00
5. Tax research related to S-Corporation status and built-in gains provision	543.75
6. Telephone charges	28.43
Total	<u>\$3,477.18</u>

**Cronin, Jackson, Nixon & Wilson**  
CERTIFIED PUBLIC ACCOUNTANTS, P.A.

JAMES L. CARLSTEDT, C.P.A.  
JOHN H. CRONIN, JR., C.P.A.  
ROBERT H. JACKSON, C.P.A.  
ROBERT C. NIXON, C.P.A.  
HOLLY M. TOWNER, C.P.A.  
JAMES L. WILSON, C.P.A.

2500 GULF TO BAY BOULEVARD  
SUITE 200  
CLEARWATER, FLORIDA 34625-4419  
(813) 791-4000  
FACSIMILE  
(813) 797-3682

**I N V O I C E**

November 26, 1996

Hydratech Utilities, Inc.  
6570 S.E. Federal Highway  
Stuart, FL 34997

#352

For professional services rendered during  
October, 1996, as follows:

1. Preparation of general ledger and computerized financial statements for August and September, 1996	\$1,095.00
2. Partial billing for projected statements of cash flow	2,680.00
3. Partial billing for work completed on the 1995 CIAC gross-up refund report	<u>1,140.00</u>
4. Tax research related to Subchapter S election	600.00
5. Preparation of quarterly payroll tax returns	217.85
6. Telephone, postage, Federal Express charges and copies	<u>67.42</u>
Total	<u>\$5,800.27</u>



**Crown, Jackson, Nixon & Wilson**  
CERTIFIED PUBLIC ACCOUNTANTS, P.A.

JAMES L. CARLSTEDT, C.R.A.  
JOHN M. CROWN, JR., C.P.A.  
ROBERT H. JACKSON, C.R.A.  
ROBERT C. NIXON, C.P.A.  
HOLLY M. TOWNER, C.R.A.  
JAMES L. WILSON, C.R.A.

260 GULF-TO-BAY BOULEVARD  
SUITE 200  
CLEARWATER, FLORIDA 34625-4119  
(813) 791-4800  
FACSIMILE  
(813) 797-3682

**I N V O I C E**

December 11, 1996

Hydratech Utilities, Inc.  
6570 S.E. Federal Highway  
Stuart, FL 34997

#352

For professional services rendered during  
November, 1996, as follows:

1. Preparation of computer generated financial statements and general ledger for the month of September, 1996	\$ 219.30
2. Partial billing for preparation of projected statement of cash flow for the five years ending December 31, 2000	1,120.00
3. Preparation of projected rate of return analysis for 1996	420.00
4. Partial billing for work completed on the 1995 gross-up refund report	1,120.00
5. Review PSC Order on gross-up refunds for 1993 and 1994 and discuss same with Mr. Deterding	140.00
6. Telephone, Federal Express charges, and copies	106.17
Total	<u>\$3,125.47</u>

**Cronin, Jackson, Nixon & Wilson**  
CERTIFIED PUBLIC ACCOUNTANTS, P.A.

JAMES L. CARLSTEDE, C.P.A.  
JOHN H. CRONIN, JR., C.P.A.  
ROBERT H. JACKSON, C.P.A.  
ROBERT C. NIXON, C.P.A.  
MOLLY H. TOWNER, C.P.A.  
JAMES L. WILSON, C.P.A.

2900 GULF-TO-BAY BOULEVARD  
SUITE 200  
CLEARWATER, FLORIDA 34625-4419  
(813) 791-4200  
FACSIMILE  
(813) 797-3003

**I N V O I C E**

January 16, 1997

Hydratech Utilities, Inc.  
6570 S.E. Federal Highway  
Stuart, FL 34997

#352

For professional services rendered during  
December, 1996, as follows:

1. Preparation of computer generated financial statements and general ledger for October, 1996	\$ 527.05
2. Preparation of 1995 gross-up refund report	1,846.00
3. Conferences at Utility offices (Jurgutis) related to reviewed financial statements, accounting software, and projection for bank loan; rate of return projection for 1996	1,920.00
4. Telephone, postage, Federal Express charges, travel expense, and copies	465.43
Total	<u>\$4,747.48</u>

\$125  
Gross-up

HYDRATECH UTILITIES, INC.

ACTUAL AND ESTIMATED ATTORNEYS FEES AND COSTS:

<u>Invoice Number</u>	<u>Billing Date</u>	<u>Fees</u>	<u>Out-of Pocket</u>	<u>Total</u>
*16244	01/23/97	\$ 52.50	\$ -0-	\$ 52.50
*16667	03/27/97	542.50	42.75	585.25
*16852	05/12/97	437.50		437.50
Total expense through 04/30/97		\$ 1,032.50	\$ 42.75	\$ 1,075.25
Estimated to complete**		\$ 3,500.00	\$ 300.00	\$ 3,800.00
Total Actual and Estimated Expenses		\$ <u>4,532.50</u>	\$ <u>342.75</u>	\$ <u>4,875.25</u>

\*Pro rata cost allocation

\*\* Review and respond to additional Staff inquiries; review of Staff Recommendation; prepare for and attendance at Agenda Conference; correspondence and reporting to client re: same; review order and reporting to client; final report to client after protest and appeal period.

