

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Disposition of
contributions-in-aid-of-
construction (CIAC) gross-up
funds received by CLAY UTILITY
COMPANY in Clay County during
the years ended 12/31/90 through
12/31/93.

DOCKET NO. 940097-WS
ORDER NO. PSC-97-1364-FOF-WS
ISSUED: October 28, 1997

The following Commissioners participated in the disposition of
this matter:

JULIA L. JOHNSON, Chairman
J. TERRY DEASON
SUSAN F. CLARK
DIANE K. KIESLING
JOE GARCIA

NOTICE OF PROPOSED AGENCY ACTION
ORDER ACCEPTING SETTLEMENT OFFER AND REQUIRING REFUNDS FOR THE
YEAR 1990 BUT DETERMINING NO REFUNDS TO BE DUE FOR THE YEARS 1991
THROUGH 1993

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 25-22.029, Florida Administrative Code.

BACKGROUND

As a result of the repeal of Section 118(b) of the Internal
Revenue Code, contributions-in-aid-of-construction (CIAC) became
gross income and were depreciable for federal tax purposes. In
Order No. 16971, issued December 18, 1986, we authorized corporate
utilities to collect the gross-up on CIAC in order to meet the tax
impact resulting from the inclusion of CIAC as gross income.

DOCUMENT NUMBER-DATE

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FPSC-RECORDS/REPORTING

Orders Nos. 16971 and 23541, issued December 18, 1986 and October 1, 1990, respectively, require that utilities annually file information which would be used to determine the actual state and federal income tax liability directly attributable to the collection of CIAC. The information would also determine whether refunds of gross-up would be appropriate. These orders also require that all gross-up collections for a tax year, which are in excess of a utility's actual above-the-line tax liability for the same year, should be refunded on a pro rata basis to those persons who contributed the taxes.

In Order No. 23541, we required any water and wastewater utility already collecting the gross-up on CIAC, and wishing to continue, to file a petition for approval with the Commission on or before October 29, 1990. On December 11, 1990, Clay Utility Company (Clay or utility) filed a petition requesting approval to continue to collect the gross-up on its CIAC and to refund a certain amount of gross-up collected in 1987 through 1989. By Order No. 25205, in Docket No. 900976-WS, issued October 11, 1991, this Commission granted Clay's petition for continued gross-up authority and approved its refund request.

On September 9, 1992, we issued Proposed Agency Action (PAA) Order No. PSC-92-0961-FOF-WS, which clarified the provisions of Orders Nos. 16971 and 23541 for the calculation of refunds of gross-up of CIAC. On September 14, 1992, we issued PAA Order No. PSC-92-0961A-FOF-WS. This order included Attachment A which reflected the generic calculation form. No protests were filed, and the Orders became final.

On March 29, 1996, we opened Docket No. 960397-WS to review our policy concerning the collection and refund of CIAC gross-up. Workshops were held and comments and proposals were received from the industry and other interested parties. By PAA Order No. PSC-96-0686-FOF-WS, issued May 24, 1996, we directed our staff to review the proposals and comments offered by the workshop participants and make a recommendation concerning whether our policy regarding the collection and refund of CIAC should be changed. In addition, we directed our staff to consider ways to simplify the process and determine whether there were viable alternatives to the gross-up. Pending this review, we directed our staff to continue processing CIAC gross-up refund cases pursuant to Orders Nos. 16971 and 23541.

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However, on August 1, 1996, Congress passed the Small Business Job Protection Act of 1996 (the Act), and the President signed the law on August 20, 1996. The Act provided for the non-taxability of CIAC collected by water and wastewater utilities, effective retroactively for amounts received after June 12, 1996. As a result, on September 20, 1996, in Docket No. 960965-WS, we issued Order No. PSC-96-1180-FOF-WS revoking the authority of utilities to collect gross-up of CIAC and canceling the respective tariffs unless, within 30 days of the issuance of the order, affected utilities requested a variance.

