

FLORIDA PUBLIC SERVICE COMMISSION
Capital Circle Office Center • 2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0850

M E M O R A N D U M

FEBRUARY 8, 1996

TO: DIRECTOR, DIVISION OF RECORDS AND REPORTING (BAYO)

FROM: DIVISION OF WATER & WASTEWATER (GILCHRIST) *AG*
DIVISION OF LEGAL SERVICES (AGARWAL) *AG*

RE: DOCKET NO. 960055-SU - GULF AIRE PROPERTIES d/b/a GULF
AIRE WASTEWATER TREATMENT PLANT - DISPOSITION OF
CONTRIBUTIONS-IN-AID-OF-CONSTRUCTION (CIAC) GROSS-UP
FUNDS COLLECTED IN 1991-1994
COUNTY: GULF

AGENDA: FEBRUARY 20, 1996 - REGULAR AGENDA - INTERESTED PERSONS
MAY PARTICIPATE

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: I:\PSC\WAW\WP\960055.RCM

CASE BACKGROUND

The repeal of Section 118(b) of the Internal Revenue Code (I.R.C.) resulted in making contributions-in-aid-of-construction (CIAC) gross income and depreciable for federal tax purposes. In Order No. 16971, issued December 18, 1986, the Commission authorized corporate utilities to collect the gross-up on CIAC in order to meet the tax impact resulting from the inclusion of CIAC as gross income.

Orders No. 16971, issued December 18, 1986 and 23541, issued October 1, 1990, require that utilities annually file information which would be used to determine the actual state and federal income tax liability directly attributable to the CIAC, and whether a refund of the gross-up is appropriate for any given year for which gross-up was in effect. These orders also require that all gross-up amounts for a tax year which are in excess of a utility's actual tax liability for the same year resulting from its collection of CIAC should be refunded on a pro rata basis to those persons who contributed the taxes.

In Order No. 23541, the Commission determined that any water and wastewater utility already collecting the gross-up on CIAC and wishing to continue collecting the gross-up, had to file a petition for approval with the Commission on or before October 29, 1990. By

DOCUMENT NUMBER-DATE

01477 FEB-8 1996

FPSC-RECORDS/REPORTING

DOCKET NO. 960055-SU
FEBRUARY 8, 1996

Order No. PSC-92-0003-FOF-WS, issued March 3, 1992, Gulf Aire Wastewater Treatment Plant (Gulf Aire or utility) was granted continued authority to gross-up CIAC for the related tax impact.

Gulf Aire is a Class "C" wastewater utility providing wastewater service to approximately 183 customers in Gulf County. Gulf Aire reported gross revenues of \$71,655.08 and net operating income of \$17,712 in its 1994 annual report.

DOCKET NO. 960055-SU
FEBRUARY 8, 1996

DISCUSSION OF ISSUES

ISSUE 1: Should Gulf Aire Wastewater Treatment Plant be required to refund excess gross-up collections for 1991-1994.

RECOMMENDATION: No, the utility did not collect any gross-up funds in 1991-1994; therefore, no refunds are required for 1991-1994. (GILCHRIST)

STAFF ANALYSIS: In compliance with Order No. 16971, Gulf Aire filed its annual CIAC reports regarding its collection of gross-up for the years 1991-1994. Gulf Aire's CIAC reports revealed that the utility did not gross-up for CIAC in 1991-1994. Pursuant to Order No. PSC-92-0003-FOF-WS, and in accordance with its tariff, Gulf Aire has the authority to gross-up for CIAC. Therefore, by correspondence dated June 13, 1995, staff asked Gulf Aire to provide an explanation of why it did not gross-up for CIAC in 1991-1994. On July 20, 1995, Gulf Aire filed a notarized statement and a written explanation of why it did not gross-up for CIAC. Gulf Aire explained that it has been operating at a loss because of extremely high debt requirements. As a result, the utility stated, and staff agrees, that Gulf Aire should not be placed in a position where it may have to make refunds. Since there were no gross-up funds collected by Gulf Aire in 1991-1994, no refunds are required.

DOCKET NO. 960055-SU
FEBRUARY 8, 1996

ISSUE 2: Should the docket be closed?

RECOMMENDATION: Yes, the docket should be closed. (AGARWAL)

STAFF ANALYSIS: No further action is required in this docket and it should be closed. The utility did not collect any gross-up funds in 1991-1994; therefore, refunds are not required in this docket.