Estimated 20 hours to complete @ \$175 per hour = \$3,500 + Costs \$300 for total of \$3,800.

LAW OFFICES  
**ROSE, SUNDBSTROM & BENTLEY**  
 A PARTNERSHIP INCLUDING PROFESSIONAL ASSOCIATIONS  
 P. O. BOX 1567  
 TALLAHASSEE, FLORIDA 32302-1567  
 (904) 877-8665

PLEASE REFER TO INVOICE NUMBER  
 WHEN REMITTING

FEI # 58-2783536

HYDRATECH UTILITIES, INC  
 C/O MR. GERALD BOBO  
 6570 S E FEDERAL HWY  
 STUART, FL 34997-8383

INVOICE # 16244  
 JANUARY 23, 1997  
 FILE # 25021-0007

PAGE 1

MATTER	GROSS-UP OF CIAC		
12/04/96	REVIEW TARIFFS CANCELLING GROSS-UP; REVIEW TARIFF FILE AND LETTER TO CLIENT RE: SAME.	0.60	
12/09/96	REVIEW BOB NIXON'S SCHEDULE RE: COMPANY'S POSSIBLE INTEREST ON ISSUE ON FEES RELATED TO GROSS-UP; BEGIN PLEADING PREPARATION; COMPLETE FIRST DRAFT OF PLEADING; REVIEW ORDER RE: GROSS-UP REFUNDS; REVISE PLEADING; REVIEW RULES AND FILE AND PREVIOUS ORDERS; FINALIZE AND FILE PLEADING.	2.90	
12/09/96	TELEPHONE CONFERENCE WITH CLERK; DRAFT LETTER TO KEATHLEY.	0.00	
12/11/96	REVIEW GROSS-UP SCHEDULES AND TAX RETURN; TELEPHONE CONFERENCE WITH MR. NIXON; TELEPHONE CONFERENCE WITH MR. KEATHLEY RE: GROSS-UP REFUNDS; SEND SCHEDULE WITH COVER LETTER TO HILL AND TAX RETURNS WITH COVER LETTER TO CLERK.	3.10	
		7.40	1,110.00
	LONG DISTANCE CALLS	1/2	50.25
	TELECOPIER	1/2	11.00
	PHOTOCOPIES	1/2	30.25
	TOTAL COSTS ADVANCED		91.50
	TOTAL STATEMENT		\$1,201.50

PLEASE REFER TO INVOICE # WHEN REMITTING

EXHIBIT A  
 Page 8 of 10

FMB

LAW OFFICES  
**ROSE, SUNDBSTROM & BENTLEY**  
 A PARTNERSHIP INCLUDING PROFESSIONAL ASSOCIATIONS  
 P. O. BOX 1587  
 TALLAHASSEE, FLORIDA 32302-1587  
 (904) 877-8866

PLEASE REFER TO INVOICE NUMBER  
 WHEN REMITTING

FEI # 59-2783636

HYDRATECH UTILITIES, INC  
 C/O MR. GERALD BORO  
 6570 S E FEDERAL HWY  
 STUART, FL 34997-8383

INVOICE # 16667  
 MARCH 27, 1997  
 FILE # 25021-0007

PAGE 1

MATTER

GROSS-UP OF CIAC

02/05/97	TELEPHONE CONFERENCE WITH JACKIE GILCHRIST RE: INFORMATION ON GROSS-UP; REVIEW FILE	0.30	
02/07/97	TELEPHONE CONFERENCE WITH BOB NIXON RE: PREPARATION FOR MEETING ON GROSS-UP.	0.50	
02/25/97	TELEPHONE CONFERENCE WITH STAFF ATTORNEY AND MEETING AND TELEPHONE CONFERENCE WITH STAFF; DRAFT LETTER TO KEATHLEY RE: STATUS.	0.90	
02/26/97	TELEPHONE CONFERENCE WITH KEATHLEY; TELEPHONE CONFERENCE WITH NIXON RE: VARIOUS ISSUES ON GROSS-UP/	1.00	
02/27/97	TELEPHONE CONFERENCE WITH NIXON; PREPARATION FOR MEETING AND EMPHASIS ON RECOGNITION OF COSTS AND STRATEGY.	0.30	
02/27/97	TELEPHONE CONFERENCE WITH STAFF RE: POST-JUNE 12, 1997 GROSS-UP; TELEPHONE CONFERENCE WITH KEATHLEY RE: SAME; TELEPHONE CONFERENCE WITH NIXON RE: ALL; REVIEW FILE.	1.10	
02/28/97	REVIEW INFORMATION FROM NIXON AND FROM COMPANY RE: POST-JUNE 12TH GROSS-UP REFUNDS; DRAFT LETTER TO PSC AND FILE ALL.	1.50	
		5.60	980.00
	LONG DISTANCE CALLS	8.50	
	TELECOPIER	47.50	
	TOTAL COSTS ADVANCED		56.00
	TOTAL STATEMENT		\$1,036.00

