

ORIGINAL  
FILE COPY

MEMORANDUM

December 6, 1994

TO: DIVISION OF RECORDS AND REPORTING  
FROM: DIVISION OF LEGAL SERVICES (O'SULLIVAN) *Magi*  
RE: DOCKET NO. 930818-WS - DISPOSITION OF CONTRIBUTIONS-IN-AID-OF-CONSTRUCTION (CIAC) FUNDS RECEIVED BY MARTIN DOWNS UTILITIES, INC. IN MARTIN COUNTY DURING 1990, 1991, 1992, AND 1993.

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Please file the attached letters in the above-referenced docket.

*closed 10/2/93*

MEO/dp

Attachment

cc: Division of Water and Wastewater (Iwenjiora)

- ACK \_\_\_\_\_
- AFA \_\_\_\_\_
- APP \_\_\_\_\_
- CAF \_\_\_\_\_
- CMU \_\_\_\_\_
- CTR \_\_\_\_\_
- EAG \_\_\_\_\_
- LEG \_\_\_\_\_
- LIN \_\_\_\_\_
- CRD \_\_\_\_\_
- RCM \_\_\_\_\_
- SEC   /   \_\_\_\_\_
- WAS \_\_\_\_\_
- OTH \_\_\_\_\_

DOCUMENT NUMBER-DATE

12285 DEC-7

FPSC-RECORDS/REPORTING

Commissioners:

J. TERRY DEASON, CHAIRMAN  
SUSAN F. CLARK  
JOSÉ GARCIA  
JULIA L. JOHNSON  
DIANE K. KIESLING



DIVISION OF LEGAL SERVICES  
NOREEN S. DAVIS  
DIRECTOR  
(904) 487-2740

## Public Service Commission

November 29, 1994

Mr. Martin Deterding, Esquire  
Rose, Sundstrom & Bentley  
2548 Blairstone Pines Drive  
Tallahassee, FL 32301

Re: Martin Downs Utilities, Inc. Gross-Up Reports

Mr. Deterding:

This letter is in response to your inquiry dated November 15, 1994. Pursuant to the general provisions of Sections 367.011(1), 367.101, and 367.121(1), Florida Statutes, the Florida Public Service Commission (PSC) has jurisdiction over matters that arise during the life of a regulated utility. The PSC retains jurisdiction over all matters that arise during the life of the utility until those matters are resolved. Since the contributions-in-aid-of-construction (CIAC) gross-up is a matter that arose during the life of Martin Downs Utilities, Inc. (Martin Downs) and has not yet been resolved, the PSC continues to have jurisdiction over Martin Downs regarding gross-up issues.

Regarding the orders cited in your letter, it is true that a docket had not been opened to address the CIAC gross-up refunds when Order No. PSC-93-1484-FOF-WS was issued, acknowledging the sale of Martin Downs to Martin County. However, it is not a requirement that the order specifically mention CIAC gross-up refunds and continuing jurisdiction thereover for the PSC to retain jurisdiction.

I hope this letter clears up any misunderstanding that may surround this matter. If you have any further questions, please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "Scott K. Edmonds".

Scott K. Edmonds  
Staff Attorney

cc: Division of Water and Wastewater (Hill, Lowe, McCaskill,  
Iwenjiora)

LAW OFFICES

**ROSE, SUNDBSTROM & BENTLEY**

A PARTNERSHIP INCLUDING PROFESSIONAL ASSOCIATIONS

2548 BLAIRSTONE PINES DRIVE

TALLAHASSEE, FLORIDA 32301

(904) 877-8555

ROBERT A. ANTISTA  
CHRIS H. BENTLEY, PA.  
F. MARSHALL DETERDING  
MARTIN S. FRIEDMAN, PA.  
JOHN R. JENKINS  
ROBERT M. C. ROSE, PA.  
WILLIAM E. SUNDBSTROM, PA.  
DIANE D. TREMOR, PA.  
JOHN L. WHARTON

MAILING ADDRESS  
POST OFFICE BOX 1567  
TALLAHASSEE, FLORIDA 32302-1567  
TELECOPIER (904) 856-4029

November 15, 1994

**VIA HAND DELIVERY**

Mr. Charles Hill, Director  
Division of Water and Wastewater  
Florida Public Service Commission  
101 East Gaines Street  
Tallahassee, FL 32399-0850

Re: Martin Downs Utilities, Inc.  
Gross-up Reports for the Fifteen Months Ended December 31,  
1990 and the Year Ended December 31, 1991  
Our File No. 16891.17

Dear Mr. Hill:

As you know, Martin Downs Utilities, Inc. filed its last two gross-up reports for the periods ended December 31, 1990 and December 31, 1991, on March 11, 1992 and November 3, 1992, respectively. Those filings were prepared in accordance with the criteria and assumptions previously approved by the Commission in processing the gross-up disposition of Martin Downs for the years 1987 through October 1, 1989.

The Florida Public Service Commission pursuant to Chapter 367, Florida Statutes, has jurisdiction over utilities, which are defined in Section 367.021(12), Florida Statutes, to include "every person, lessee, trustee, or receiver owning, operating, managing, or controlling a system, who is providing, or proposes to provide, water or wastewater service to the public for compensation." Martin Downs Utilities, Inc. is no longer a Utility. Martin Downs Utilities, Inc. sold all of its assets to Martin County on August 12, 1993.

