

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for approval ) DOCKET NO. 920221-WS  
of refund with interest of ) ORDER NO. PSC-92-0682-FOF-WS  
gross-up on collected ) ISSUED: 07/21/92  
contributions-in-aid-of- )  
construction (CIAC) in Flagler )  
County by PALM COAST UTILITY )  
CORPORATION )  
\_\_\_\_\_ )

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 REQUIRING REFUNDS OF 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 adversely affected files a petition for a formal proceeding, pursuant to Rule 25-22.029, Florida Administrative Code.

On March 9, 1992, pursuant to Commission Orders Nos. 16971, issued December 18, 1986; 23541, issued October 1, 1990; and 23689, issued October 29, 1990, Palm Coast Utility Corporation (Palm Coast or utility) filed its request for disposition of contributions-in-aid-of-construction (CIAC) tax gross-up monies collected. Upon review of the information filed, it was determined that additional clarifying or explanatory information was needed and the utility was so notified on March 19, 1992. The utility filed the additional information on May 4, 1992.

The utility submitted CIAC Reports and proposed refunds for the fiscal years ended December 31, 1987, 1989, and 1990. The utility proposed that a total refund of \$1,104,071 which consists of \$440,132 for 1987, \$419,836 for 1989, and \$244,103 for 1990

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should be refunded. These amounts include the accrued interest associated with the excess gross-up amounts as of the end of the respective years. We have evaluated the utility's proposed refunds and concur with the utility's refund calculation of gross-up monies in excess of the resulting tax liability, as well as the calculation of interest. Therefore, we find the appropriate amount of excess gross-up, plus interest, to be refunded is \$440,132 for 1987, \$419,836 for 1989, and \$244,103 for 1990. These amounts, plus interest accumulated through the date of the refunds, shall be refunded pro rata to the contributors, pursuant to the provisions of Orders Nos. 16971 and 23541. In addition, we find it appropriate to require the utility to complete the refunds within six months from the effective date of this Order and to submit to this Commission copies of cancelled checks, credits applied to monthly bills, or other evidence to verify that the refunds have been made.

Previously, the utility submitted a 1988 CIAC report which included a detailed schedule of the gross-up collected, interest earned on the monies, and the proposed refund. This refund request was reviewed and processed by the Auditing and Financial Analysis Division in June, 1990. The utility has informed this Commission that refunds totaling \$419,613, including interest, for the fiscal year ended December 31, 1988, were made in July, 1990. However, this refund has not been verified. Accordingly, we find it appropriate to require the utility to submit copies of cancelled checks, credits applied to monthly bills, or other evidence to verify the \$419,613 refund required for the 1988 gross-up.

Based on the foregoing, it is, therefore,

ORDERED that the provisions of this Order are issued as proposed agency action and will become final unless an appropriate petition is filed with the Division of Records and Reporting, 101 East Gaines Street, Tallahassee, Florida 32399-0870, by the close of business on the date indicated in the Notice of Further Proceedings or Judicial Review. It is further

ORDERED by the Florida Public Service Commission that Palm Coast Utility Corporation shall refund excess gross-up in the amounts described in the body of this Order, plus interest accumulated through the date of the refund. These amounts shall be refunded pro rata to contributors. It is further

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ORDERED that Palm Coast Utility Corporation shall complete the required refunds within six months from the effective date of this Order and shall submit to this Commission copies of cancelled checks, credits applied to monthly bills, or other evidence to verify that the refunds for 1987, 1988, 1989, and 1990, have been made. It is further

ORDERED that in the event no timely protest is received to the proposed agency action provisions of this Order, this docket shall be closed.

By Order of the Florida Public Service Commission this 21st day of July, 1992.

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STEVE TRIBBLE, Director  
Division of Records and Reporting

( S E A L )

CB

by: Kay Flynn  
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

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Records and Reporting at his office at 101 East Gaines Street, Tallahassee, Florida 32399-0870, by the close of business on August 11, 1992.

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.