

FLORIDA PUBLIC SERVICE COMMISSION
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MEMORANDUM

December 5, 1996

TO: DIRECTOR, DIVISION OF RECORDS AND REPORTING (BAYO) *JB*

FROM: DIVISION OF WATER & WASTEWATER (JOHNSON) *WJ*
DIVISION OF LEGAL SERVICES (CYRUS-WILLIAMS) *WJ*

RE: DOCKET NO. 961270-SU - REQUEST FOR VARIANCE FROM ORDER
NO. PSC-96-1180-FOF-WS BY HUDSON UTILITIES, INC.
COUNTY: PASCO

AGENDA: DECEMBER 17, 1996 - REGULAR AGENDA - PROPOSED AGENCY
ACTION - INTERESTED PERSONS MAY PARTICIPATE

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: S:\PSC\WAW\WP\961270.RCM

CASE BACKGROUND

Hudson Utilities, Inc. (Hudson or Utility) is a Class B wastewater utility providing service to the public in Pasco County. As of December 31, 1995, the Utility served 1,172 wastewater customers. The Utility had gross operating revenues of \$629,192 for the wastewater system. The Utility reported a net operating income of \$17,394 for the wastewater system.

On August 1, 1996, The Small Business Job Protection Act of 1996 (The Act) passed Congress and was signed into law by President Clinton on August 20, 1996. The Act provided for the non-taxability of CIAC collected by water and wastewater utilities effective retroactively for amounts received after June 12, 1996. As a result, on September 20, 1996, in Docket No. 960965-WS, Order No. PSC-96-1180-FOF-WS was issued to revoke the authority of utilities to collect gross-up of CIAC and to cancel the respective tariffs unless, within 30 days of the issuance of the order, affected utilities requested a variance. Order No. PSC-96-1180-FOF-WS, required the utilities to refund the gross-up to those who paid it within 60 days of the date the proposed agency action portion of the order became final. Further, that Order required each utility to provide copies of cancelled checks, or other evidence, verifying that the refunds have been made, within 30 days from the date of the refund. On October 18, 1996, Hudson filed a request for a variance from that Order.

DOCUMENT NUMBER-DATE

12946 DEC-5 96

FPSC-RECORDS/REPORTING

DISCUSSION OF ISSUES

ISSUE 1: Should Hudson's request for a variance from Order No. PSC-96-1180-FOF-WS, be granted?

RECOMMENDATION: Yes, Hudson's request for a variance from Order No. PSC-96-1180-FOF-WS, should be granted. If the Commission approves staff's recommendation, Hudson's tariffs for gross-up authority should not be cancelled. The tariffs should be revised to allow for the continued collection of gross-up taxes on CIAC that is paid in installments from customers that entered into installment contracts prior to June 12, 1996. Once the Utility has collected the taxes on the CIAC installment plans, initiated prior to June 12, 1996, the Utility should submit cancelled tariff sheets to the Commission. (JOHNSON)

STAFF ANALYSIS: Order No. PSC-96-1180-FOF-WS, revoked the authority of utilities to collect gross-up of CIAC and required the cancellation of the respective tariffs unless, within 30 days of the issuance of the order, affected utilities requested a variance. On October 18, 1996, Hudson Utilities requested a variance. The utility explains that a variance from the Order is necessary because in 1994 and 1995, an installment payment plan was established to allow customers to pay the applicable service availability charge plus the CIAC gross-up tax on a 24-month installment plan. The down payment made by the customers using the installment plan was less than the service availability charge of \$1,600 (service availability charge of \$1,000 and the \$600 CIAC gross-up tax).

Hudson requests a variance from Order No. PSC-96-1180-FOF-WS authorizing it to collect the remaining installment payments, which include the CIAC gross-up tax. When a customer selects the installment plan, the utility sets up a receivable account for those customers. The Utility reports the full amount of the service availability charge and the gross-up taxes as income on its tax return, in the year the contract is initiated. The Utility has not collected all of the service availability charges and gross-up taxes from those customers paying in installments for the years 1994 and 1995. The Utility had 59 customers in 1994 and 89 customers in 1995 on the installment plan. The variance is also requested for the CIAC gross-up collected on or before June 12, 1996. Hudson explains that the CIAC gross-up collected on or before June 12, 1996 will be reflected as income on its 1996 income tax return.

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The Utility would like to be reimbursed for taxes paid on the service availability charges that it has already included as income on its tax returns. Presently, there is no other mechanism for collecting the gross-up from those customers using the installment plan. One of the main concerns for allowing utilities to collect CIAC was that, the utilities must remain whole and not be adversely affected from the collection of CIAC.

Therefore, staff recommends that the utility be allowed to collect the remaining installment payments, including the CIAC gross-up associated with the CIAC prior to June 12, 1996. The Utility's tariff sheets should be revised to allow for the collection of gross-up taxes on the remaining CIAC installments contracts entered into prior to June 12, 1996. Once the Utility has collected the taxes for those customers on the installment plan entered into prior to June 12, 1996, the Utility should submit cancelled tariff sheets to the Commission.

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ISSUE 2: Should the docket be closed?

RECOMMENDATION: Yes, upon expiration of the protest period, if a timely protest is not received from a substantially affected person. (CYRUS-WILLIAMS)

STAFF ANALYSIS: If a timely protest is not filed, upon expiration of the protest period, processing of this docket is complete and the docket should be closed.