

ORIGINAL

JAMES E. "JIM" KING, JR.
President

JOHNNIE BYRD
Speaker



STATE OF FLORIDA
OFFICE OF PUBLIC COUNSEL

c/o THE FLORIDA LEGISLATURE
111 WEST MADISON ST.
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TALLAHASSEE, FLORIDA 32399-1400
850-488-9330



Harold McLean
Public Counsel

Stephen C. Reilly
Associate Public Counsel

May 25, 2004

Ms. Blanca S. Bayó, Director
Division of the Commission Clerk
and Administrative Services
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0870

RE: Docket No. 981079-SU

040509-SU

FILED
D-PPSC
MAY 25 AM 11:19
COMMISSION
CLERK

Dear Ms. Bayó:

Enclosed are an original and fifteen copies of Citizens' Motion to Initiate a Show Cause Proceeding Against Hudson Utilities, Inc. for filing in the above-referenced docket.

Please indicate receipt of filing by date-stamping the attached copy of this letter and returning it to this office. Thank you for your assistance in this matter.

Sincerely,

Stephen C. Reilly
Associate Public Counsel

- CMP _____
- COM _____
- CTR _____
- ECR SCR/dsb
- GCL _____
- OPC _____
- MMS _____
- RCA _____
- SCR _____
- SEC 1
- OTH + cover ltr.

RECEIVED & FILED
[Signature]
FPSC-BUREAU OF RECORDS

DOCUMENT NUMBER-DATE
05949 MAY 25 04
FPSC-COMMISSION CLERK

ORIGINAL

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application for amendment)
of Certificate No. 104-S to extend)
service territory in Pasco County by)
Hudson Utilities, Inc., and request for)
limited proceeding.)

040509-SU

DOCKET NO. 981079-SU
Filed: May 25, 2004

**CITIZENS' MOTION TO INITIATE A SHOW CAUSE
PROCEEDING AGAINST HUDSON UTILITIES, INC.**

The Citizens of the State of Florida ("Citizens"), by and through their undersigned attorney, pursuant to Rule 28-106.204, Florida Administrative Code, file this motion for the Commission to initiate a show cause proceeding against Hudson Utilities, Inc. ("Hudson," "Utility" or "Company") because of the Company's continued failure to provide service to the Sea Pines Community located within its service territory. The Citizens allege the following:

1. On August 26, 1998, Hudson filed an application with the Commission for an amendment of Certificate No. 104-S to extend its service territory. Included in this extended area is the Sea Pines Community. The Sea Pines area is located north of Hudson's preexpanded territory.
2. The Sea Pines residents in the Hudson service territory are currently served by septic tanks. The area has been federally designated as a flood plain area unsuitable for the efficient use of septic tanks and drain fields. The comprehensive land use plan adopted by the County calls for coastal areas, including Sea Pines, to be provided with sanitary sewer collection and treatment systems. However, the County generally does not construct gravity sewer collection systems.

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05949 MAY 25 04
FPSC-COMMISSION CLERK

3. To serve Sea Pines, Hudson must construct a collection system including lift stations and force mains to connect the Sea Pines area with its other collection mains, that transport wastewater to Pasco County's treatment plant.

4. In its application Hudson represented to the Commission that it had the financial and technical ability to provide wastewater collection service to the additional territory. Hudson also claimed that the proposed extension was not expected to impact its monthly rates or service availability charges.

5. By Order No. PSC-99-1916-PAA-SU, issued September 27, 1999, in this docket, which was made final and effective by Order No. PSC-99-2082-CO-SU, issued on October 21, 1999, the Commission approved Hudson's application to amend its certificate, including the addition of the subject Sea Pines area. In the over 4 ½ years since the Commission granted Hudson's request to include the Sea Pines area in its service territory Hudson has failed to even begin constructing any collection system to serve the area. During this time many Sea Pines customers have requested service from Hudson, but to no avail. Hudson's failure to provide service to the Sea Pines area continues to cause severe health and environmental problems to this area of Pasco County. Copies of two letters sent to Representative Fiorentino's office complaining about Hudson's failure to provide service are attached hereto as Exhibit "A." These letters help document the health, environmental and financial problems directly caused by Hudson's failure to provide service to Citizens located within its certificated territory.