Since there was no longer a need to review our policy on the gross-up of CIAC, we issued, on October 8, 1996, Order No. PSC-96-1253-FOF-WS, which closed Docket No. 960397-WS. However, as established in PAA Order No. PSC-96-0686-FOF-WS, all pending CIAC gross-up refund cases are being processed pursuant to Orders Nos. 16971 and 23541.

Clay transferred all of its facilities to Clay County on December 29, 1993; however, prior to its transfer, it was a Class A water and wastewater utility which provided service to approximately 2,970 water and 2,910 wastewater customers in Clay County. Its 1992 annual report reflects operating revenue of \$500,812 for the water system and \$1,138,509 for the wastewater system, and net operating income of \$71,075 for the water system and \$99,914 for the wastewater system.

On January 13, 1994, Clay filed an application with this Commission for acknowledgment of the transfer of its water and wastewater facilities to Clay County. By Order No. PSC-94-0198-FOF-WS, issued February 17, 1994, the Commission acknowledged the sale of Clay's assets to Clay County and the cancellation of its Water Certificate No. 163-W and Wastewater Certificate No. 113-S. In addition, Order No. PSC-94-0198-FOF-WS stated that excess gross-up funds, which were collected prior to the sale to Clay County, would remain subject to our jurisdiction until all refunds had been made by Clay. On January 27, 1994, we opened Docket No. 940097-WS to address refunds associated with the utility's collection of gross-up funds in excess of the appropriate amount of taxes related to CIAC.

Originally, our staff filed their recommendation in this docket to be considered by us at the June 10, 1997 Agenda Conference; however, on June 5, 1997, the utility requested a sixty-day postponement. The utility alleged that additional time

was needed because the last time that representatives of the utility were contacted on this matter was in 1994. To further justify its request, the utility indicated that its preliminary review of staff's recommendation showed that it disagreed with portions of the recommendation. The utility believed that many of the issues raised in the recommendation were new and the additional time would allow it to communicate with our staff to resolve differences concerning the recommendation.

Based on this request, we granted the utility a deferral. On August 12, 1997, the utility filed additional revisions to its May 15, 1996 gross-up revisions (upon which the previous recommendation was based). This Order addresses the appropriate disposition of excess gross-up funds collected for the years 1990 through 1993 and is based on the Revised Gross-up Refund Proposal that was filed with the Commission on August 12, 1997.

REFUND REQUIREMENT

Clay Utility Company sold its water and wastewater facilities to Clay County on December 29, 1993. The escrow account of CIAC tax gross-up monies was not transferred to Clay County. The utility maintained all rights to it and obligations for it upon the sale. Therefore, in compliance with Orders Nos. 16971 and 23541, Clay filed its 1990 through 1993 annual CIAC reports regarding its collection of gross-up for each year. By letter dated February 4, 1994, our staff submitted its preliminary refund calculations to the utility and requested additional information to finalize its review. On September 15, 1994, the utility responded to staff's concerns with revised schedules and additional clarifying information. Further, on May 15, 1996, in response to staff's additional request for verifying and clarifying information, the utility filed another response.

As stated above, our staff's recommendation was scheduled to be considered at the June 10, 1997 Agenda Conference, but was deferred at the request of the utility. Then, on August 12, 1997, the utility filed its Revised Gross-up Refund Proposal that modified its previous gross-up filings.

Commission Adjustments:

We have made several adjustments to the utility's Revised Gross-up Refund Proposal that was filed on August 12, 1997. These adjustments are discussed below.

A. Compensation of Officers: In its Revised Gross-up Refund Proposal, for 1990, the utility reduced the above-the-line "Compensation of Officers" to reflect the level approved in its last rate case, adjusted for the impact of indexing for 1989 and 1990. For 1991 through 1993, the utility included 100 percent of the deductions taken on its federal income tax returns.

