

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Objection to notice of ) DOCKET NO. 900020-SU  
intent to apply for amendment ) ORDER NO. 23846  
of Certificate No. 104-S in Pasco ) ISSUED: 12-10-90  
County by Hudson Utilities, Inc. )  

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The following Commissioners participated in the disposition of this matter:

MICHAEL McK. WILSON, Chairman  
THOMAS M. BEARD  
BETTY EASLEY  
GERALD L. GUNTER  
FRANK S. MESSERSMITH

ORDER AMENDING CERTIFICATE

BY THE COMMISSION:

BACKGROUND

Hudson Utilities, Inc., (Hudson or utility) is a class "C" utility located in Pasco County, Florida, which was originally certificated in 1973. The utility is currently serving approximately 250 residential and 50 general service wastewater customers. The utility does not itself treat wastewater; it collects and transmits effluent from its customers to Pasco County's regional wastewater system for treatment.

NOTICE AND OBJECTION

On December 18, 1989, Hudson Utilities, Inc., (Hudson) gave this Commission notice of its intention to apply for an amendment to its wastewater certificate, Certificate No. 104-S. The notice was purportedly given pursuant to Section 367.045, Florida Statutes. However, the application was not submitted at the time that noticing took place as is required by Section 367.045.

The utility filed its application for an amendment to its certificate on January 24, 1990. Upon review, we determined that there were several deficiencies in the filing. On March 7, 1990, we sent a letter to the utility informing it of the following deficiencies: proof of the notice's publication in the local newspaper, proof of the noticing of certain parties, complete

DOCUMENT NUMBER-DATE

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system and area maps. On March 27, 1990, the deficiencies were corrected, and we officially accepted the filing on that date.

On January 9, 1990, before the utility had filed its application, Pasco County filed a formal objection to Hudson's proposed amendment. Because of Pasco County's timely objection, we referred the matter to the Division of Administrative Hearings (DOAH) for an administrative hearing. Upon the parties request, the DOAH hearing officer suspended the hearing temporarily pending negotiation.

On June 5, 1990, the utility and Pasco County entered into an agreement for bulk wastewater treatment service under which Pasco County was to provide bulk wastewater treatment service to Hudson for a fee. In addition, the parties agreed to terminate certain legal disputes they had with each other. Hudson agreed to dismiss, with prejudice, its complaint against Pasco County filed in Circuit Court, and Pasco County agreed to withdraw its objection to Hudson's request for the instant territory amendment. Shortly thereafter, Hudson and the County filed a stipulation with DOAH under which the County withdrew its objection to the amendment and jurisdiction was to be returned to the Commission.

In the past, this Commission has not approved bulk service agreements between a regulated utility and a county, so we find no need to approve the agreement here between Hudson and Pasco County. However, since Pasco County's objection was filed with us, it is necessary that we acknowledge its withdrawal, and we hereby do so. With the objection disposed of, we will now address the application for amendment of Hudson's service territory.

#### APPLICATION FOR AMENDMENT

Hudson's application complies with the specifications contained in the governing statute, Section 367.045, Florida Statutes, and with other sections of Chapter 367 and administrative rules concerning an amendment to a certificate of authorization. In particular, the notarized application contains the following:

- 1) A check in the amount of \$150, which equates to the correct filing fee prescribed by Rule 25-30.020, Florida Administrative Code.

- 2) Adequate service territory and system depiction maps and a territory description, as prescribed by Rule 25-30.035, Florida Administrative Code.
- 3) Proof of notice of application to all interested governmental/regulatory agencies and to all utilities within a four-mile radius of the territory and proof of advertisement in a newspaper of general circulation in the county, as prescribed by Rule 25-30.030, Florida Administrative Code.

Evidence that the utility owns the land upon which its facilities are located, as required by Rule 25-30.035(f), Florida Administrative Code, was unnecessary since the utility does not have any treatment facilities, and the collection system is located on easements.

In its application, the utility requests approval to amend its certificated area to include an approximately 76-acre area known as Club Wildwood Mobile Home Park (Club Wildwood). Club Wildwood is currently served by a package plant, operating under a Department of Environmental Regulation (DER) Consent Order. Club Wildwood's owners want to have the package plant taken off-line.

The estimated effluent flow from Club Wildwood is 72,000 gallons per day (gpd). The utility expects to serve approximately 480 connections in Club Wildwood, although the park would be treated as one general service customer. Hudson will install a master wastewater flow meter for Club Wildwood, and the readings from this meter will be the basis for billing the park.

The estimated cost for constructing the necessary lines and associated hardware is \$93,000 with an estimated 30-day construction period. The utility indicated in its application that it plans to recover the above construction cost through its approved service availability charge of \$265 per equivalent residential connection (ERC). Club Wildwood will retain control, ownership, liability, operation and maintenance of the collection system within the mobile home park.

Hudson has been operating in the county for approximately 20 years. It is in compliance with the requirements of regulatory

agencies such as the DER and the Pasco County Public Health Department and is under no regulatory limitations or citations. The service area to be added needs and wants wastewater collection service, and Hudson is in a position to provide it. Hudson has lines which essentially abut the Club Wildwood service area, and the bulk wastewater treatment service agreement entered into by the utility and Pasco County was designed with Club Wildwood in mind.