6. As previously stated, Hudson originally assured the Commission that it could provide service to the expanded area without impacting its monthly service rates or service availability charges. However, on March 19, 2002 Hudson sought permission

from the Commission to increase its service availability charges from \$1,000.00 to \$2,400.00 per equivalent residential connection (ERC) or \$13.87 per gallon for all non-residential connections. On November 25, 2002 by Order No. PSC-02-1626-SU, the Commission granted Hudson's request for this substantial increase in its service availability charges.

7. The same Order No. PSC-02-1626-PAA-SU that authorized this substantial increase in Hudson's service availability charges also expressly acknowledged Hudson's assurance that it would begin constructing the Sea Pines collection system on or before August, 2003, with the project to be completed by January, 2004.

8. The Commission is well aware of the 4 ½ year saga that had to be endured by the Citizens of Signal Cove before they were finally served by Hudson. OPC and the Commission were assured that the financing for the Sea Pines collection system was in place and that construction would begin immediately after the completion of the Signal Cove project. For this reason OPC was in continuous contact with Hudson's attorney to verify that the construction was actually begun for the Sea Pines area. Over a several week period OPC was assured that construction would soon begin, first after a county performance bond requirement was waived and then after drawings were submitted to receive the necessary permits to work on the County's right-of-way. However, on May 7, 2004 OPC received a letter that appears to suggest that Hudson no longer has a binding commitment from its lenders to provide the funds necessary to construct the Sea Pines collection system. See copy of the May 7, 2004 letter attached as Exhibit "B."

9. The meaning and significance of the May 7, 2004 letter can not be fully known at this time. However, it could be the opening salvo to another arduous and protracted

process to force this Utility to serve its customers. At minimum it is confirmation that Hudson no longer has a binding commitment from its lenders to finance the construction of a collection system to serve the Sea Pines Community.

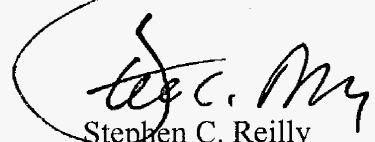
10. In light of the above revelation, and the fact that the Sea Pines Citizens have already been waiting 4 ½ years for service, the Commission should be very proactive in taking all steps necessary to assure that service is provided to Sea Pines as quickly as possible. Under Florida law, Hudson is required to “. . . provide service to the area described in its certificate of authorization within a reasonable time” (Section 367.111(1), Florida Statutes). This section further provides that the certificate of authorization may be amended or revoked, “. . . whether or not there has been a demand for such service, within 5 years after the date of authorization for service to such part. . . Amendment or revocation of authorization is not the exclusive remedy for failure to provide service.” Section 367.161(1), Florida Statutes, provides that if any utility “. . . knowingly refuses to comply with, or willfully violates any provision of this chapter or any lawful rule or order of the commission, such utility shall incur a penalty for each such offense of not more than \$5,000 ... Each day that such refusal or violation continues constitutes a separate offense.” Section 367.161(2), Florida Statutes, provides for a daily penalty of “. . . not more than \$5,000 ... or the Commission may, for any such violation, amend, suspend, or revoke any certificate of authorization issued by it.”

11. OPC has conferred with the parties to this proceeding to determine if they object to this motion. Counsel for Hudson does not support OPC’s motion and counsel for the Commission expressed no position at this time.

WHEREFORE, the Citizens respectfully request the Commission to initiate a show cause proceeding against Hudson because of the Company's continued failure to provide service to the Sea Pines area. The Commission should impose such penalties upon Hudson and provide such other relief it deems necessary to cause Hudson to serve this area as quickly as possible.

Respectfully submitted,

HAROLD MCLEAN
Public Counsel

A handwritten signature in black ink, appearing to read "S.C. Reilly", is written over a circular stamp or seal.