The utility argues that, for the year 1990, it was earning substantially less than the authorized rate of return allowed by this Commission, and that, even with the below-the-line amount for officers added back in, it would still be earning below its authorized rate of return. Therefore, the utility concludes that that portion of the officers' salaries was funded by the stockholders, and was not funded by the ratepayers or embedded in the company's rates. However, for the years 1991 through 1993, Clay acknowledges that its earnings were within the range of its authorized rate of return, and has included all officers' compensation in above-the-line expenses.

However, we find that, unless there is evidence that the amounts in the annual reports are unreasonable or an annual report for that year does not exist, the above-the-line amounts for CIAC refund purposes, should mirror the amounts reflected in the utility's annual reports for those years. We believe the annual reports to be an objective measure of expenses and that the level of above-the-line expenses for gross-up refunds should not be altered, based on a utility's level of earnings. Further, the utilities' annual reports contain the financial information that we rely upon to determine the utility's achieved rate of return.

In the CIAC gross-up disposition for Eagle Ridge Utilities, Inc. (Docket No. 961077-SU, Orders Nos. PSC-96-1394-FOF-SU and PSC-97-0647-FOF-SU), we used the management fees in the utility's annual report and not the management fees proposed by the utility. The management fees proposed by the utility were the management fees upon which rates were set in 1985, adjusted for customer growth and the change in the Consumer Price Index. Additionally, in the disposition of CIAC gross-up funds for Forest Utilities, Inc. (Docket No. 961237-SU, in Orders Nos. PSC-97-0007-FOF-SU and PSC-97-0648-FOF-SU), we also used the entire amount of officers' salaries included in its annual report. In both cases, we determined that because the level of expenses in the annual report were used to determine earnings, that level should also be used for CIAC gross-up disposition purposes and reflected as an above-the line expense.

Therefore, we have adjusted the above-the-line "Compensation of Officers" to the amounts reported in the 1990 and 1992 annual reports filed by the utility. For 1991, book and tax "Compensation of Officers" were the same. For 1993, we used the deduction taken on the utility's federal income tax return as a surrogate, as no annual report was filed for that year.

Based on this reasoning, we have made adjustments to "Compensation of Officers" for 1990 and 1992. For 1990, we have increased the above-the-line amount by \$63,372 (from \$34,199 to \$97,571). For 1992, we have decreased the above-the-line amount by \$13,164 (from \$110,809 to \$97,645). For 1991 and 1993, no adjustments were necessary.

B. Amortization of Debt Issuance Costs: One difference between the utility's above-the-line computation and our computation in every year is the treatment of the amortization of Debt Issuance Costs. The utility argues that the amortization of Debt Issuance Costs should be excluded from above-the-line computations because such amortization was not included in the last rate case to determine the effective cost of debt.

A review of Order No. 14305 in Docket No. 840033-WS, the final order in Clay's last rate case, shows that on page 14 of that Order, we adjusted Clay's net operating income statements "to move amortization of loan costs to interest expense." The Cost of Capital is addressed on page 3 of the same order. We believe that based on the adjustment on page 14, the amortization of debt costs was used to calculate the weighted cost of debt. Moreover, loan origination fees are incurred to obtain debt, part of which is used to support rate base. The interest on the debt that supports rate base is reflected above-the-line for CIAC gross-up disposition purposes. Therefore, that portion of the amortization of the Debt Issuance Costs that supports rate base shall be afforded above-the-line treatment. Further, we note that in Order No. PSC-95-0746-FOF-WS, Docket No. 940344-WS, the weighted cost of debt that was used to calculate above-the-line tax deductible interest for CIAC gross-up disposition purposes, included the amortization of debt costs.

C. Customer Deposits in Capital Structure: For 1990, the utility reported Customer Deposits of \$40,584, whereas the Customer Deposits in the 1990 annual report were reported as \$41,896. This minor difference creates a difference in interest-bearing capital that supports rate base for that year. The difference in interest-

bearing capital creates a minor difference in the percentage of above-the-line versus below-the-line interest expense and amortization of Debt Issuance Costs.

