

## BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition of PONTE VEDRA	)	DOCKET NO. 890299-WS
UTILITIES, INC. to reverse entry to	)	
Account 271, Contributions-in-Aid-	)	ORDER NO. 21110
of-Construction (CIAC), in St. Johns	)	
County.	)	ISSUED: 4-24-89
	)	

The following Commissioners participated in the disposition of this matter:

MICHAEL MCK. WILSON, CHAIRMAN  
 THOMAS M. BEARD  
 BETTY EASLEY  
 GERALD L. GUNTER  
 JOHN T. HERNDON

ORDER REQUIRING REFUND, DIRECTING PAYMENT OF INTEREST, AND  
 DELEGATING AUTHORITY TO STAFF TO APPROVE CERTAIN REFUNDS

BY THE COMMISSION:

BACKGROUND

Ponte Vedra Utilities, Inc. (Ponte Vedra or utility), is a water and sewer utility company serving the public in St. Johns County.

In March of 1985, a developer in the utility's service area prepaid \$1,000 in service availability fees, and \$603 in tax "gross-up" charges, for housing units to be constructed in the future. When five connections were made in January of 1989, the utility erroneously collected these fees a second time from the developer. Upon discovering this error in February of 1989, the utility requested our permission to refund the over-collection without interest; to make the necessary reversing entries in its books to reflect the refund; and to withdraw the \$603 income tax "gross-up" charge from its escrow account so that this amount could be refunded to the developer.

WITHDRAWAL OF TAX GROSS-UP CHARGES FROM ESCROW  
 AND DELEGATION TO STAFF

The Tax Reform Act of 1986 requires corporate utility companies to claim Contributions-in-Aid-of-Construction (CIAC) receipts as gross income for purposes of computing a utility's income tax liability. By Order No. 16971, issued December 18, 1986, this Commission authorized corporate water and sewer utilities to collect the potential tax liability caused by the changes in the tax law with respect to CIAC charges. In this same Order we also established certain accounting and reporting procedures for the utilities to follow with respect to the tax "gross-up". Among these were that the utilities had to report to the Commission at the conclusion of their tax year the actual income tax liability incurred during the year as a result of the collection of CIAC and the utility's plan for refunding any excess collection of tax related charges. Also, the utilities were required to establish a fully funded

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ORDER NO. 21110  
DOCKET NO. 890299-WS  
PAGE 2

interest bearing escrow account for the deposit of the CIAC tax "gross-up". Further, withdrawal of funds from this escrow account was permitted to the extent that estimated Federal and State income taxes would be paid as a consequence of income taxation of CIAC receipts.

In Order No. 19137, issued April 13, 1988, we expressly delegated to our staff the authority to approve a total refund of CIAC tax "gross-up" charges when no tax liability is actually incurred.

In the present case, we find that no tax liability will be incurred by Ponte Vedra due to its mistaken second collection of CIAC charges since the proposed reimbursement will occur in the utility's same tax year. Therefore, we approve the requested \$603 withdrawal of funds from the escrow account. Further, to the extent that Ponte Vedra or other utilities encounter similar billing errors which result in mistaken collections of CIAC tax "gross-up" charges, we hereby delegate to our staff the authority to administratively process appropriate refunds.

REVERSING ENTRIES  
AND DELEGATION TO STAFF

As a utility subject to our jurisdiction, Ponte Vedra is required to maintain its books pursuant to a prescribed uniform system of accounts. The accounting instructions for Account 271, CIAC, provides that a utility must seek Commission authority prior to transferring CIAC credit balances to another account. The utility has interpreted this to mean that our permission is needed for the correction of a billing error, like that in the instant case.

Our prohibition against transferring CIAC credit balances is intended to preclude the unauthorized transfer of such balances to other long-term asset or liability accounts. Such unauthorized transfers would include reducing CIAC while increasing Advances For Construction or Retained Earnings, or reducing CIAC (debit) and also reducing Plant in Service (credit). This policy is not, however, intended to prohibit reversing entries in a utility's CIAC account to correct bookkeeping errors such as in the present case.

Based on the foregoing, we find that Ponte Vedra is hereby authorized to make the necessary reversing entries on its books to reflect the refund of CIAC and "gross-up" charges. We further find that in the future, in cases such as this where noncontroversial accounting adjustments are needed to correct a bookkeeping error, such adjustments shall be reviewed by our staff and processed administratively.

INTEREST ON REFUNDS

Ponte Vedra contends that since any interest on the erroneously collected service availability and "gross-up" charges would be insignificant and costly to compute, it should not be required to pay any such interest. The utility's

ORDER NO. 21110  
DOCKET NO. 890299-WS  
PAGE 3

request to omit payment of interest on the ordered refunds is inconsistent with our Orders Nos. 16971 and 19371, issued December 12, 1986, and April 13, 1988, respectively. In these Orders, we specifically directed that refunds of erroneously collected CIAC "gross-up" charges would be made with interest at the rate actually earned by the utility. Therefore, we find that Ponte Vedra shall pay interest on both the service availability and income tax "gross-up" charges which it erroneously collected. We now turn to the question of the appropriate rate of interest.

As discussed above, we have previously determined that the appropriate interest rate for refunds of tax "gross-up" charges is the rate actually earned by the utility on such fees. In other situations, such as in the case of interim rates, where the Commission has ordered a refund with interest, the Commission rule is that interest shall be calculated at the commercial paper rate. However, since in its petition seeking omittance of payment of interest, the utility alleged that it would be costly to calculate the interest refund, we will authorize the utility to utilize the least costly method in arriving at the interest refund amount relating to the "gross-up" overcollection. Nevertheless, interest on the service availability charges shall be calculated at the commercial paper rate pursuant to our rule.

Based on the foregoing, it is, therefore,

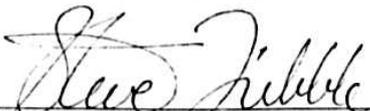
ORDERED by the Florida Public Service Commission that the petition of Ponte Vedra Utilities, Inc. to reverse an entry to Account 271, Contributions-in-Aid-of-Construction (CIAC), is approved in part and denied in part as shown in the body of this Order. It is further

ORDERED that Ponte Vedra Utilities, Inc. shall refund with interest on erroneously collected service availability and tax "gross-up" charges as shown in the body of this Order. It is further

ORDERED that Commission Staff is hereby granted administrative authority to review and approve noncontroversial accounting adjustments and refunds necessary to correct bookkeeping errors caused by the erroneous collection of CIAC service availability or "gross-up" charges where such collection does not result in the affected utility incurring any income tax liability. It is further

ORDERED that this Docket shall be closed upon Staff verification that the refunds ordered herein have been completed.

By ORDER of the Florida Public Service Commission,  
this 24th day of APRIL, 1989.

  
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STEVE TRIBBLE, Director  
Division of Records and Reporting

( S E A L )

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ORDER NO. 21110  
DOCKET NO. 890299-WS  
PAGE 4

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 the Commission's final action in this matter may request: 1) reconsideration of the decision by filing a motion for reconsideration with the Director, Division of Records and Reporting within fifteen (15) days of the issuance of this order in the form prescribed by Rule 25-22.060, Florida Administrative Code; or 2) 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 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 after the issuance 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.