

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for continuation of) DOCKET NO. 910021-WS
gross-up of contributions-in-aid-of-)
construction (CIAC) in Clay County) ORDER NO. PSC-92-0021-FOF-WS
by MID-CLAY SERVICE CORP.)
_____) ISSUED: 3/10/92

The following Commissioners participated in the disposition of this matter:

SUSAN F. CLARK
J. TERRY DEASON
LUIS J. LAUREDO

NOTICE OF PROPOSED AGENCY ACTION
ORDER APPROVING CONTINUED GROSS-UP OF
CONTRIBUTIONS-IN-AID-OF-CONSTRUCTION

BY THE COMMISSION:

NOTICE IS HEREBY GIVEN by the Florida Public Service Commission that the action discussed herein is preliminary in nature and will become final unless a person whose interests are adversely affected files a petition for a formal proceeding, pursuant to Rule 25-22.029, Florida Administrative Code.

In Order No. 23541, issued October 1, 1990, we determined that any water or wastewater utility currently grossing-up contributions-in-aid-of-construction (CIAC) must file a petition for continued authority to gross-up. On January 4, 1991, Mid-Clay Service Corp. (Mid-Clay or the utility) filed its request for continuation of CIAC tax gross-up in its Mid-Clay system. The utility has not sought the income tax gross-up for its Lake Asbury system because that system is already built out and any income taxes associated with any CIAC collections would be negligible.

In accordance with Order No. 23541, the utility has provided the Commission with a statement that it will incur an actual above-the-line tax liability with the collection of CIAC, that funds are not available to fully fund the taxes associated with CIAC, that the times interest earned (TIE) ratio for 1988 and 1989 was 1.12x and 1.38x, respectively, and that no alternative to gross-up exists for the Mid-Clay system. Further, as justification for the gross-up, the utility states that long term debt exceeds rate base, that additional debt to pay taxes, if available, would further destabilize the capital structure, that it expects additional

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growth to occur over the next several years requiring expanded plant capacity and additional construction capital, and that, due to the current downturn in the overall economy, it does not believe that additional financing would be available at any rate. The utility also states that the company has borrowed the maximum limit at the bank and knows of no other source of financing available. Further, the utility has a net cash deficit in its cash flows which indicates that the utility does not have liquid funds to pay CIAC taxes. The utility also indicated that it selected the full gross-up method because it is the least costly alternative available and it has not resulted in competitive disadvantages or decreased growth. Based on the information filed, we find that Mid-Clay Service Corp. has demonstrated a continued need to gross-up. Its request to continue collecting CIAC gross-up is, therefore, approved. The tariffs submitted by the utility shall be effective upon expiration of the protest period set forth in the Notice of Further Proceedings below.

All gross-up CIAC collections are to be made in accordance with the accounting and regulatory treatments and record keeping method prescribed in Orders Nos. 16971 and 23541, and all matters discussed in the body of those Orders are expressly incorporated herein by reference.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that approval is hereby granted for Mid-Clay Service Corp. to continue collecting the gross-up on CIAC. It is further

ORDERED that all gross-up collections are to be made in accordance with the provisions of Orders Nos. 16971 and 23541. It is further

ORDERED that the tariff for CIAC gross-up shall be effective upon the expiration date of the protest period set forth in the Notice of Further Proceedings below. It is further

ORDERED that all provisions of this Order are issued as proposed agency action and shall become final, unless an appropriate petition in the form provided by Rule 25-22.029, Florida Administrative Code, is received by the Director of the Division of Records and Reporting at his office at 101 East Gaines

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Street, Tallahassee, Florida 32399-0870, by the date set forth in the Notice of Further Proceedings below. It is further

ORDERED that this docket shall be closed upon expiration of the protest period, if no protest is received.

By ORDER of the Florida Public Service Commission, this 10th day of MARCH, 1992.

STEVE TRIBBLE, Director
Division of Records and Reporting

(S E A L)

CB

by: 
Chief, Bureau of Records

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.

The action proposed herein is preliminary in nature and will not become effective or final, except as provided by Rule 25-22.029, Florida Administrative Code. Any person whose substantial interests are affected by the action proposed by this order may file a petition for a formal proceeding, as provided by Rule 25-22.029(4), Florida Administrative Code, in the form provided by Rule 25-22.036(7)(a) and (f), Florida Administrative Code. This petition must be received by the Director, Division of Records and Reporting at his office at 101 East Gaines Street, Tallahassee, Florida 32399-0870, by the close of business on

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In the absence of such a petition, this order shall become effective on the day subsequent to the above date as provided by Rule 25-22.029(6), Florida Administrative Code.

Any objection or protest filed in this docket before the issuance date of this order is considered abandoned unless it satisfies the foregoing conditions and is renewed within the specified protest period.

If this order becomes final and effective on the date described above, any party adversely affected may request judicial review by the Florida Supreme Court in the case of an electric, gas or telephone utility or by the First District Court of Appeal in the case of a water or wastewater 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 of the effective date of this order, pursuant to Rule 9.110, Florida Rules of Appellate Procedure. The notice of appeal must be in the form specified in Rule 9.900(a), Florida Rules of Appellate Procedure.