

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Complaint of U.S. HOME)	DOCKET NO. 881437-WS
CORPORATION against ALOHA UTILITIES,)	
INC. in Pasco County regarding tax)	ORDER NO. 21488
mark-up on CIAC charges)	
_____)	ISSUED: 6-30-89

The following Commissioners participated in the disposition of this matter:

THOMAS M. BEARD
JOHN T. HERNDON

ORDER ACKNOWLEDGING WITHDRAWAL OF COMPLAINT

By Order No. 16971, issued December 18, 1986, the Commission authorized corporate water and sewer utilities to elect to "gross-up" contributions-in-aid-of-construction (CIAC), in order to allow those utilities to offset the tax impact due to the repeal of the exclusion of CIAC from gross income as a result of the Federal Tax Reform Act of 1986. The effective date of the repeal of this exclusion was January 1, 1987.

Aloha Utilities, Inc. (Aloha) filed tariff pages, revised to reflect the gross-up, on June 5, 1987. These were approved on June 15, 1987, with an effective date of January 1, 1987.

By letter dated March 1, 1988, Aloha demanded payment of gross-up amounts on CIAC paid by U.S. Home Corporation (U.S. Home) since January 1, 1987. On November 7, 1988, U.S. Home filed a complaint with this Commission regarding Aloha's demand for payment. The basis of U.S. Home's complaint was that Aloha failed to comply with its own tariff requirements for imposing the gross-up or, alternatively, that it waived any right to collect the gross-up or should be estopped from doing so.

On May 16, 1989, U.S. Home withdrew its complaint. Accordingly, we find it appropriate to acknowledge the withdrawal of the complaint and cancel the hearing scheduled for this case. There being no further action to take in this docket, it may be closed.

It is, therefore,

ORDERED by the Florida Public Service Commission that Docket No. 881437-WS by and is hereby closed.

By ORDER of the Florida Public Service Commission this 30th day of JUNE, 1989.



STEVE TRIBBLE, Director
Division of Records and Reporting

(S E A L)

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FPSC-RECORDS/REPORTING

ORDER NO. 21488
DOCKET NO. 881437-WS
PAGE 2

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.

Any party adversely affected by the Commission's final action in this matter may request: 1) reconsideration of the decision by filing a motion for reconsideration with the Director, Division of Records and Reporting within fifteen (15) days of the issuance of this order in the form prescribed by Rule 25-22.060, Florida Administrative Code; or 2) judicial review by the Florida Supreme Court in the case of an electric, gas or telephone utility or the First District Court of Appeal in the case of a water or sewer 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 after the issuance 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.