

RESOLUTION NO. 25PUC-005

RESOLUTION AFFIRMING THE DIRECTOR OF PUBLIC WORKS AND UTILITIES' DECISION TO DENY 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, the Director's decision 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 DAAs 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;

RESOLVED, based on the entirety of the administrative record and the August 19, 2025, appeal hearing, 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 denies the Duluth Airport Authority's June 24, 2025, rate adjustment appeal to the DPUC and affirms the Director of Public Works decision regarding the Duluth Airport Authority's request for a stormwater utility fee adjustment.