

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for) DOCKET NO. 920488-SU
Declaratory Statement)
Regarding Bulk Service) ORDER NO. PSC-92-0671-DS-SU
Agreement by HUDSON UTILITIES,)
INC., d/b/a HUDSON BAY COMPANY) ISSUED: 07/17/92
in Pasco County.)
_____)

The following Commissioners participated in the disposition of this matter:

THOMAS BEARD, Chairman
SUSAN F. CLARK
J. TERRY DEASON
BETTY EASLEY
LUIS J. LAUREDO

DECLARATORY STATEMENT

BY THE COMMISSION:

By petition filed May 19, 1992, Hudson Utilities, Inc., d/b/a Hudson Bay Company (Hudson), requested a declaratory statement regarding the applicability of the regulatory assessment fee provisions of section 350.113, Florida Statutes, and Rule 25-30.120(3), Florida Administrative Code, to the amount it pays to purchase wastewater treatment from Pasco County. Hudson, a wastewater utility located in Pasco County, Florida, is uncertain whether it is entitled to a credit on its regulatory assessment fees for the amount it pays to Pasco County for wastewater treatment, and whether it is obligated to pay the fees on the revenue generated by a \$1.00 per-thousand-gallon charge imposed by Pasco County. The petition meets the threshold requirements of section 120.565, Florida Statutes, and Rule 25-22.021, Florida Administrative Code, for a declaratory statement.

Discussion

Hudson's petition presents two specific questions. First, it asks whether it should be granted a credit on its regulatory assessment fees pursuant to the provision in Rule 25-30.120(3), Florida Administrative Code, stating that "[a]ny utility that purchases water or wastewater treatment from another utility regulated by the Florida Public Service Commission is allowed a credit on the regulatory assessment fees paid to the FPSC." The answer to Hudson's question is no. Hudson purchases its wastewater treatment from Pasco County. Pasco County is not a utility regulated by the Florida Public Service Commission. Therefore, Hudson is not entitled to a credit on the regulatory assessment fees paid to the Commission.

DOCUMENT NUMBER-DATE

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ORDER NO. PSC-92-0671-DS-SU
DOCKET NO. 920488-SU
PAGE 2

Hudson's second question is whether it must pay a regulatory assessment fee on the revenue generated by a \$1.00 per-thousand-gallon charge imposed by Pasco County for wastewater treatment. The answer to that question is yes.

Sections 350.113(3) and 367.145, Florida Statutes, and Rule 25-30.120, Florida Administrative Code, require utilities to pay regulatory assessment fees based on their gross operating revenues derived from intrastate business. Hudson states that it pays \$4.12 per-thousand-gallons to Pasco County for wastewater treatment. Included in that rate is a \$1.00 per-thousand charge for a capital component or "impact fee". Hudson claims that the \$1.00 charge is neither a part of the general operating revenue of Pasco County nor a gross operating revenue of Hudson; thus, regulatory assessment fees should not be payable on that amount.

Hudson is mistaken. The \$4.12 total per-thousand-gallon charge is an expense that is built into Hudson's revenue requirement. As such, the Commission's regulatory assessment fee on the \$1.00 component of the total per-thousand-gallon charge is included as an expense that is also a part of Hudson's revenue requirement. Hudson recovers both this charge, and the regulatory assessment fee based on the charge, from its customers. Order No. 23810, Docket No. 900293-SU, In re: Application for a staff-assisted rate case in Pasco County by HUDSON UTILITIES, INC. It therefore constitutes a gross operating revenue for the purpose of sections 350.113(3) and 367.145, Florida Statutes, and Rule 25-30.120, Florida Administrative Code, and is subject to the regulatory assessment fee.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that the Petition for Declaratory Statement filed by Hudson Utilities, Inc., d/b/a Hudson Bay Company, is granted. It is further

ORDERED that the substance of the Declaratory Statement is as set forth in the body of this order. It is further

ORDERED that this docket should be closed.

ORDER NO. PSC-92-0671-DS-SU
DOCKET NO. 920488-SU
PAGE 3

By ORDER of the Florida Public Service Commission, this 17th
day of July, 1992.

STEVE TRIBBLE, Director
Division of Records and Reporting

(S E A L)

by: Kay J. Ryan
Chief, Bureau of Records

ORDER NO. PSC-92-0671-DS-SU
DOCKET NO. 920488-SU
PAGE 4

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.59(4), Florida Statutes, to notify parties of any administrative hearing or judicial review of Commission orders that is available under Sections 120.57 or 120.68, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing or judicial review will be granted or result in the relief sought.

Any party adversely affected by the Commission's final action in this matter may request: 1) reconsideration of the decision by filing a motion for reconsideration with the Director, Division of Records and Reporting within fifteen (15) days of the issuance of this order in the form prescribed by Rule 25-22.060, Florida Administrative Code; or 2) judicial review by the Florida Supreme Court in the case of an electric, gas or telephone utility or the First District Court of Appeal in the case of a water or sewer utility by filing a notice of appeal with the Director, Division of Records and Reporting and filing a copy of the notice of appeal and the filing fee with the appropriate court. This filing must be completed within thirty (30) days after the issuance of this order, pursuant to Rule 9.110, Florida Rules of Appellate Procedure. The notice of appeal must be in the form specified in Rule 9.900(a), Florida Rules of Appellate Procedure.