

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Complaint of Gulf Island) DOCKET NO. 931204-SU
Resort, LP against HUDSON) ORDER NO. PSC-94-0749-S-SU
UTILITIES, INC. d/b/a HUDSON BAY) ISSUED: June 20, 1994
COMPANY for failure to provide)
wastewater service in Pasco)
County.)
_____)

The following Commissioners participated in the disposition of this matter:

J. TERRY DEASON, Chairman
SUSAN F. CLARK
JULIA L. JOHNSON
DIANE K. KIESLING

ORDER APPROVING STIPULATION AND
GRANTING JOINT MOTION TO DISMISS COMPLAINT AND EMERGENCY PETITION

BY THE COMMISSION:

BACKGROUND

Gulf Island Resort (Gulf Island) is a condominium consisting of two phases of approximately 100 units each located in Hudson, Florida. Gulf Island is located within the certificated territory of Hudson Utilities, Inc., d/b/a Hudson Bay Co. (Hudson or utility), which provides wastewater service.

The condominium project was originally developed as three separate phases by Harbor Lights Ventures, Inc., in the early 1980's. In 1986, Hudson's approved service availability charge was \$200.00. In the course of a staff-assisted rate case conducted that year, we discovered that the utility's previous owners had failed to collect contributions-in-aid-of-construction (CIAC) from all three phases. As a result, we imputed to the utility \$64,800 in CIAC (324 units x \$200.00).

At the conclusion of the staff-assisted rate case, the utility and the condominium developer entered into a developer agreement which acknowledged that the developer had not paid Hudson any connection fees, even though the units were already connected. The developer agreed to pay the \$200.00 fee for connection of Phase I over a set period of time. The developer and Hudson agreed that if no agreement was made as to Phases II and III, Hudson would plug the connection to those Phases in order to prevent any sewage from

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Phases II and III from entering Hudson's lines. No agreement was made between the parties and the utility blocked the connection. Phases II and III remained unoccupied at that time.

In 1988 we conducted another staff-assisted rate case, with the \$64,800 in CIAC still being imputed to Hudson. In that case (Docket No. 881391), we authorized an increase in the utility's service availability charge to \$1,600.00. Between 1986 and the present, both the utility and the condominium project changed ownership. Gulf Island Resorts, Inc. purchased the remaining two condominium buildings, known as Phases II and III.

The condominium owner has now sought wastewater service for Phases II and III. On December 16, 1993, Gulf Island filed a complaint with this Commission, alleging that Hudson refused to provide service to the two condominium buildings until Gulf Island paid \$1,600.00 per unit, and \$20,000 for a lift station upgrade. On December 22, 1993, Gulf Island filed a Petition for Emergency Relief, requesting that this Commission allow Gulf Island to connect to the wastewater system after paying \$200.00 during the pendency of the case.

On March 9, 1994, we issued an Order Granting Petition for Emergency Relief (Order No. PSC-94-0275-FOF-SU). We ordered Hudson to collect \$1,600 per unit from Gulf Island Resorts for the units located in Phase II and Phase III and \$20,000 for the construction of the lift station. We further ordered Hudson to provide security for \$1,400 of the service availability charge collected for each unit and the entire \$20,000 for the lift station, in the event of a refund of those amounts. This relief was ordered so that service could begin during our staff's investigation of Gulf Island's complaint.

APPROVAL OF STIPULATION

On April 25, 1994, the parties filed a Joint Motion for Approval of Settlement Agreement and Dismissal of Complaint and Petition for Emergency Relief. The parties have stipulated that Gulf Island will pay Hudson the current service availability charge of \$1,600.00 per unit as each unit is sold; Hudson will bear the cost of replacing the burnt-out pump and upgrading the lift station; and the complaint and petition filed by Gulf Island will be dismissed with prejudice.

There were two primary disputes between the parties: the amount of service availability charge to be paid per unit, and the responsibility for making \$20,000 in repairs to a lift station. In Order No. PSC-94-0275-FOF-SU, we required Gulf Island to pay a

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service availability charge of \$1,600.00 per unit and pay \$20,000 for the repair of the lift station. These payments were to be made subject to refund pending the final resolution of the case. Pursuant to the stipulation, Gulf Island will pay the \$1,600.00 service availability charge as each unit is hooked up, and Hudson will bear the cost of repairing the lift station.

By resolving their dispute, the parties have saved themselves, this Commission, and the customers considerable time and resources. Although the agreement does not comport with the terms of Order No. PSC-94-0275-FOF-SU, we find it appropriate to approve the agreement. At the time that Order was issued, several months of investigation and a possible formal administrative hearing were anticipated in order to address Gulf Island's Complaint. Order No. PSC-94-0275-FOF-SU provided an interim solution to the problem. Now that the parties have solved their dispute, there is no need to require Hudson to hold any funds subject to refund.

As noted earlier, this Commission had already imputed CIAC for the units in Phase II and Phase III. During a staff-assisted rate case in 1988, we discovered that Hudson had not collected service availability charges for all of the units. As a result, we imputed \$200.00 for each unit to the utility's rate base. The utility will now be collecting \$1,600.00 in service availability charges for the same units. This will not have an immediate affect on the utility's rate base but will affect the utility's rate base in the future. However, we find that it would be appropriate to address that issue the next time that the utility comes before this Commission in a rate proceeding.

DISMISSAL OF COMPLAINT AND EMERGENCY PETITION

Gulf Island filed a Complaint and Petition for Emergency Relief with this Commission. As noted herein, we have approved a stipulation which resolves the subject of the Complaint and Emergency Petition. Furthermore, both parties have requested that the Complaint and Emergency Petition be dismissed with prejudice. Therefore, we find it appropriate to dismiss Gulf Island's Complaint and Petition for Emergency with prejudice. Since all of the outstanding matters have been resolved, this docket shall be closed.

Based on the foregoing, it is, therefore,


ORDERED by the Florida Public Service Commission that the stipulation filed by Gulf Island Resorts and Hudson Utilities, Inc. is hereby approved. It is further

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ORDERED that the Complaint and Petition for Emergency Relief filed by Gulf Island Resorts is hereby dismissed with prejudice. It is further

ORDERED that this docket shall be closed.

By ORDER of the Florida Public Service Commission, this 20th day of June, 1994.



BLANCA S. BAYO, Director
Division of Records and Reporting

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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 Civil Procedure. The notice of appeal must be in the form specified in Rule 9.900 (a), Florida Rules of Appellate Procedure.