

BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

FILED 3/12/2018
DOCUMENT NO. 02246-2018
FPSC - COMMISSION CLERK

In the Matter of:

DOCKET NO. 20180025-WS

(APPLICATION FOR APPROVAL OF
TARIFF FOR THE GROSS-UP OF
CIAC IN CHARLOTTE, HIGHLANDS,
LAKE, LEE, MARION, ORANGE,
PASCO, PINELLAS, POLK, AND
SEMINOLE COUNTIES, BY
UTILITIES, INC. OF FLORIDA.

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PROCEEDINGS: COMMISSION CONFERENCE AGENDA
ITEM NO. 8

COMMISSIONERS
PARTICIPATING: CHAIRMAN ART GRAHAM
COMMISSIONER JULIE I. BROWN
COMMISSIONER DONALD J. POLMANN
COMMISSIONER GARY F. CLARK
COMMISSIONER ANDREW G. FAY

DATE: Thursday, March 1, 2018

PLACE: Betty Easley Conference Center
Room 148
4075 Esplanade Way
Tallahassee, Florida

REPORTED BY: DANA W. REEVES
Court Reporter and
Notary Public in and for
the State of Florida at Large

PREMIER REPORTING
114 W. 5TH AVENUE
TALLAHASSEE, FLORIDA
(850) 894-0828

1 P R O C E E D I N G S

2 CHAIRMAN GRAHAM: Item No. 8.

3 MS. DANIEL: Good morning, Commissioners.

4 Patti Daniel on behalf of Staff. Item 8 is a
5 petition filed by Utilities, Inc. of Florida to
6 collect additional contributions in aid of
7 construction from developers and future customers
8 as a result in the change in the tax law. Cash and
9 property contributions received by water and waste
10 water utilities are now taxable income.

11 Utilities, Inc. is seeking recovery of the
12 additional income tax that will result from the
13 change in the tax law, subject to refund and
14 pending resolution of a separate docket in which
15 the Commission is examining the impacts of the
16 change in the tax law, there have been no customer
17 inquiries and I don't believe the utility is
18 intending to speak on this today.

19 CHAIRMAN GRAHAM: Okay. Commissioners, any
20 questions of Staff on Item No. 8?

21 Commissioner Brown.

22 COMMISSIONER BROWN: Thank you. And thank
23 you, Ms. Daniel. Can you talk about the true-up
24 process and when you anticipate that to occur?

25 Would that occur simultaneously with the resolution

1 of the generic docket, or would it be an annual
2 thing?

3 MS. DANIEL: I think within the investigation
4 docket, those decisions will be made as to when and
5 how that true-up will occur.

6 COMMISSIONER BROWN: And how do we know if the
7 tariff is actually reasonable and fair?

8 MS. DANIEL: We've looked at the change in the
9 tax law and we also have had the same situation
10 occur back in the late '80s where, for a short
11 period of time, Congress made the contributions in
12 aid of construction-taxable income, so we have a
13 point of reference as to the formulas that were
14 used.

15 The formula requested by Utilities, Inc. of
16 Florida is the most-liberally construed formula.
17 It would allow the utility to collect basically 33
18 percent on top of any cash or property
19 contributions. It is subject to refund and --

20 COMMISSIONER BROWN: Thirty-three percent?

21 MS. DANIEL: It's a 33 percent markup when you
22 do the tax on the tax, as well, because when you
23 collect the tax as a part of the CIC, that also
24 becomes taxable income. So it marks it up 33
25 percent. That's the most-liberal formula. There

1 are other formulas that came out of proceedings
2 that occurred in the '80s and '90s that had
3 variations.

4 COMMISSIONER BROWN: But then again we will
5 have an opportunity during the generic docket to
6 investigate this further?

