

BEFORE THE 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.

DOCKET NO. 981079-SU

In re: Application for increase in service availability charges for wastewater customers in Pasco County by Hudson Utilities, Inc.

DOCKET NO. 020254-SU  
ORDER NO. PSC-04-0708-PCO-SU  
ISSUED: July 20, 2004

The following Commissioners participated in the disposition of this matter:

BRAULIO L. BAEZ, Chairman  
J. TERRY DEASON  
LILA A. JABER  
RUDOLPH "RUDY" BRADLEY  
CHARLES M. DAVIDSON

ORDER ACKNOWLEDGING NOTICE OF COMPLETION OF SIGNAL COVE SERVICE TERRITORY AND PROOF OF TRANSFER, AND CLOSING DOCKET NO. 020254-SU

BY THE COMMISSION:

BACKGROUND

Hudson Utilities, Inc. (Hudson or utility) is a Class B utility serving approximately 2,300 residential and 115 commercial customers. The utility provides wastewater collection service to its customers and contracts with Pasco County (County) for wastewater treatment service pursuant to a Bulk Wastewater Treatment Agreement.

On August 26, 1998, Hudson filed an application for amendment of Certificate No. 104-S to extend its service area. The application included a request to serve a portion of territory known as Signal Cove, which was being served by the County. Docket No. 981079-SU was opened to process the application. Signal Cove is adjacent to the southern boundary of a portion of territory served by Hudson. The community includes 382 existing buildings, 131 of which had been receiving wastewater service from the County. The remaining buildings in the community used septic tanks. Signal Cove is located in an area which 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 Signal Cove, to be provided with sanitary sewer collection and treatment systems. However, the County generally does not construct gravity sewer collection systems.

DOCUMENT NUMBER-DATE

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PSC-COMMISSION CLERK

By Order No. PSC-99-1916-PAA-SU, issued September 27, 1999, in Docket No. 981079-SU, which was made final and effective by Order No. PSC-99-2082-CO-SU, issued on October 21, 1999, this Commission approved Hudson's application to amend its certificate, including the transfer of the Signal Cove territory from the County to Hudson. By that order, Hudson was required to file proof of the transfer of the Signal Cove territory within three months. To serve Signal Cove, Hudson needed to construct an additional collection system, lift station, and force main, and rebuild the existing lift station and force main. An Addendum Agreement for Bulk Wastewater Services for the Signal Cove Subdivision by and between Hudson and the County dated April 28, 1998, provides for the transfer of the Signal Cove territory when Hudson connects its force main to the County's wastewater collection system.

Since that time, Hudson has requested and this Commission has granted five extensions of time for Hudson to file proof of the transfer of the Signal Cove territory from the County to Hudson. See Orders Nos. PSC-00-0212-FOF-SU, issued February 2, 2000; PSC-00-1512-PCO-SU, issued August 21, 2000; PSC-01-1993-PCO-SU, issued October 8, 2001; PSC-02-1166-PCO-SU, issued August 26, 2002; and PSC-03-0889-PCO-SU, issued August 4, 2003.

On March 19, 2002, Hudson filed an application for an increase of service availability charges to increase its system capacity charge from \$1,000 to \$2,400, in order to recover the costs of extending its collection lines to serve the Signal Cove territory and additional areas north of Signal Cove.<sup>1</sup> By Order No. PSC-02-1626-PAA-SU, issued November 25, 2002, in Dockets Nos. 981079-SU, 020253-SU<sup>2</sup>, and 020254-SU, we approved Hudson's application for increased service availability charges, which action became final by Order No. PSC-02-1818-CO-SU, issued December 20, 2002. We ordered the utility to complete construction to the Signal Cove area by June 30, 2003, and to submit quarterly progress reports in Docket No. 020254-SU. Finally, we ordered Hudson to file, in Docket No. 981079-SU, proof of the transfer of territory from the County to Hudson by June 30, 2003. We put the utility on notice that failure to meet the June 30, 2003 deadline would result in the immediate initiation of show cause proceedings.

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<sup>1</sup> On July 10, 2002, the Office of Public Counsel (OPC) filed its Notice of Intervention in the service availability docket, which was acknowledged by Order No. PSC-02-0963-PCO-SU, issued July 16, 2002. OPC also filed a notice and an amended notice of intervention in Docket No. 981079-SU, which was acknowledged by Order No. PSC-02-0966-PCO-SU, issued July 16, 2002.

<sup>2</sup> Docket No. 020253-SU was opened to process a Petition filed by OPC to initiate show cause proceedings against Hudson for failure to provide wastewater service in its expanded service area within a reasonable time. By Order No. PSC-02-1626-PAA-SU, we denied the Petition upon noting that we had found Hudson's requests for extension of time to be reasonable and had granted them, and the docket was closed.

By Order No. PSC-03-0889-PCO-SU, upon finding that Hudson had apparently secured the financing necessary to complete the Signal Cove project, we declined to initiate show cause proceedings and granted Hudson's fifth and last request for extension of time to file proof of the transfer of territory, with the clarification that any potential additional extensions of time would be available to accommodate unavoidable construction delays due to *force majeure* only.

