

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Request by FLORIDA WATERWORKS)	DOCKET NO. 860184-PU
ASSOCIATION for investigation of)	ORDER NO. 24064
proposed repeal of Section 118(b),)	ISSUED: 2/4/91
Internal Revenue Code (Contributions-in-)	
aid-of-construction))	
)	

ORDER GRANTING EXTENSIONS 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 includible 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 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 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 regulatory 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. This deadline was extended up to and including January 2, 1991 by Order No. 23689.

Orange-Osceola Utilities, Inc., was not a party to the protest of Orders Nos. 21266 and 21436, and as such did not receive directly a copy of Order No. 23541 or Order No. 23689. The Utility has now filed a letter with this Commission requesting an extension of time to file the information required by Order No. 23541 until February 5, 1991. In support of this request, the Utility notes that it never received a copy of those latter two Orders, and was

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therefore not aware of their effect on their continued use of the gross-up authority, until January 14, 1991. As such, the Utility had already missed the deadline to file an application for continued approval of gross-up.

By its letter, the Utility requests we grant them an extension from that original January 2, 1991 deadline, up through February 5, 1991, to file the information required by Order No. 23541, and in addition, allow them to continue the gross-up authority uninterrupted during the interim period while this Commission considers whether to grant the gross-up authority on a permanent basis.

Since there are no time limitations imposed by statute or rule, and since it does not appear that anyone will be prejudiced by granting Orange-Osceola's requested extension of time, it is hereby granted.

It is, therefore,

ORDERED by Commissioner Michael McK. Wilson, as Prehearing Officer, that the request for extension of time up to and including February 5, 1991, filed by Orange-Osceola Utilities, Inc., is hereby granted. It is further

ORDERED that Orange-Osceola Utilities, Inc., shall retain interim gross-up authority uninterrupted pending final disposition of its request for permanent approval of that authority.

By ORDER of Commissioner Michael McK. Wilson, as Prehearing Officer, this 4th day of FEBRUARY, 1991.


COMMISSIONER MICHAEL MCK. WILSON,
as Prehearing Officer

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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.