7 MS. DANIEL: Correct.

8 COMMISSIONER BROWN: Thanks.

9 CHAIRMAN GRAHAM: Commissioner Polmann.

10 COMMISSIONER POLMANN: Thank you, Mr.
11 Chairman. Commissioner Brown raised the question
12 and your response on this to 33 percent to that
13 point is, do we have -- does Staff have the
14 opportunity to, in review of this request, consider
15 or make a recommendation as to the 33 percent and
16 offer or recommend a different percentage, or is
17 this simply we're authorizing the gross-up
18 inclusive of the 33 percent and then the true-up
19 comes later and does the analysis? Is there any
20 opportunity for a different percentage to be
21 approved?

22 MS. DANIEL: Today or down -- are you speaking
23 as --

24 COMMISSIONER POLMANN: In this action here
25 today.

1 MS. DANIEL: In this action. Today you can
2 either approve or deny the company's tariff filing.
3 If you wanted to deny it, what you might consider
4 doing is suggesting what you would accept as a
5 change and then offering Staff the opportunity to
6 approve that administratively if the utility were
7 to file the tariff reflecting that.

8 COMMISSIONER POLMANN: Okay. But in your
9 answer to Commissioner Brown, in any case, the
10 analysis and the true-up to be done later will --

11 MS. DANIEL: Will take care of all of that.

12 COMMISSIONER POLMANN: Will do the full
13 analysis and the numbers will be audited or
14 examined later?

15 MS. DANIEL: That's correct.

16 COMMISSIONER POLMANN: And be corrected as
17 needed with -- and all of this is subject to
18 refund?

19 MS. DANIEL: That's correct.

20 COMMISSIONER POLMANN: Thank you.

21 MS. DANIEL: And the other side of the coin is
22 that you don't want the utility to find that they
23 collected less than they might potentially have
24 needed and not have the opportunity to go back to a
25 developer.

1 COMMISSIONER POLMANN: Thank you. That's all
2 I have, Mr. Chairman.

3 CHAIRMAN GRAHAM: Commissioner Clark.

4 COMMISSIONER CLARK: In response -- kind of in
5 response to Commissioner Polmann's question, Ms.
6 Daniel, could you break down the 33? There was 21
7 percent was corporate then you had gross receipts.
8 How does that break down percentage-wise?

9 MS. DANIEL: There's a formula. I can do
10 this. Let's me see if I have a copy of the tariff.
11 I do. I do. On the back of the recommendation in
12 Attachment A, what you're doing is you're basically
13 dividing 21 percent plus the five percent-ish --
14 let's see, federal income -- state income taxes are
15 deductible on your federal tax returns so it's sort
16 of a mish-mash, but it's basically 25 percent
17 divided by one, minus 25 percent or 75 percent.
18 Twenty-five percent divided by 75 percent is
19 33 percent. That's the bottom.

20 COMMISSIONER CLARK: Okay. Thank you.

21 CHAIRMAN GRAHAM: Any further questions?

22 Seeing none, I'll entertain a motion.

23 COMMISSIONER POLMANN: I move Staff
24 recommendation.

25 CHAIRMAN GRAHAM: It's been moved and

1 seconded. Staff recommendation Item No. 8. Any
2 further discussion?

3 Seeing none, all in favor say aye.

4 (Chorus of ayes.)

5 CHAIRMAN GRAHAM: Any opposed?

6 (No comments made.)

7 CHAIRMAN GRAHAM: By action, you've approved
8 the Staff recommendation.

9 (Agenda item concluded.)

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CERTIFICATE OF REPORTER

STATE OF FLORIDA)
COUNTY OF LEON)

I, DANA W. REEVES, Professional Court Reporter, do hereby certify that the foregoing proceeding was heard at the time and place herein stated.

IT IS FURTHER CERTIFIED that I stenographically reported the said proceedings; that the same has been transcribed under my direct supervision; and that this transcript constitutes a true transcription of my notes of said proceedings.

I FURTHER CERTIFY that I am not a relative, employee, attorney or counsel of any of the parties, nor am I a relative or employee of any of the parties' attorney or counsel connected with the action, nor am I financially interested in the action.

DATED THIS 12th day of March, 2018.



DANA W. REEVES
NOTARY PUBLIC
COMMISSION #FF968527
EXPIRES MARCH 22, 2020