

State of Florida



Public Service Commission

CAPITAL CIRCLE OFFICE CENTER • 2540 SHUMARD OAK BOULEVARD
TALLAHASSEE, FLORIDA 32399-0850

-M-E-M-O-R-A-N-D-U-M-

DATE: June 17, 2004

TO: Director, Division of the Commission Clerk & Administrative Services (Bayó)

FROM: Division of Economic Regulation (Clapp, Redemann, Revell, Merchant)
Office of the General Counsel (Gervasi)

RE: Docket No. 981079-SU – 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. 020254-SU – Application for increase in service availability charges for wastewater customers in Pasco County by Hudson Utilities, Inc.
County: Pasco

AGENDA: 06/29/04 – Regular Agenda – Interested Persons May Participate

CRITICAL DATES: None

SPECIAL INSTRUCTIONS: None

FILE NAME AND LOCATION: S:\PSC\GCL\WP\981079.RCM.DOC

Case 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.

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, the 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 the 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.¹ By Order No. PSC-02-1626-PAA-SU, issued November 25, 2002, in Dockets Nos. 981079-SU, 020253-SU², and 020254-SU, the Commission 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. The Commission 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, the Commission ordered Hudson to file, in Docket No. 981079-SU, proof of the transfer of territory from the County to Hudson by June 30, 2003. The Commission put the utility on notice that failure to meet the June 30, 2003, deadline would result in the immediate initiation of show cause proceedings.

By Order No. PSC-03-0889-PCO-SU, upon finding that Hudson had apparently secured the financing necessary to complete the Signal Cove project, the Commission declined to initiate

¹ On July 10, 2002, 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.

² 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, the Commission denied the Petition upon noting that the Commission had found Hudson's requests for extension of time to be reasonable and had granted them, and the docket was closed.

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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.

Staff notes that on May 25, 2004, the Office of Public Counsel (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. Staff withdrew its recommendation filed in these dockets on May 20, 2004, for the June 1, 2004 agenda conference in order to alert the Commission 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. Staff notes that because the Motion does not address service to Signal Cove, it is not relevant to whether Dockets Nos. 981079-SU and 020254-SU should be closed. A new docket, Docket No. 040509-SU, has been established to address the Motion.

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 recommendation addresses the Notice, Hudson's compliance with Order No. PSC-03-0889-PCO-SU, and the closure of Dockets Nos. 981079-SU and 020254-SU. The Commission has jurisdiction pursuant to Sections 367.045 and 376.071, Florida Statutes.

Discussion of Issues

Issue 1: Should Hudson's Notice of Completion of Signal Cove Service Territory and Proof of the Transfer of Territory from Pasco County to Hudson Utilities, Inc. be acknowledged?

Recommendation: Yes, the Notice should be acknowledged. (Gervasi, Clapp, Redemann)

Staff Analysis: On April 21, 2004, Hudson filed its Notice of Completion of Signal Cove Service Territory and Proof of the Transfer of Territory from Pasco County to Hudson Utilities, Inc. (Notice). 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 the Commission 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 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, staff believes that Hudson has substantially complied with Order No. PSC-03-0889-PCO-SU, and recommends that Hudson's Notice should be acknowledged.

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Issue 2: Should Dockets Nos. 981079-SU and 020254-SU be closed?

Recommendation: Yes, because no further action is necessary in these dockets, the dockets should be closed. (Gervasi)

Staff Analysis: Because no further action is necessary in these dockets, the dockets should be closed.