

## BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Request by FLORIDA WATERWORKS )	DOCKET NO. 860184-PU
ASSOCIATION for investigation of )	ORDER NO. 23689
proposed repeal of Section 118(b), )	ISSUED: 10-29-90
Internal Revenue Code (Contributions-in- )	
aid-of-construction) )	
_____ )	

ORDER GRANTING EXTENSION OF TIME TO  
FILE REQUESTS FOR GROSS-UP

Pursuant to the Tax Reform Act of 1986, on January 1, 1987, contributions-in-aid-of-construction (CIAC) became includable in gross income for federal income tax purposes. Accordingly, by Order No. 16971, issued December 18, 1986, this Commission authorized corporate utilities to elect to "gross-up" CIAC, subject to refund, in order to meet the resulting tax effect.

By Order No. 21266, issued May 22, 1989, the Commission proposed to establish certain guidelines to control the collection of the gross-up. On June 12, 1989, the Florida Waterworks Association (FWWA) and fourteen individual water and/or wastewater utilities protested Order No. 21266.

By Order No. 21436, issued June 26, 1989, we proposed to require several utilities to refund certain amounts of the gross-up collected or to make one-time adjustments to their depreciation revenues. On July 17, 1989, six individual water and/or wastewater utilities protested Order No. 21436. Based upon the protests of Orders Nos. 21266 and 21436, we held a hearing on these matters on April 27 and 30, 1990.

By Order No. 23541, issued October 1, 1990, we authorized the continued use of the gross-up prescribed regulation and accounting treatments for the gross-up, and required refunds of certain gross-up amounts collected. Although we endorsed the gross-up, we determined that it should only be allowed upon our approval and required all utilities that wish to collect the gross-up, whether or not they are already doing so, to file a formal request for the gross-up with this Commission. As for those utilities that are currently collecting the gross-up, we allowed them to continue to do so pending their filing such a request on or before October 29, 1990.

On October 8, 1990, Aloha Utilities, Inc., Canal Utilities, Inc., Clay Utility Company, Eagle Ridge Utility, Inc., San Pablo

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Utilities Corporation f/k/a El Agua Corporation, Kingsley Service Company, Martin Downs Utility Company, Neighborhood Utilities, Inc., North Fort Myers Utility, Inc., Rolling Oaks Utilities, Inc., Royal Utility Company, and Southside Utilities, Inc., (Petitioners) moved for an extension of time to file their petitions for continued authority to collect the gross-up on CIAC. In their motion, petitioners argue that the October 29, 1990 deadline is the result of certain language in the recommendation of the Staff of this Commission, that was buried in a related issue. According to petitioners, they did not, therefore, realize that such a strict time schedule was being contemplated until we issued Order No. 23541.

In addition, petitioners argue that their counsel will not be available until after October 31, 1990, and that, if we hold them to the strict schedule delineated by Order No. 23541, they will be deprived of adequate legal assistance in preparing their requests. Finally, petitioners point out that there are no time limitations imposed by statute or rule and that no one would be prejudiced if they were granted an additional 60 days to file their requests.

In their motion, petitioners also state that they contacted or attempted to contact counsel for all other parties and Staff regarding their motion. According to petitioners, the 21436 protestors support the motion, SFCC/FHBA was unwilling to support or oppose the motion, Staff did not oppose the motion and counsel for FWWA was unavailable. The time for filing any response to petitioners' motion has passed, however, on October 11, 1990, FWWA joined in their motion.

Since there are no specific time limitations imposed by statute or rule and especially since it does not appear that anyone would be prejudiced by granting petitioners' motion, it is granted.


It is, therefore,

ORDERED by Chairman Michael McK. Wilson, as Prehearing Officer, that petitioners' motion for extension of time to file their requests for continued authority to gross-up CIAC is hereby granted. It is further

ORDERED that petitioners shall file their requests for continued authority to gross-up CIAC no later than by the close of business on January 2, 1991.

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By ORDER of Chairman Michael McK. Wilson, as Prehearing Officer, this 29th day of OCTOBER, 1990.



MICHAEL MCK. WILSON, Chairman  
and Prehearing Officer

( S E A L )

RJP

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,

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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.