

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Request by FLORIDA WATERWORKS)	DOCKET NO. 860184-PU
ASSOCIATION for investigation of)	ORDER NO. 23866
proposed repeal of Section 118(b),)	ISSUED: 12-11-90
Internal Revenue Code [Contributions-)	
in-aid-of-construction])	
)	

ORDER GRANTING REQUEST FOR ORAL ARGUMENT

As a result of the repeal of Section 118(b), Internal Revenue Code, under the Tax Reform Act of 1986, on January 1, 1987, contributions-in-aid-of-construction (CIAC) became includible in a utility's gross income for federal tax purposes. Accordingly, by Order No. 16971, issued December 18, 1986, this Commission authorized corporate utilities subject to its jurisdiction to amend their service availability policies to gross-up CIAC in order to meet the resulting tax impact. Since then, 44 water and/or wastewater utilities have elected to implement that gross-up. Of these, only 37 remain subject to our jurisdiction.

By Order No. 21266, issued May 22, 1989, this Commission proposed to establish certain guidelines to control the collection of the gross-up. On June 12, 1989, Order No. 21266 was protested by the Florida Waterworks Association (FWWA) and 14 water and/or wastewater utilities.

By Order No. 21436, issued June 26, 1989, this Commission also proposed to require a number of utilities to refund amounts of the gross-up collected or make adjustments to their depreciation reserves. On or about July 17, 1989, Order No. 21436 was protested by six water and/or wastewater utilities.

As a result of the protests of Orders Nos. 21266 and 21436, a formal hearing was held on April 27 and 30, 1990. By Order No. 23541, issued October 1, 1990, this Commission authorized the continuation of the gross-up, prescribed regulatory and accounting treatments for the gross-up, and required that certain refunds be made.

On October 16, 1990, Aloha Utilities, Inc. (Aloha), one of the petitioners in this proceeding, filed a motion for reconsideration of Order No. 23541. Along with its motion for reconsideration, Aloha also filed a request for oral argument on its motion for reconsideration, and a motion for a stay pending our decision on its motion for reconsideration.

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The main thrust of Aloha's motion for reconsideration is that our final decision in this matter, at least insofar as it relates to the treatment of investment tax credits (ITCs), is inconsistent with a previous decision of this Commission. However, Aloha also discusses other matters in its motion. In its request for oral argument, Aloha argues that the ITC matter is a fairly complex issue and that oral argument will help us to better understand its position.

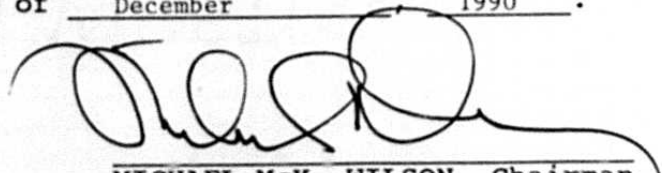
Upon consideration, Aloha's request for oral argument appears reasonable. The ITC issue is a complex one and, in any event, there are some questions that may be resolved by affording an opportunity for Aloha to present oral argument and to answer questions. Aloha's request for oral argument is, therefore, granted. Oral argument shall be held on Wednesday, January 3, 1991, beginning at 9:30 a.m. Argument shall be limited to fifteen minutes for each party.

It is, therefore,

ORDERED by Chairman Michael McK. Wilson, as Prehearing Officer, that the request for oral argument filed by Aloha Utilities, Inc. is hereby granted. It is further

ORDERED that oral argument shall be heard beginning at 9:30 a.m. on January 3, 1991. Argument shall be limited to fifteen (15) minutes for each party.

By ORDER of Chairman Michael McK. Wilson, as Prehearing Officer, this 11th day of December 1990.



MICHAEL McK. WILSON, Chairman
and Prehearing Officer

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RJP

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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 this order, which is preliminary, procedural or intermediate in nature, may request: 1) reconsideration within 10 days pursuant to Rule 25-22.038(2), Florida Administrative Code, if issued by a Prehearing Officer; 2) reconsideration within 15 days pursuant to Rule 25-22.060, Florida Administrative Code, if issued by the Commission; or 3) 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. A motion for reconsideration shall be filed with the Director, Division of Records and Reporting, in the form prescribed by Rule 25-22.060, Florida Administrative Code. Judicial review of a preliminary, procedural or intermediate ruling or order is available if review of the final action will not provide an adequate remedy. Such review may be requested from the appropriate court, as described above, pursuant to Rule 9.100, Florida Rules of Appellate Procedure.