

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Request for continuation of)
 gross-up of Contributions-in-Aid-of-)
 Construction (CIAC) in Lee County by)
 FOREST UTILITIES, INC.)

DOCKET NO. 901012-SU

ORDER NO. 25299

ISSUED: 11/05/91

The following Commissioners participated in the disposition of this matter:

THOMAS M. BEARD, Chairman
 SUSAN F. CLARK
 J. TERRY DEASON
 BETTY EASLEY

NOTICE OF PROPOSED AGENCY ACTION
ORDER APPROVING CONTINUED GROSS-UP OF
CONTRIBUTIONS-IN-AID-OF-CONSTRUCTION AND
APPROVING REFUND WITH INTEREST OF GROSS-UP ON
CONTRIBUTIONS-IN-AID-OF-CONSTRUCTION COLLECTED

BY THE COMMISSION:

NOTICE is hereby given by the Florida Public Service Commission that the action discussed herein is preliminary in nature and will become final unless a person whose interests are adversely affected files a petition for a formal proceeding, pursuant to Rule 25-22.029, Florida Administrative Code.

BACKGROUND

In Order No. 23541, issued October 1, 1990, we determined that any water and wastewater utility currently grossing-up contributions-in-aid-of-construction (CIAC) must file a petition for continued authority to gross-up. On December 27, 1990, Forest Utilities, Inc. (the utility) filed for authority to continue grossing-up CIAC and to refund a certain amount of gross-up collected. The information as filed did not meet the minimum filing requirements of Order No. 23541, and additional information was requested from the utility. The additional information was received on May 17, 1991.

DOCUMENT NUMBER-DATE

10936 NOV -5 1991

FPSC-RECORDS/REPORTING

ORDER NO. 25299
DOCKET NO. 901012-SU
PAGE 2

APPROVAL TO CONTINUE GROSS-UP

In accordance with Order No. 23541, the utility has provided the Commission with a statement of interest coverage indicating a times interest earned (TIE) ratio of no more than 2x, a statement that it does not have an alternative source of financing available at a reasonable rate and demonstrated that the utility does have an actual above-the-line tax liability as a result of the CIAC collections. Further, as justification for the gross-up, Forest Utilities, Inc. states that based on the total operating revenues generated in 1990, it will not be able to generate enough revenues to cover its operating expenses, the taxes associated with CIAC, and service debt associated with its expansion program. The utility also states that it is not in a strong enough financial position to obtain alternative financing for the construction as well as taxes on CIAC. Forest Utilities, Inc. also indicated that it selected the full gross-up method because it is the least costly alternative and it has not resulted in a competitive disadvantage or decreased growth. Finally, the utility submitted proposed tariffs for the gross-up. Based on the information filed, we find that Forest Utilities, Inc. has demonstrated a continued need to gross-up. Its request to continue collecting CIAC gross-up is, therefore, approved. The tariffs submitted by the utility shall be effective upon the expiration of the protest period set forth in the Notice of Further Proceedings attached to this Order.

All gross-up CIAC collections are to be made in accordance with the accounting and regulatory treatments and record keeping method prescribed in Orders Nos. 16971 and 23541, and all matters discussed in the body of those Orders are expressly incorporated herein by reference.

REFUND APPROVED

In Order No. 23541, we found that all gross-up amounts in excess of a utility's actual tax liability resulting from its collection of CIAC should be refunded with interest on a pro rata basis to those who contributed the taxes. According to the utility's calculation, a total of \$34,906 for the period from 1987 to 1989 is due to be refunded pro rata to contributors. Upon consideration, we approve the utility's request to refund that amount. In addition, the refund must include interest calculated through the date of the refund. In addition, the utility shall

ORDER NO. 25299
DOCKET NO. 901012-SU
PAGE 3

file copies of cancelled checks, credits applied to monthly bills, or other evidence which verifies that the refunds have been made. The refund shall be completed within six months from the date of this Order.

In consideration of the foregoing, it is

ORDERED by the Florida Public Service Commission that approval is granted for Forest Utilities, Inc. to continue collecting the gross-up on CIAC. It is further

ORDERED that all gross-up collections are to be made in accordance with the provisions of Orders Nos. 16971 and 23541, which are incorporated herein by reference. It is further

ORDERED that the tariff for CIAC gross-up shall be effective upon the expiration date of the protest period set forth in the Notice of Further Proceedings attached to this Order. It is further

ORDERED that Forest Utilities, Inc.'s request to refund \$34,906 pro rata to contributors is approved. It is further

ORDERED that such refund shall include interest calculated through the date of the refund. It is further

ORDERED that the refund shall be completed within six months from the date of the Order. It is further

ORDERED that Forest Utilities, Inc. shall file copies of the cancelled refund checks for verification as set forth in the body of this Order. It is further

ORDERED that all provision of this Order are issued as proposed agency action and shall become final, unless an appropriate petition in the form provided by Rule 25-22.029, Florida Administrative Code, is received by the Director of the Division of Records and Reporting at his office at 101 East Gaines Street, Tallahassee, Florida 32399-0870, by the date set forth in the Notice of Further Proceedings below. It is further

ORDERED that this docket shall be closed upon expiration of the protest period, if no protest is received.

ORDER NO. 25299
DOCKET NO. 901012-SU
PAGE 4

By ORDER of the Florida Public Service Commission, this 5th
day of NOVEMBER, 1991.

STEVE TRIBBLE, Director
Division of Records and Reporting

(S E A L)

CB

by: Kay Hepp
Chief, Bureau of Records

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.

The action proposed herein is preliminary in nature and will not become effective or final, except as provided by Rule 25-22.029, Florida Administrative Code. Any person whose substantial interests are affected by the action proposed by this order may file a petition for a formal proceeding, as provided by Rule 25-22.029(4), Florida Administrative Code, in the form provided by Rule 25-22.036(7)(a) and (f), Florida Administrative Code. This petition must be received by the Director, Division of Records and Reporting at his office at 101 East Gaines Street, Tallahassee, Florida 32399-0870, by the close of business on 11/26/91.

In the absence of such a petition, this order shall become effective on the day subsequent to the above date as provided by Rule 25-22.029(6), Florida Administrative Code.

ORDER NO. 25299
DOCKET NO. 901012-SU
PAGE 5

Any objection or protest filed in this docket before the issuance date of this order is considered abandoned unless it satisfies the foregoing conditions and is renewed within the specified protest period.

If this order becomes final and effective on the date described above, any party adversely affected may request judicial review by the Florida Supreme Court in the case of an electric, gas or telephone utility or by the First District Court of Appeal in the case of a water or wastewater 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 of the effective date 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.