

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Application for 1996)	
disposition of contributions)	Docket No. 961152-SU
in aid of construction by)	
Hudson Utilities, Inc. d/b/a)	Filed: March 5, 1997
Hudson Bay Company.)	
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**HUDSON UTILITIES, INC.'S PETITION
ON PROPOSED AGENCY ACTION**

Petitioner Hudson Utilities, Inc. d/b/a Hudson Bay Company ("Hudson"), by and through its undersigned counsel, hereby files this petition for formal proceedings pursuant to Sections 120.569 and 120.57(1), Florida Statutes (Supp. 1996) and proposed agency action Order No. PSC-97-0197-FOF-SU ("Order") issued February 19, 1997 in Docket No. 961152-SU, and states as follows:

1. The name and address of the Petitioner is:

Hudson Utilities, Inc.
d/b/a Hudson Bay Company
14334 Old Dixie Highway
Hudson, Florida 34667

2. All notices, pleadings, discovery requests, orders, correspondence and other documents filed or served in this docket should be served on the following on behalf of Hudson:

Kenneth A. Hoffman, Esq.
William B. Willingham, Esq.
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Purnell & Hoffman, P.A.
P. O. Box 551
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3. Petitioner's undersigned attorneys received a copy of the Order from the Commission's Division of Records and Reporting on

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February 24, 1997 by U.S. Mail.

4. Pursuant to the Order, the Commission proposes to increase the amount of refund of gross-up monies to be paid by Hudson to customers or developers who paid service availability charges plus the gross-up then applicable to contributions-in-aid of construction ("CIAC") in 1993 and 1994. The increase in the refunds calculated and proposed by Hudson in its 1993 and 1994 CIAC gross-up reports results from the Commission's failure to reduce the refunds due by the accounting costs associated with the preparation, filing and processing of said reports.

5. Hudson's substantial interests are materially and directly affected by the amount of gross-up refunds it is required to pay to contributors of gross-up in 1993 and 1994 and when, if ever, Hudson will recover the accounting costs incurred in connection with the preparation, filing and processing of its 1993 and 1994 CIAC gross-up reports.

6. In the Order, the Commission determined that these accounting costs should not be borne by the cost causer -- the payors of the gross-up -- but rather should be funded by Hudson and then recovered from the general body of ratepayers in a rate case at some undetermined time in the future.¹ Hudson disagrees with and challenges the Commission's rationale and conclusion concerning the treatment of the accounting costs.

7. The accounting costs at issue are directly caused by and applicable to the gross-up process. It is only fair and equitable

¹Order, at 4-5.

that these costs be used to reduce the amount of gross up refundable rather than being charged to the general body of ratepayers through the rate-setting process. Such regulatory treatment appropriately places the responsibility for such costs on the cost-causer consistent with traditional Commission goals and precedent for cost recovery and, specifically, the requirements of Order Nos. 16971 and 23541 governing the filing and processing of CIAC gross-up reports.

8. The Commission's determination that the accounting costs incurred in the preparation and processing of the 1993 and 1994 CIAC gross-up refund reports inappropriately assumes that the general body of ratepayers are responsible for such costs and provides a windfall to the contributors of gross-up based on that assumption despite the requirements of Order Nos. 16971 and 23541 to the contrary.

9. The disputed issues of material fact, law or policy include, but are not limited to, the following:

a. Whether the accounting costs at issue are appropriately recovered from the contributors of the gross-up or the general body of ratepayers.

b. Whether recovery of the accounting costs at issue from the general body of ratepayers is consistent with the intent of Order Nos. 16971 and 23541.

c. Whether recovery of the accounting costs at issue from the general body of ratepayers would allow for timely recovery of such costs.

d. Whether there is any statute, rule, order or duly announced Commission policy which authorizes or requires that the cost of gross-up processing be recovered from anyone other than the contributors of the gross-up.

e. Whether there is any statute, rule, order or duly announced Commission policy which requires above-the-line treatment for the accounting costs at issue which are not currently embedded in Hudson's rates nor likely to be recognized as a cost of operations and recovered through Hudson's rates in any future rate-setting proceeding.

f. Whether the Commission's treatment of the accounting costs at issue results in a confiscation of Hudson's property.

10. The ultimate facts entitling Hudson to the relief it seeks are that the contributors of gross-up are the sole cause of and appropriately bear the responsibility for the costs incurred in the preparation, filing and processing of the 1993 and 1994 CIAC gross-up reports. Therefore, under the authorities cited herein, the accounting costs incurred by Hudson in the preparation, filing and processing of its 1993 and 1994 CIAC gross-up reports should not be imposed on the general body of ratepayers but rather should be included in the calculation of the CIAC gross-up refunds due for 1993 and 1994 as a reduction to said refunds.

WHEREFORE, based upon the foregoing allegations, Hudson requests that the Commission grant it a formal administrative hearing pursuant to Sections 120.569 and 120.57(1), Florida Statutes (Supp. 1996) and grant the relief set forth in paragraph

10 above.

Respectfully submitted,



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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of Hudson Utilities, Inc.'s Petition on Proposed Agency Action was furnished by U. S. Mail to the following this 5th day of March, 1997:

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Hudson Petition