We believe that amendment of the certificate is in the public interest. This Commission considers it desirable to have larger utilities take over smaller utilities if there is an unopposed opportunity to do so. Hudson provides service to several residential projects in close proximity to the Club Wildwood Mobile Home Park and has experience in dealing with the needs and requirements of the Pasco County area. Although Pasco County has a collection system located near Club Wildwood, Hudson is closer, and Pasco has indicated that it would rather have Hudson collect Club Wildwood's effluent. In addition, by Hudson's serving the Club Wildwood area, the customers will avoid paying impact fees to Pasco County amounting to approximately \$1,600 per wastewater connection.

Therefore, in consideration of the above, we find that the utility's requested amendment is in the public interest and is hereby approved. The utility's current certificate, Certificate No. 104-S, is hereby amended to include the territory described in Attachment A, which is attached hereto and by reference incorporated herein. The utility shall return Certificate No. 104-S within 30 days of the date of the order so that it may be amended accordingly. The utility shall also submit revised tariff pages reflecting the approved change within 30 days of the date of the order.

#### RATES

The utility's current rates and charges became effective August 3, 1990, after the pass-through of an increase in gallonage treatment cost and an increase in regulatory assessment fees. The utility's current rates and charges should be applied to customers in the new service territory. The service rates shall be effective for meter readings taken on or after thirty (30) days after our vote in this matter, November 20, 1990. Service availability charges and miscellaneous service charges shall be effective for connections made and service rendered on or after our November 20,

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1990, vote. Finally, since we have recently approved a rate increase for this utility in PAA Order No. 23810, issued November 27, 1990, the Club Wildwood rates will be affected accordingly, if that Order becomes final and effective.

PROVIDING SERVICE OUTSIDE CERTIFICATED TERRITORY

Under Section 367.045, Florida Statutes, which was effective October 1, 1989, a utility must obtain an amendment to its certificate from the Commission before it begins to construct its facilities or serve customers in the area it is adding to its territory. In this case, Hudson began constructing a line between the Club Wildwood service area and Pasco County's force main system during the latter part of 1989, connected to the Club Wildwood facilities in July, 1990, and began serving Club Wildwood on November 1, 1990, all without prior Commission approval.

The line was constructed pursuant to a November 24, 1989, service agreement between Club Wildwood and Hudson. As Club Wildwood's plant was operating under a DER Consent Order, it was the intention of the club's owner and the utility that construction of the line would relieve Club Wildwood of its DER regulatory troubles.

Club Wildwood's treatment and disposal system was inadequate and needed to be replaced. While the construction of the line violated Chapter 367 and our rules, we will not order the utility to show cause why it should not be fined for such violations since its actions served to remedy an unacceptable situation. However, we admonish the utility that it must conduct its future activities in accordance with Chapter 367 and our rules.

It is, therefore

ORDERED by the Florida Public Service Commission that Hudson Utilities, Inc., 14832 US Highway 19, Hudson, Florida, 34667, is hereby granted the territory set forth in Attachment A to this Order. It is further

ORDERED that within 30 days of the date of this Order, Hudson Utilities, Inc., shall file revised tariff sheets reflecting the additional territory and shall return Certificate No. 383-S for entry reflecting the additional territory. It is further

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ORDERED that the service rates approved herein for the amended territory shall be effective thirty (30) days on or after our vote in this matter, November 20, 1990, and the service availability and miscellaneous service charges approved herein for the amended territory shall be effective for connections made and service rendered after our vote in this matter, November 20, 1990. It is further

ORDERED that this docket is hereby closed.

By ORDER of the Florida Public Service Commission this 10th  
day of DECEMBER, 1990.

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STEVE TRIBBLE, Director  
Division of Records and Reporting

( S E A L )

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by: Kay Flynn  
Chief, Bureau of Records

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

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

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ATTACHMENT A

HUDSON UTILITIES, INC.

TERRITORY DESCRIPTION

The following described lands located in a portion of Section 27, Township 24 South, Range 16 East, Pasco County, Florida:

The North 1/2 of the Southeast 1/4 of Section 27, Township 24 South, Range 16 East, Pasco County, Florida, LESS that portion thereof lying Northwest of the Easterly right-of-way line of State Road No. 55, Section 14030, (U.S. Highway No. 19) as it is now established; said Easterly right-of-way line being 132 feet Southeast of the centerline of survey of said State Road No. 55; ALSO LESS the following described portion thereof:

Commence at the Southwest corner of the North 1/2 of the Southeast 1/4 of said Section 27 for a Point of Beginning; thence run North 0° 51' 30" West, a distance of 208.71 feet; thence North 88° 58' 20" East, a distance of 208.71 feet; thence South 0° 51' 30" East, a distance of 208.71 feet; thence South 88° 58' 20" West, a distance of 208.71 feet to the Point of Beginning.

The above described parcel contains 76.13 acres more or less, exclusive of the exceptions. Also known as Club Wildwood Mobile Home Park