As a result of Adjustments B and C above, we increased 1990 above-the-line interest expense and amortization of Debt Issuance Costs by \$3,774, from \$153,125 to \$156,899. For the years 1991 through 1993, only Adjustment B is applicable. The above-the-line amortization of Debt Issuance Costs, a component of interest expense, is increased by \$3,520, \$3,472, and \$3,290 for 1991 through 1993, respectively.

In its revised filing, the utility has also adjusted its 1993 above-the-line interest expense. The utility states that in 1986, it accrued \$214,375 of CIAC as an accommodation to a developer to avoid income tax and gross-up. The transaction was booked as a note receivable (debit) with the credit going to CIAC. In 1993, Clay determined that the accrued interest receivable through December 31, 1993, totaling \$106,259, was uncollectible. Therefore, the utility wrote off both the accrued interest receivable as interest expense, and the associated receivable and CIAC were written off. No connections reserved under this note were ever made, and Clay never received a penny of CIAC under this arrangement.

Based on the above statement, the utility reduced the 1993 interest expense reported on its federal income tax return by the \$106,259 before making the above-the-line/below-the-line split of its interest expense on debt and the amortization of Debt Issuance Costs. Although we agree with the \$106,259 adjustment, we do not agree with the utility's rationale for the adjustment. Based on a review of the utility's annual reports for the years 1990 through 1992, we find that the offsetting yearly credit for the accrued interest receivable should have been to Other Income. This is a below-the-line account that would not have been taken into consideration when reviewing its annual reports for earnings surveillance purposes. Therefore, we find that it was correct to remove the \$106,259 before any allocation to above and below-the-line interest and amortization of Debt Issuance Costs.

D. Legal and Accounting Fees: The utility requested that it be allowed to offset 50 percent of the legal and accounting cost incurred in preparing the refund reports with the contributor's refund. We have considered on several occasions the question of whether such an offset should be allowed pursuant to the orders

governing CIAC gross-up. See: Order No. PSC-97-0647-FOF-SU, issued June 7, 1997, in Docket No. 961077-SU; Order No. PSC-97-0657-AS-WS, issued June 9, 1997 in Docket No. 961076-WS; and Order No. PSC-97-0816-FOF-WS, issued July 7, 1997 in Docket No. 970275-WS. In these orders, we accepted the utility's settlement proposals that 50 percent of the legal and accounting costs be offset against the refund amount.

As in the other cases referenced above, we find that acceptance of the settlement proposal would avoid the substantial cost associated with a hearing, which may in fact exceed the amount of the legal and accounting costs to be recovered. We further note that the actual costs associated with making the refunds have not been included in these calculations and will be absorbed by the utility. Moreover, we believe the utility's settlement proposal is a reasonable "middle ground". Therefore, while not adopting the utility's position, we find it appropriate to accept Clay's settlement proposal.

Our refund calculations are based on the method adopted in Order No. PSC-92-0961-FOF-WS. The adjustments were based on the August 12, 1997 Revised Gross-up Refund Proposal, on information provided by the utility in its gross-up reports, supplemental information, federal income tax returns on file, annual reports and recent Commission decisions. The adjustments have been explained in the body of this recommendation and are reflected on Schedule No. 1. A summary of each year's refund calculation follows.

ANNUAL GROSS-UP REFUND AMOUNTS

1990

The utility proposes a refund of \$27,524 before the offset of 50 percent of its requested legal and accounting expenses. However, in arriving at the \$27,524, we believe that the utility inadvertently picked up an incorrect number for the gross-up collected that year. The gross-up collected for that year should have been \$76,898 (as reflected in the previous reports), rather than \$72,466 as reflected in the August 12, 1997 revised filing. Substituting the \$76,898, the utility is actually proposing a \$31,956 refund before legal and accounting fees. However, we find that a refund of \$72,466 before the offset for 50 percent of legal and accounting fees is appropriate.

