

FLORIDA PUBLIC SERVICE COMMISSION

Fletcher Building
101 East Gaines Street
Tallahassee, Florida 32399-0850

M E M O R A N D U M

June 13, 1991

TO : DIRECTOR, DIVISION OF RECORDS AND REPORTING

FROM : DIVISION OF WATER AND SEWER (MEADOR) *MW 3/24 Sem*
DIVISION OF LEGAL SERVICES (LORD JABER) *UB B A*

RE : UTILITY: UTILITIES, INC. OF FLORIDA
DOCKET NO.: 910575-WS
COUNTY: ORANGE AND SEMINOLE
CASE: CANCELLATION OF TARIFF GROSS-UP AUTHORITY

AGENDA : JUNE 25, 1991 - CONTROVERSIAL AGENDA - PROPOSED AGENCY
ACTION - PARTIES MAY PARTICIPATE

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: NONE

CASE BACKGROUND

On February 13, 1986, the Florida Waterworks Association (FWWA) requested that we investigate a proposed repeal of Section 118(b), Internal Revenue Code (I.R.C.), under which certain contributions to the capital of a corporation were excludable from gross income. Ultimately, Section 118(b), I.R.C., was repealed by the Tax Reform Act of 1986 (ACT) and, effective January 1, 1987, contributions-in-aid-of-construction (CIAC) became both gross income and depreciable for federal tax purposes.

Order No. 23541, issued October 1, 1990, found that no utility may gross-up without first obtaining the approval of this Commission. In addition, any utility that was currently grossing-up CIAC was to file a petition, in accordance with the provisions of Order No. 23541, no later than October 29, 1990. The time to file was extended to February 1, 1991, in Order No. 24027, issued January 24, 1991. Further, Order No. 23541 established accounting procedures for gross-up, and specified that those utilities which do gross-up shall record the gross-up in a separate subaccount. Utilities which had below-the-line losses or ITCs for 1987, 1988,

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or 1989 were to file amended gross-up reports to reflect only above-the-line NOLs and ITCs, with a reconciliation to the amounts originally filed. Finally, utilities with any gross-up amounts collected in excess of a utility's actual tax liability resulting from its collection of CIAC, were ordered to refund the excess collections on a pro rata basis to the contributors of those amounts.

DISCUSSION OF ISSUES

ISSUE 1: Should the utility's tariff authority to gross-up be canceled?

RECOMMENDATION: Yes, Water First Revised Sheets No. 31.16, 31.17, and 31.18 and Sewer Original Sheets No. 22.0 (pages 16 and 17) should be canceled. (MEADOR)

STAFF ANALYSIS: By Order No. 16971, issued December 18, 1986, this utility was granted the authority to gross-up its CIAC in order to meet the tax impact resulting from the inclusion of CIAC as gross income. To date this utility has not filed a petition in accordance with Order No. 23541 for continued authority to gross-up CIAC. As a result, the current tariff is in violation of Order No. 23541, and staff recommends that the utility's existing tariff authority to gross-up as contained on First Revised Sheets No. 31.16, 31.17, and 31.18 and Sewer Original Sheet No. 22 (pages 16 and 17) be canceled. The cancellation will be effective at the close of the protest period.

ISSUE 2: Should this docket be closed?

RECOMMENDATION: Yes. (MEADOR)

STAFF ANALYSIS: The utility has not filed for authority to continue grossing-up CIAC. If the utility wishes to continue with gross-up, it must file a petition in compliance with Order No. 23541, which would be assigned a new docket number. Unless a substantially affected person files a petition for a formal proceeding regarding the cancellation within twenty-one (21) days of the date of issuance of this Order, this docket should be closed.