

LAW OFFICES  
ROSE, SUNDSTROM & BENTLEY, LLP ORIGINAL

2548 BLAIRSTONE PINES DRIVE  
TALLAHASSEE, FLORIDA 32301

(850) 877-6555

CHRIS H. BENTLEY, P.A.  
F. MARSHALL DETERDING  
CAROL L. DUTRA  
MARTIN S. FRIEDMAN, P.A.  
JOHN R. JENKINS, P.A.  
STEVEN T. MINDLIN, P.A.  
DAREN L. SHIPPY  
WILLIAM E. SUNDSTROM, P.A.  
DIANE D. TREMOR, P.A.  
JOHN L. WHARTON

MAILING ADDRESS  
POST OFFICE BOX 1567  
TALLAHASSEE, FLORIDA 32302-1567

TELECOPIER (850) 656-4029

February 8, 1999

ROBERT M. C. ROSE  
OF COUNSEL

VIA HAND DELIVERY

Ms. Connie L. McCaskill  
Florida Public Service Commission  
Regulatory Analyst  
2540 Shumard Oak Boulevard  
Tallahassee, Florida 32399-0873

Re: North Fort Myers Utility, Inc.; PSC Docket No. 971179-SU  
Gross-up Monies for Fiscal Years  
Ended May 31, 1995 and May 31, 1996  
Our File No. 16319.29

Dear Connie:

During recent meetings and telephone conversations between you and Bob Nixon, some questions were raised about the consistency of the PSC and its staff's policy concerning treatment of above the line and below the line expenses in past approvals of Utility CIAC gross-up disposition. As I understand it, you had maintained that the Commission had consistently applied its above the line and below the line analysis based on the annual reports throughout the ten years in which gross-up was in effect. As you know, we contended that that was not at all the case, and in fact, that the changes to rely on the annual report as a basis for determining above the line and below the line allocations was a relatively recent change as reflected in Commission staff analysis and in Commission orders.

In order to demonstrate this change, Mr. Nixon has reviewed several of the entities for which he files gross-up reports, their recent filings on gross-up and the resulting PSC orders, and compared those to the annual reports. Attached is a copy of the analysis which he performed for 5 utilities for which Mr. Nixon had readily available gross-up filing information. If we were to review information from cases which closed prior to 1994, we are quite sure based upon both our recollections, that we would find that all of those which were filed by Mr. Nixon or by me, have similar treatment of above the line and below the line expenses.

DOCUMENT NUMBER DATE

16319.29 FEB-8 99

FPSO-RECORDS/REPORTING

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WAS \_\_\_\_\_  
OTH \_\_\_\_\_

Connie L. McCaskill  
February 8, 1999  
Page 2

As you can see from this sampling, the Commission has in the past for each of these companies, recognized the above the line and below the line distinction, for many expenses despite the fact that the annual report did not reflect a recategorization of these expenses as below the line.

I trust that the attached information demonstrates to you that there has in fact been a change in treatment by the Commission and its staff since 1996.

If you have any questions regarding the analysis which Mr. Nixon has performed or the supporting documentation, please let me or Mr. Nixon know. We believe that the conclusion is clearly that there has been such a change in recent years.

We are in the process of awaiting a response from Public Counsel concerning the settlement proposals which we have laid on the table and we will let you know as soon as we hear more with regard to the remaining gross-up filings. In the meantime, we are working on revisions to the annual reports based upon our understanding that that will have a substantial impact on the staff's position regarding gross-up and the above the line and below the line distinctions which have been drawn. While we may not agree that the annual reports should be changed, or are required to be changed, we are willing to make those changes if in fact that will change the staff position with regard to those below the line expenses.

If you have questions with regard to any of these matters, please let me know.