The utility reflected an above-the-line loss of \$43,084 before the inclusion and effect of taxable CIAC. However, as a result of the adjustments discussed above, we calculated an above-the-line loss of \$110,230 before the inclusion and effect of taxable CIAC. Order No. 23541, issued October 1, 1990, requires that CIAC income be netted against the above-the-line loss; therefore, not all CIAC collected would create a tax liability. The utility's CIAC report indicates a total of \$122,048 in taxable CIAC was received, with \$4,473 being deducted for the first year's depreciation, resulting in taxable CIAC of \$117,575. When this amount is netted against the above-the-line loss of \$110,230, the amount of taxable CIAC resulting in a tax liability is \$7,345. Using the 37.63% combined federal and state tax rate as provided in the CIAC report, the tax effect is calculated to be \$4,432. The utility collected \$76,898 of gross-up monies; therefore, the refund is calculated to be \$72,466 before the offset for 50 percent of requested legal and accounting fees.

The utility provided documentation supporting legal and accounting fees of \$10,848. These costs appear to be directly associated with preparing the required reports and calculating the tax effect, and, thus, are legitimate expenses. Subtracting fifty percent of this amount (\$5,424) from \$72,466, results in a refund requirement for 1990 of \$67,042, plus accrued interest through the date of the refund.

In accordance with Orders Nos. 16971 and 23541, all amounts shall be refunded on a pro rata basis to those persons who contributed the taxes. The refund shall be completed within 6 months of the effective date of this Order. Within 30 days from the date of the refund, the utility shall submit copies of canceled checks, credits applied to monthly bills or other evidence which verifies that the refunds have been made. Within 30 days from the date of the refund, the utility shall also provide a list of unclaimed refunds detailing the contributors and the amounts, and an explanation of the efforts made to make the refunds. Further, the utility shall deliver any unclaimed refunds to the State of Florida Comptroller's Office as abandoned property. However, the unclaimed refunds shall not be delivered to the Comptroller's Office until our staff has verified and notified the utility in writing that the refunds have been made in accordance with the Commission Order in this proceeding. Upon written verification, the unclaimed refunds shall be delivered to the Comptroller's Office.

1991

The utility proposes a refund of \$1,377 before the offset of 50 percent of its requested legal and accounting expenses. We agree.

The utility reflected above-the-line income of \$16,507 before the inclusion and effects of taxable CIAC. However, as a result of the adjustments discussed above, we calculated an above-the-line income of \$12,987 before the inclusion and effects of taxable CIAC. Because we both calculate an above-the-line income before the inclusion and effects of taxable CIAC, we are in agreement that all CIAC (reduced by first year's depreciation) is taxable.

The utility's CIAC report indicates a total of \$72,891 in taxable CIAC was received, with \$2,283 being deducted for the first year's depreciation, resulting in taxable CIAC of \$70,608. Using the 37.63% combined federal and state tax rate as provided in the CIAC report we calculate the tax effect to be \$42,600.

The utility collected \$43,977 of gross-up monies; therefore, we calculate a refund of \$1,377 without any offset for legal and accounting fees. However, the utility provided documentation supporting legal and accounting fees of \$10,596. These costs appear to be directly associated with preparing the required reports and calculating the tax effect, and, thus, are legitimate expenses. When 50 percent of this amount (\$5,298) is offset against the \$1,377 refund amount, there is no refund requirement for 1991.

1992

The utility proposed a refund of \$2,515 before the offset of 50 percent of its requested legal and accounting expenses. We agree.

The utility reflected an above-the-line loss of \$80,861 before the inclusion and effects of taxable CIAC. However, as a result of the adjustments discussed above, we calculated an above-the-line loss of \$71,169 before the inclusion and effect of taxable CIAC. The utility's CIAC report indicates that a total of \$4,679 in taxable CIAC was received with \$300 being deducted for first year's depreciation, resulting in taxable CIAC of \$4,379. However, Order No. 23541, issued October 1, 1990, requires that CIAC income be netted against the above-the-line loss; therefore, none of the CIAC

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collected by Clay would create an above-the-line tax liability because the above-the-line loss before CIAC exceeded the CIAC received in that year and eliminated the taxability of the CIAC.

