

RESOLUTION NO. 25PUC-004

RESOLUTION REJECTING THE DIRECTOR OF PUBLIC WORKS AND UTILITIES' DECISION AND APPROVING THE DULUTH AIRPORT AUTHORITY'S REQUEST FOR A STORMWATER UTILITY FEE ADJUSTMENT

WHEREAS, on May 2, 2025, the Duluth Airport Authority (DAA) submitted a stormwater utility fee adjustment application (Application) to the City of Duluth Director of Public Works and Utilities (Director); and

WHEREAS, upon receiving an application for a utility fee adjustment from any person liable for payment of stormwater utility fees on nonresidential property, Duluth City Code (D.C.C.) Sec.43-66 authorizes the Director to grant an adjustment to the applicant's stormwater fee upon determining that either:

- (1) "A substantial error was made in the calculation of the impervious area on the nonresidential property;" or
- (2) "The stormwater runoff from the property never enters any facility of the stormwater drainage system."

WHEREAS, the Application explicitly focused on criteria (2), above, and specifically declined to challenge any aspect of the City's billing methodology or impervious area calculations;

WHEREAS, the Application argued the DAA's stormwater fees should be adjusted because the Sky Harbor Airport and the Duluth international Airport's "North Watershed"—an area identified and depicted by the DAA's stormwater consultant, SEH, in a February, 2025, delineation map attached to the Application—do not discharge any stormwater runoff into the city stormwater system (See Attachment 2);

WHEREAS, the Application also contended that the city's billing practices conflict with federal law, and requested a complete stormwater fee exemption for the above-described property and a refund of the previous six years of payments associated with these properties;

WHEREAS, the Director denied the Application on June 11, 2025, rejecting the DAA's argument that federal law, regulations, and guidance prohibit the city from assessing the fees required under the D.C.C. for the above-described properties (See Attachment 4);

WHEREAS, based on the DAA's updated delineation maps, the Director also made several adjustments to the Equivalent Residential Units (ERUs)—defined as the average impervious area of residential property per dwelling unit located within the city—billed to the DAA's stormwater utility accounts and applied new 20 percent rate reduction credits to two DAA stormwater accounts;

WHEREAS, on June 24, 2025, the DAA filed a timely request to appeal the Director's decision to the DPUC (See Attachment 6);

WHEREAS, city staff provided a detailed list of proposed procedural and factual findings and conclusions to the DPUC, and recommended that the DPUC affirm the Director's decision

and deny the DAA's appeal (See Attachments 4);

WHEREAS, the DPUC heard the DAA's appeal in its August 19, 2025, regular meeting;

WHEREAS, the DPUC finds the DAA persuasively demonstrated that the above-described property qualifies for a rate adjustment under D.C.C. Sec. 43-67(a)(2), and concludes this section affords the DPUC discretion to determine the appropriate rate adjustment based on the facts and circumstances of each appeal;

WHEREAS, the DPUC finds (1) the DAA sufficiently highlighted a potential conflict between the city's stormwater fees and federal aviation laws, regulations, and guidance, (2), the DAA has produced sufficient evidence of plans for treating and managing stormwater runoff originating from the above-described properties with minimal city oversight/involvement or stormwater system impacts, and (3) the unique facts and circumstances of this appeal and the above DAA properties support granting these properties a complete stormwater fee exemption;

RESOLVED, based on the entirety of the administrative record and the August 19, 2025, appeal hearing, the DPUC hereby approves the Duluth Airport Authority's request for a utility fee exemption relating to the above-described DAA-operated properties;

FURTHER RESOLVED, the DAA's request for a refund of previous six years of stormwater payments associated with the above-described properties is partially granted with respect to the previous three years of DAA stormwater payments, per PW&U policy 100.16, and in in all other respects denied.

FURTHER RESOLVED, that the DPUC hereby adopts the proposed findings, conclusions, and recommendations of city staff and affirms the Director's decision, including any adjustments to the ERUs and rate reduction credits associated with the DAA's stormwater utility accounts set forth in that decision.

Approved by the DPUC:

(date)

Submitted to City Council:
(where appropriate)

(date)

ATTEST:

Director
Public Works and Utilities
City of Duluth

STATEMENT OF PURPOSE:

This resolution approves the Duluth Airport Authority's June 24, 2025, rate adjustment request and partially approves the DAA's related refund request and reverses the Director of Public Works decision regarding the Duluth Airport Authority's request for a stormwater utility fee adjustment.