

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Disposition of gross-) DOCKET NO. 920263-WS
up funds received by ATLANTIC) ORDER NO. PSC-92-0351-FOF-WS
UTILITIES OF JACKSONVILLE,) ISSUED: 05/13/92
INC. in Duval County)
_____)

The following Commissioners participated in the disposition of this matter:

THOMAS M. BEARD, Chairman
SUSAN F. CLARK
J. TERRY DEASON
BETTY EASLEY
LUIS J. LAUREDO

NOTICE OF PROPOSED AGENCY ACTION
ORDER APPROVING REFUND OF GROSS-UP ON
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 substantially affected files a petition for formal proceedings pursuant to Rule 25-22.029, Florida Administrative Code.

BACKGROUND

In Order No. 23541, issued October 1, 1990, we determined that any water and wastewater utility currently collecting the gross-up on contributions-in-aid-of-construction (CIAC) must file a petition for continued authority to collect the gross-up and for approval of certain refunds to contributors. In Order No. 23689, issued October 29, 1990, we extended the time to file the petition to January 2, 1991. Atlantic Utilities of Jacksonville, Inc. (Atlantic) failed to timely file a petition for authority to continue gross-up. Therefore, the Commission, by Order No. 24777, issued July 8, 1991, canceled Atlantic's authority to gross-up, effective July 30, 1991.

Although in Order No. 23541 we granted staff administrative authority to process refunds due contributors as the result of the offset of net operating losses (NOLs) and investment tax credits (ITCs) against the amount of gross-up on CIAC collected, we have determined that refund issues must be treated as proposed agency

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action as they may adversely affect either the utility or a developer/customer. This Order addresses the refund of gross-up funds collected by Atlantic. Atlantic is a Class B utility which provides water and wastewater services to 1,374 water customers and 437 wastewater customers in Duval County. According to its 1991 annual report, Atlantic reported an operating revenue of \$432,354 for water and \$143,367 for the wastewater systems. The utility reported on operating income of \$55,250 for the water system and \$9,272 for the wastewater system.

REFUND APPROVED

In Order No. 23541, we found "that all gross-up amounts in excess of a utility's actual tax liability resulting from its collection of CIAC should be refunded on a pro rata basis to those who contributed the taxes." In compliance with Order No. 16971, Atlantic filed its 1987 through 1990 annual CIAC reports regarding its collection of gross-up for each year. According to the 1987 CIAC report, the only gross-up collections were on connection and meter fees. The gross-up was collected on these fees in error and was refunded by the utility on December 21, 1987. No further action for 1987 is necessary. Further, the 1989 and 1990 CIAC report indicated that no gross-up collections were made in 1989 and 1990. As a result, no further action is necessary for 1989 and 1990.

The 1988 CIAC report indicated that Atlantic collected \$1,032.27 for 1988 gross-up collected in excess of the actual tax liability. Atlantic did not propose a refund of the \$1,032.27. However, since its gross-up collections exceeded the utility's actual tax liability for 1988 by \$1,032.27, Atlantic shall refund the \$1,032.27 on a pro rata basis to those persons who contributed the taxes. The refund shall include interest calculated through the date of the refund. In addition, Atlantic shall file with the Commission a report of the refund, including copies of the canceled refund checks, credits applied to monthly bills, or other evidence so that we may verify that the refund has been made. This filing shall occur within 60 days of the date of this Order.

In consideration of the foregoing, it is,

ORDERED by the Florida Public Service Commission that Atlantic Utilities of Jacksonville, Inc. shall refund \$1,032.27 in CIAC gross-up collections for 1988. This amount shall be refunded pro rata to contributors. It is further

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ORDERED that such refund shall include interest calculated through the date of the refund. It is further

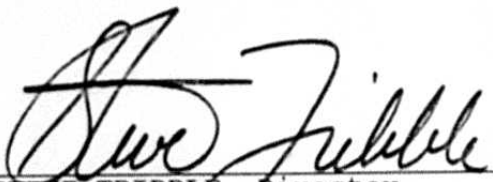
ORDERED that no further action concerning refunds of CIAC gross-up collections is hereby required for 1987, 1989, and 1990. It is further

ORDERED that Atlantic Utilities of Jacksonville, Inc. shall file copies of the canceled refund checks, credits applied to monthly bills, or other evidence for verification as set forth in the body of this order. It is further

ORDERED that the provisions of this Order, issued as proposed agency action, shall become final, unless an appropriate petition in the form provided by Rule 25-22.029, Florida Administrative Code, is received by the Director, Division of Records and Reporting at his office at 101 East Gaines Street, Tallahassee, Florida 32399-0870, by the date set forth in the Notice of Further proceedings below. It is further

ORDERED that this docket will remain open pending verification of the refund.

By ORDER of the Florida Public Service Commission, this 13th day of May, 1992.



STEVE TRIBBLE, Director
Division of Records and Reporting

(S E A L)

NRF

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 June 3, 1992.

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.