On May 25, 2004, OPC filed a Citizens' Motion to Initiate a Show Cause Proceeding Against Hudson Utilities, Inc. (Motion), alleging that Hudson has failed to serve its customers residing in the Sea Pines Community within a reasonable time. Our staff withdrew its recommendation filed in these dockets on May 20, 2004, for the June 1, 2004 agenda conference in order to alert us to the filing of the Motion. At issue in the Motion is the Sea Pines area only. On June 1, 2004, the utility filed, in Docket No. 981079-SU, a Response in Opposition to the Motion, arguing that the Motion should be denied for its failure to address any outstanding issues in the transfer docket, and stating that if OPC wishes to initiate a show cause proceeding against Hudson for its purported failure to service the Sea Pines area, Hudson reserves its right to file a responsive pleading in opposition.

On April 21, 2004, Hudson filed a Notice of Completion of Signal Cove Service Territory and Proof of the Transfer of Territory from Pasco County to Hudson Utilities, Inc. (Notice). This order addresses the Notice, Hudson's compliance with Order No. PSC-03-0889-PCO-SU, and the closure of Docket No. 020254-SU. We have jurisdiction pursuant to Sections 367.045 and 376.071, Florida Statutes.

#### NOTICE OF COMPLETION OF TERRITORY AND PROOF OF TRANSFER

In the Notice, Hudson states that it has timely fulfilled its commitment to service the Signal Cove territory. On March 15, 2004, in Docket No. 020254-SU, Hudson advised us that it has been fully capable of providing wastewater service to all residents of Signal Cove since approximately February 18, 2004. Hudson further states that the transfer of territory from the County to Hudson has been completed. As verification of the transfer, Hudson attached to the Notice a letter dated April 15, 2004, from Mr. Douglas S. Bramlett, Assistant County Administrator, and relevant documents reflecting the approval of the transfer by the Board of County Commissioners.

By Order No. PSC-03-0889-PCO-SU, Hudson was required to: 1) complete construction to Signal Cove and finalize the transfer of the Signal Cove territory from the County to Hudson within eight months; 2) file monthly progress reports in Docket No. 020254-SU; 3) file proof of the completion of construction to the Signal Cove area in both dockets; and 4) file, by April 11, 2004, proof of the transfer of territory from the County to Hudson in Docket No. 981079-SU.

Hudson has completed construction to Signal Cove and finalized the transfer within the required eight-month timeframe. As indicated in its March 15, 2004, progress report, Hudson has been fully capable of providing wastewater service to all residents of Signal Cove since

approximately February 18, 2004. Hudson has filed the requisite monthly progress reports in Docket No. 020254-SU, from September 2003 to March 2004, and has filed proof of the completion of construction to Signal Cove in both dockets. Although Hudson did not file proof of the transfer of territory from the County to Hudson by April 11, 2004, counsel for Hudson timely apprised our staff that the proof of transfer would be filed as soon as Hudson was able to obtain it from the County. The requisite proof of the transfer was filed on April 21, 2004, along with Hudson's Notice. Therefore, we find that Hudson has substantially complied with Order No. PSC-03-0889-PCO-SU, and we hereby acknowledge Hudson's Notice.

CLOSURE OF DOCKET NO. 020254-SU

Docket No. 981079-SU shall remain open to process OPC's Motion. Hudson shall provide information relative to the Motion within 30 days, and we will address the Motion as soon as plausible thereafter. Because no further action is necessary in Docket No. 020254-SU, that docket shall be closed.

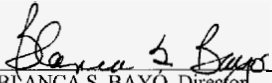
Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that Hudson Utilities, Inc.'s Notice of Completion of Signal Cove Service Territory and Proof of the Transfer of Territory from Pasco County to Hudson Utilities, Inc. is hereby acknowledged. It is further

ORDERED that Docket No. 981079-SU shall remain open to process the Citizens' Motion to Initiate a Show Cause Proceeding Against Hudson Utilities, Inc. Hudson shall provide information relative to the Motion within 30 days, and we will address the Motion as soon as plausible thereafter. It is further

ORDERED that Docket No. 020254-SU is hereby closed.

By ORDER of the Florida Public Service Commission this 20th day of July, 2004.

  
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BLANCA S. BAYO, Director  
Division of the Commission Clerk  
and Administrative Services

(SEAL)

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NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), 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.

Mediation may be available on a case-by-case basis. If mediation is conducted, it does not affect a substantially interested person's right to a hearing.

Any party adversely affected by this order, which is preliminary, procedural or intermediate in nature, may request: (1) reconsideration within 10 days pursuant to Rule 25-22.0376, 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 wastewater utility. A motion for reconsideration shall be filed with the Director, Division of the Commission Clerk and Administrative Services, in the form prescribed by Rule 25-22.060, Florida Administrative Code. Judicial review of a preliminary, procedural or intermediate ruling or order is available if review of the final action will not provide an adequate remedy. Such review may be requested from the appropriate court, as described above, pursuant to Rule 9.100, Florida Rules of Appellate Procedure.