Stephen C. Reilly
Associate Public Counsel

Office of the Public Counsel
c/o The Florida Legislature
111 West Madison Street, Room 812
Tallahassee, FL 32399-1400

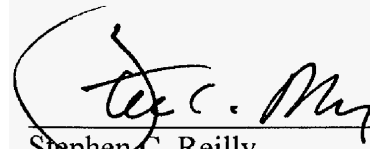
Attorney for the Citizens
of the State of Florida

**CERTIFICATE OF SERVICE
DOCKET NO. 981079-SU**

I HEREBY CERTIFY that a true and correct copy of the foregoing Citizens' Motion to Initiate a Show Cause Proceeding Against Hudson Utilities, Inc. has been furnished by hand-delivery to the following parties this 25th day of May, 2004.

Rosanne Gervasi, Esquire
Florida Public Service Commission
Division of Legal Services
2540 Shumard Oak Boulevard
Room 370
Tallahassee, FL 32399-0850

Martin P. McDonnell, Esquire
Rutledge, Ecenia, Purnel &
Hoffman, P.A.
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Stephen C. Reilly
Associate Public Counsel

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May 7, 2004

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GARY R. RUTLEDGE
GOVERNMENTAL CONSULTANTS
MARGARET A. MENDUNI
M. LANE STEPHENS

Stephen Reilly
Office of Public Counsel
111 West Madison Street
Room 812
Tallahassee, Florida 32399-1400

RE: Hudson Utilities


Dear Mr. Reilly:

As we discussed, I have been advised by Hudson Utilities ("Hudson") that the construction of Phase III (Sea Pines Subdivision) has been delayed due to the recent dramatic increases in construction costs. Nearly every facet of sewer line construction and street resurfacing has been impacted by the increases in oil prices. Hudson's construction contractor is presently finalizing the projected construction costs, adjusted for the recent cost increases. Hudson must then run feasibility tests to satisfy the three lenders involved, and gain their approval to go forward with further construction.

We greatly regret this unavoidable delay and hope to gain approval to move forward in a matter of a few weeks. I will, of course, keep you abreast of the situation.

Should you have questions please feel free to contact me.

Sincerely,


Martin P. McDonnell

MPM/tls
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RECEIVED
MAY 10 2004
Office Of
Public Counsel

8127 Gulf Way

Hudson, Fl.

July, 14 2003

Dear ms Neather Fiorentino

I live in sea pines. I am having sewer cost problems as I have to have my septic pumped every 4 months. We know when the tides are up as our toilets will not flush.

This causes contamination of the gulf. We are a flood zone we have to have sewers in our area to prevent contamination of fish, shell fish oysters our food supplies.

Hudson Beach would not have to be closed as often. People would not be ill with skin infections, ear infections gastro intestinal problems.

please help me. Force them on the new ruling to get sewer

Sincerely,

Constance R Chase Lpn

Ronald Chase

I am very dissatisfied with the service or no service that is promised by Hudson Utilities to put sewer into our community.

I have lived here for 11 years. I have 4 children. My husband and I have called over & over requesting sewer, since 1993! We have received a run-a-round from Hudson Utilities since they took over our service area!

We have replaced our drainfield 3 times, we have had raw sewage back up into our showers, bathtubs and toilets more often than not!

We have had the health dept. on our street citing houses because of water and sewage standing on our properties. This is unsanitary for my kids and us, pets, etc. Birds carry the diseases and it attracts flies and rats!

I can't believe in this day and age we have to live like this! We can't have guests and/or relatives over, my kids can't have friends over, we & neighbors can smell the sewage! It's disgusting!

We also can't use Hudson Beach and never have because it's always closed-

due to raw sewage @ the beach.
This also affects Tourism.

Hudson Utilities should not get the extension - the sewer should have been in already - Either they want to do it or they ~~do~~ don't! The P.S.C. should fine them per day as originally agreed.
If they can't get the funding then we should go on to another company that will do it immediately.

John Berube
John Paul Berube
15838 Lyle Lueke
Hudson, FL
34667