

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for authority to)	DOCKET NO. 900870-WS
continue gross-up of contributions-)	ORDER NO. 25360
in-aid-of-construction (CIAC) in)	ISSUED: 11/19/91
Martin County by MARTIN DOWNS)	
UTILITIES, INC.)	
)	

The following Commissioners participated in the disposition of this matter:

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

NOTICE OF PROPOSED AGENCY ACTION
ORDER APPROVING CONTINUED GROSS-UP OF
CONTRIBUTIONS-IN-AID-OF-CONSTRUCTION

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 substantially affected files a petition for a formal proceeding pursuant to Rule 25-22.0290, Florida Administrative Code.

CASE 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 October 26, 1990, Martin Downs Utilities, Inc. (Martin Downs) timely filed a petition requesting approval to continue to collect the gross-up on its CIAC.

APPROVAL CONTINUE TO GROSS-UP

In accordance with Order No. 23541, Martin Downs has provided the Commission with a statement showing an actual above-the-line tax liability, cash flow statements, a statement of interest coverage indicating a times interest earned (TIE) ratio of less than 2x, and a statement that it does not have an alternative source of financing available at a reasonable rate. Further, as

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justification for the gross-up, Martin Downs states that it will incur an above-the-line tax liability associated with the collection of CIAC and that it will not be able to generate the funds to finance the taxes either through its existing rates or alternative financing. Martin Downs also indicated that it selected the full gross-up method because it believes that this method is the least costly alternative and it has not resulted in competitive disadvantage or decreased growth in the service area. Finally, Martin Downs submitted proposed tariffs for the gross-up. Based on the information filed, we find that Martin Downs has demonstrated a continued need to collect the gross-up. Its request to continue collecting the gross-up is, therefore approved. The proposed tariffs filed by Martin Downs will be effective upon expiration of the protest period set forth in the Notice of Further Proceedings attached to this Order.

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

In consideration of the foregoing, it is

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

ORDERED that all gross-up CIAC collections shall 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 provisions 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 the proposed tariffs filed by Martin Downs Utilities, Inc. shall be effective upon the expiration of the protest period set forth in the Notice of Further Proceedings attached to this Order. It is further

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ORDERED that in the event no timely protest is received, this docket shall be closed.

By ORDER of the Florida Public Service Commission, this
19th day of NOVEMBER, 1991.



STEVE TRIBBLE, Director
Division of Records and Reporting

(S E A L)

NRF

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

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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 12/10/91.

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.

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.