The utility collected \$2,515 of gross-up monies. Because none of the CIAC was taxable, the full amount would have been subject to refund except for the offset for 50 percent of the legal and accounting fees. The utility provided documentation supporting legal and accounting fees of \$11,134. These costs appear to be directly associated with preparing the required reports and calculating the tax effect, and, thus, are legitimate expenses. When 50 percent of this amount (\$5,567) is offset against the \$2,515 refund amount, there is no refund requirement for 1992.

1993

The utility proposes that no refund is appropriate before the offset of 50 percent of its legal and accounting expenses. We agree.

The utility reflected above-the-line income of \$82,729 before the inclusion and effects of taxable CIAC. However, as a result of the adjustments discussed above, we calculate an above-the-line income of \$79,439 before the inclusion and effects of taxable CIAC. In 1992, we calculated a net loss of \$66,790 to be carried forward to 1993. When this amount was netted against the above-the-line income before CIAC and its effects, the utility continues to have taxable income before CIAC and its effects. Therefore all CIAC receipts are taxable for 1993.

The utility's CIAC report indicates a total of \$287,683 in taxable CIAC was received. Using the 37.63 percent combined federal and state tax rate as provided in the CIAC report, we calculate a tax effect of \$173,569. The utility collected \$169,822 of gross-up monies; therefore, the utility undercollected and no refund is appropriate for 1993.

CLOSING OF DOCKET

Upon expiration of the protest period, if a timely protest is not received from a substantially affected person, this docket shall remain open pending completion and verification of the refunds. Upon verification that the refunds have been made, the docket shall be closed administratively.

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Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that the settlement offer of Clay Utility Company shall be accepted. It is further

ORDERED that, pursuant to the settlement offer, Clay Utility Company shall refund gross-up funds of contributions-in-aid-of-construction in the amount of \$67,042 for 1990. It is further

ORDERED that the provisions of this Order, issued as proposed agency action, shall become final and effective unless an appropriate petition, in the form provided by Rule 25-22.036, Florida Administrative Code, is received by the Director, Division of Records and Reporting, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on the date set forth in the "Notice of Further Proceedings or Judicial Review" attached hereto. It is further

ORDERED that the refunds shall be carried out as set forth in the body of this Order. It is further

ORDERED that the schedule attached to this Order is incorporated into and made a part of this Order. It is further

ORDERED that no refunds are required for the years 1991 through 1993. It is further

ORDERED that Clay Utility Company, shall refund accrued interest through the date of refund, for gross-up of contributions-in-aid-of-construction collected in excess of the tax liability. It is further

ORDERED that, pursuant to Orders Nos. 16971 and 23541, all refund amounts shall be refunded on a pro rata basis to those persons who contributed the funds. It is further

ORDERED that the refunds required herein shall be completed within six months of the effective date of this Order, and that Clay Utility Company, shall submit copies of canceled checks, or other evidence verifying that the refunds have been made within 30 days of completion of the refund. It is further

ORDERED that within 30 days of completion of the refund, Clay Utility Company, shall provide a list of unclaimed refunds

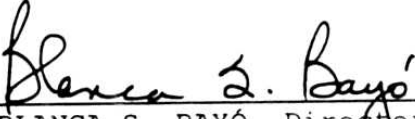
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detailing the contributor and the amount, and an explanation of the efforts made to make the refunds. It is further

ORDERED that Clay Utility Company shall deliver any unclaimed refunds to the State of Florida Comptroller's Office as abandoned property. The unclaimed refunds shall be delivered to the Comptroller's Office following our staff's written notification to the utility that the refunds have been made in accordance with this Order. It is further

ORDERED that the docket shall be administratively closed upon expiration of the protest period, if no timely protest is filed, and upon our staff's verification that the refunds have been made.