EXHIBIT A  
 Page 9 of 10

Continued

LAW OFFICES  
**ROSE, SUNDBSTROM & BENTLEY**  
A PARTNERSHIP INCLUDING PROFESSIONAL ASSOCIATIONS  
P O BOX 1887  
TALLAHASSEE, FLORIDA 32302-1887  
(904) 877-8866

PLEASE REFER TO INVOICE NUMBER  
WHEN REMITTING

FEI # 58-2783638

HYDRATECH UTILITIES, INC  
C/O MR. GERALD BOBO  
6570 S E FEDERAL HWY  
STUART, FL 34997-8383

INVOICE # 16852  
MAY 12, 1997  
FILE # 25021-0007

PAGE 1

MATTER GROSS-UP OF CIAC

04/01/97	TELEPHONE CONFERENCE WITH STAFF RE: DEFERRAL OF ITEM ON GROSS-UP BECAUSE OF LACK OF INFORMATION ON PROCESSING COSTS; TELEPHONE CONFERENCE WITH MR. NIXON AND MR. KEATHLEY RE: SAME; REVIEW STAFF RECOMMENDATION; PREPARE FOR AND ATTEND	1.60
04/01/97	AGENDA AND REQUEST DEFERRAL; DISCUSSIONS WITH STAFF.	0.00
04/02/97	REVIEW NOTES AND DRAFT LETTER TO PHILLIP KEATHLEY RE: AGENDA OUTCOME ON GROSS-UP.	0.90
04/07/97	TELEPHONE CONFERENCE WITH NIXON RE: GROSS-UP PROTEST AND STAFF PROPOSAL; REVIEW STAFF INFORMATION.	0.60
04/08/97	PREPARE FOR AND ATTEND MEETING WITH PSC STAFF ON SETTLEMENT FOR GROSS-UP PRO- TEST; REVIEW STAFF'S SCHEDULE PROVIDED; CONFERENCE WITH OTHER UTILITY COUNSEL RE: SAME; TELEPHONE CONFERENCE WITH NIXON RE: SAME; FAX INFORMATION TO	1.20
04/08/97	NIXON.	0.00
04/18/97	REVIEW NIXON'S CALCULATIONS; TELEPHONE CONFERENCE WITH NIXON AND OTHER UTILITY COUNSEL RE: ALTERNATIVE TO STAFF PROPOSAL AND MAKE CALCULATIONS RE: SAME.	1.00
04/21/97	DRAFT EXTENSIVE LETTER TO PSC RE: ALTERNATIVE PROPOSAL AND SEND TO NIXON AND OTHER UTILITY COUNSEL; TELEPHONE CONFERENCE WITH BOTH; MAKE REVISIONS TO SAME AND SEND FINALIZED LETTER WITH SCHEDULES.	1.20
04/22/97	TELEPHONE CONFERENCE WITH STAFF COUNSEL RE: STAFF POSITION; REVIEW STAFF FINAL OFFER AND SEND TO CLIENT VIA TELECOPY; TELEPHONE CONFERENCE WITH SEVERAL RE: "OKAY"; TELEPHONE CONFERENCE WITH NIXON	1.00

EXHIBIT A  
Page 10 of 10

Continued

FLORIDA PUBLIC SERVICE COMMISSION - RECORDS AND REPORTING

Printed Name of Requester: \_\_\_\_\_

Number of Originals 7 Date 4/22/91 Copies Per Original 1  
Requested By Smith

Item Presented

Agenda For (Date) \_\_\_\_\_ Order No. 917-0454 In Docket No. 17-075-08  
Notice of \_\_\_\_\_ For (Date) \_\_\_\_\_ In Docket No. \_\_\_\_\_  
Other \_\_\_\_\_

Special Handling Instructions

Distribution/Mailing

Number	Distributed/Mailed To	Number	Distribution/Mailed To
<u>16</u>	<u>Commission Offices</u>	<u>--</u>	_____
<u>2</u>	<u>Docket Mailing List - Mailed</u>	_____	_____
	<u>Docket Mailing List - Faxed</u>	_____	_____

Note: Items must be mailed and/or returned within one working day after issue unless specified here:

Print Shop Verification

Job Number 170 Verified By W.S.  
Date and Time Completed 4-23 Job Checked For Correctness and Quality (Initial) \_\_\_\_\_

Mail Room Verification

Date Mailed \_\_\_\_\_ Verified By \_\_\_\_\_