The Florida Public Service Commission in Order No. PSC-93-1484-FOF-WS entered an order on October 12, 1993 (almost a full year after filing the final gross-up report), canceling Martin Downs Utilities' Water and Wastewater Certificates, and relinquished jurisdiction of the company. The company has subsequently been liquidated. In the Order relinquishing jurisdiction over Martin Downs Utilities, the Florida Public Service Commission stated that "there are no dockets pending involving this system." Contrast this with PSC Order Nos. PSC-94-0201-FOF-WS, and PSC-94-0198-FOF-WS when the Florida Public Service

Mr. Charles Hill  
November 15, 1994  
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Commission specifically retained jurisdiction after approving a transfer.

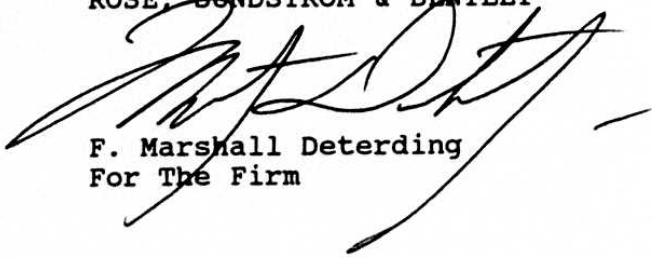
There have been inquiries on and off for the two years which have transpired since the filing of the last of the gross-up reports. The Trustee of the liquidated corporation has thus far directed his consultants and attorneys to respond to those inquiries as best we could given the fact that the corporation no longer exists or has any employees, and the fact that the persons responsible for filing those reports approximately two years ago are no longer in any way under the employment or control of the Trustee, or any related parties. Because the Commission relinquished jurisdiction over Martin Downs Utilities, Inc. with the issuance of its order canceling certificates in November of 1993, the beneficiaries of that trust, i.e. the former shareholders of Martin Downs Utilities, Inc., have raised concerns about the appropriateness of continued expenditure of funds in responding further to the inquiries on these gross-up matters which were filed in accordance with previously approved criteria for earlier years.

Therefore, the Trustee has asked that we relay to the Commission, a request that it explain to us, so that that information can be passed on to the beneficiaries of the trust, the basis of the Commission's continuing jurisdiction over the Trustee and/or the liquidated corporation in light of the law to the contrary. We would appreciate your providing us with some analysis in this regard, so that that can be passed on to the trust beneficiaries to justify the continued expenditures of monies to respond to the many Commission inquiries in this regard.

We would appreciate your providing us with a response as quickly as you can.

Sincerely,

ROSE, SUNDSTROM & BENTLEY



F. Marshall Deterding  
For The Firm

FMD/lts  
cc: Mr. Peter D. Cummings  
Mr. David Giunta  
Mr. Robert C. Nixon, C.P.A.

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Notice of Sale of Assets ) DOCKET NO. 930818-WS  
of Martin Downs Utilities, Inc. ) ORDER NO. PSC-93-1484-FOF-WS  
to Martin County, Florida. ) ISSUED: October 12, 1993  
 )  
 )  
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ORDER ACKNOWLEDGING SALE, CANCELLING CERTIFICATES  
AND CLOSING DOCKET

BY THE COMMISSION:

On August 17, 1993, Martin Downs Utilities, Inc. (Martin Downs or Utility) filed an application with this Commission for acknowledgment of the transfer of its water and wastewater facilities to Martin County. The sale occurred on August 12, 1993.

The provisions of Section 367.071, Florida Statutes, require an application for approval of sale or transfer of water and/or wastewater utilities to governmental agencies, although such sales are approved as a matter of right. Subsection 367.022(2), Florida Statutes, exempts from regulation by the Commission systems owned, operated, managed or controlled by governmental agencies.

Rule 25-30.037(3)(e), Florida Administrative Code, requires a utility to submit a statement regarding disposition of customer deposits. All customer deposits held by Martin Downs were transferred to Martin County upon consummation of the sale. Commission requirements regarding regulatory assessment fees have been met, and there are no dockets pending involving this system.

On the basis of the foregoing, we find it appropriate to acknowledge the transfer of the water and wastewater facilities of Martin Downs to Martin County and cancel Certificates Nos. 343-W and 301-S. The Certificates have been returned to this Commission for cancellation. It is, therefore,

ORDERED by the Florida Public Service Commission that the sale of the facilities of Martin Downs Utilities, Inc., Post Office Box 620, Palm City, Florida 34990, to Martin County Board of County Commissioners, 2401 Southeast Monterey Road, Stuart, Florida 33496, is hereby acknowledged. It is further

ORDERED that Certificates Nos. 343-W and 301-S are hereby cancelled. It is further



ORDER NO. PSC-93-1484-FOF-WS  
DOCKET NO. 930818-WS  
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ORDERED that Docket No. 930818-WS is hereby closed.

By ORDER of the Florida Public Service Commission this 12th  
day of October, 1993.

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STEVE TRIBBLE, Director  
Division of Records and Reporting

( S E A L )

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