By ORDER of the Florida Public Service Commission this 28th day of October, 1997.



BLANCA S. BAYÓ, Director
Division of Records and Reporting

(S E A L)

RRJ

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), 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.

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Mediation may be available on a case-by-case basis. If mediation is conducted, it does not affect a substantially interested person's right to a hearing.

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, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on November 18, 1997.

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 substantially 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.

SCHEDULE NO. 1

CLAY UTILITY COMPANY
COMMISSION CALCULATED GROSS-UP REFUND

	1990	1991	1992	1993
1 A-T-L TAXABLE INCOME PER UTILITY	<u>\$151,388</u>	<u>\$131,092</u>	<u>(\$73,987)</u>	<u>\$540,234</u>
2				
3 <u>COMMISSION ADJUSTMENTS:</u>				
4 (Inc.)/dec. to officers' compensation	(63,372)	0	13,164	0
5 (Inc.)/dec. to depreciation expense	0	0	0	0
6 (Inc.)/dec. to interest expense	(3,774)	(3,520)	(3,472)	(3,290)
7 (Inc.)/dec. re loss on sale of vehicle		0		
8 (Inc.)/dec. to CIAC collections..				
9 (Inc.)/dec. to gross-up collection				
10 (Inc.)/dec. to 1st year depreciation expense				
11 (Inc.)/dec. to gross-up interest				
12				
13				
14 TOTAL ADJUSTMENTS	<u>(67,148)</u>	<u>(3,520)</u>	<u>9,692</u>	<u>(3,290)</u>
15				
16 A-T-L TAXABLE INCOME	\$84,243	\$127,572	(\$64,275)	\$536,944
17 Less CIAC	(122,048)	(72,891)	(4,879)	(287,683)
18 Less gross-up collected	(76,806)	(43,977)	(2,515)	(169,822)
19 Add first year's depreciation on CIAC	4,473	2,283	300	0
20 Deduct interest on CIAC	0	0	0	0
21				
22 Adjusted income before CIAC and gross-up	<u>(\$110,230)</u>	<u>\$12,987</u>	<u>(\$71,169)</u>	<u>\$79,439</u>
23				
24 Taxable CIAC	\$122,048	\$72,891	\$4,879	\$287,683
25 Less NOL carryforward	0			0
26				
27 Taxable CIAC resulting in a tax liability	\$11,818	\$72,891	\$0	\$287,683
28 Less first year's depreciation	(4,473)	(2,233)	(300)	0
29				
30 Net taxable CIAC	\$7,345	\$70,608	\$0	\$287,683
31 Combined marginal state & federal tax rate	37.63%	37.63%	37.63%	37.63%
32				
33 Net income tax on CIAC	\$2,764	\$26,570	\$0	\$108,255
34 Less ITC realized	0	0	0	0
35				
36 Net income tax	\$2,764	\$26,570	\$0	\$108,255
37 Expansion factor to gross up taxes	1.603336	1.60333	1.60333	1.60333
38				
39 Gross-up required to pay tax effect	\$4,432	\$42,800	\$0	\$173,589
40 Less CIAC gross-up collected	(76,806)	(43,977)	(2,515)	(169,822)
41				
42 (OVER) OR UNDER COLLECTION	<u>(\$72,406)</u>	<u>(\$1,377)</u>	<u>(\$2,515)</u>	<u>\$3,747</u>
43				
44				
45 TOTAL YEARLY REFUND	<u>(\$72,406)</u>	<u>(\$1,377)</u>	<u>(\$2,515)</u>	<u>\$0</u>
46 Less Legal & Acctg. Fees	5,424	5,298	5,587	5,877
47	<u>(67,042)</u>	<u>0</u>	<u>0</u>	<u>0</u>
48 PROPOSED REFUND (excluding interest)	<u>(\$67,042)</u>			