Sincerely,

ROSE, SUNDSTROM & BENTLEY, LLP



F. Marshall Deterding  
For The Firm

FMD/tmg  
cc: Blanca S. Bayo, Director  
Ralph Jaeger, Esquire  
Mr. Tony Reeves  
Robert C. Nixon, CPA

nfmu\2mccaskill.ltr

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Disposition of ) DOCKET NO. 940157-SU  
contribution-in-aid-of- ) ORDER NO. PSC-94-0448-FOF-SU  
construction (CIAC) gross-up ) ISSUED: April 13, 1994  
funds collected by EAGLE RIDGE )  
UTILITIES, INC. in Lee County. )

The following Commissioners participated in the disposition of this matter:

J. TERRY DEASON, Chairman  
SUSAN F. CLARK  
JULIA L. JOHNSON  
DIANE K. KIESLING  
LUIS J. LAUREDO

NOTICE OF PROPOSED AGENCY ACTION  
ORDER FINDING REFUND NOT REQUIRED

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

The repeal of Section 118(b) of the Internal Revenue Code resulted in making contributions-in-aid-of-construction (CIAC) gross income and depreciable for federal tax purposes. In Order No. 16971, issued December 18, 1986, the Commission 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.

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 CIAC, and whether a refund of the gross-up is appropriate for any given year for which gross-up was in effect. These orders also required that all gross-up collections for a tax year which are in excess of a utility's actual tax liability for the same year resulting from its

DOCUMENT NUMBER-DATE

03461 APR 13 1994

FPSC-RECORDS/REPORTING

ORDER NO. PSC-94-0448-FOF-SU  
DOCKET NO. 940157-SU  
PAGE 2

collection of CIAC should be refunded on a pro rata basis to those persons who contributed the taxes.

In Order No. 23541, the Commission determined that any water and wastewater utility already collecting the gross-up on CIAC and wishing to continue collecting the gross-up, had to file a petition for approval with the Commission on or before October 29, 1990. Eagle Ridge Utilities, Inc. (Eagle Ridge or utility) filed for authority to continue to gross-up on December 11, 1990. By Order No. 25436, issued December 4, 1991, this Commission granted Eagle Ridge authority to continue to gross-up using the full gross-up formula.

On September 9, 1992, we issued Proposed Agency Action 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 Order No. PSC-92-0961A-FOF-WS. That Order included the generic calculation form.

In compliance with Order No. 16971, Eagle Ridge filed its 1990, 1991 and 1992 annual CIAC reports regarding its collection of gross-up for each year. By letter dated January 14, 1994, our Commission Staff submitted its preliminary refund calculation numbers to Eagle Ridge.

By letter dated February 2, 1994, Eagle Ridge responded that it agreed with Staff's preliminary calculations. In addition, Eagle Ridge stated that it anticipated that the cost to refund the excess gross-up collected, which was minimal, would probably exceed the amount to be refunded; so, Eagle Ridge requested that for 1990 and 1992, it be allowed to book the refund monies to CIAC rather than making individual refunds. Using the method adopted in Order No. PSC-92-0961-FOF-WS, we have calculated the gross-up required to pay the tax liability resulting from the collection of taxable CIAC by grossing-up the net taxable CIAC amount. Our decisions regarding Eagle Ridge's refunds are addressed below.

ANNUAL GROSS-UP REFUND AMOUNTS

Our calculations, taken from the information provided by Eagle Ridge in its annual gross-up reports, are reflected in Schedule No. 1, attached hereto. A summary of each year's refund calculation follows.

1990

Eagle Ridge's 1990 CIAC report indicates that it had been in a taxable position on an above-the-line basis prior to the

Exhibit A  
1 of 6

Inclusion of taxable CIAC and gross-up. Therefore, all taxable CIAC received would be taxed. The report indicates that a total of \$160,401 of gross-up collections has been received, with the first year's depreciation of \$2,292 associated with \$267,198 in taxable CIAC. We used the 37.63% combined marginal federal and state tax rates, which represent the maximum combined tax rates, to calculate the tax impact. Based on the above, we calculate a refund of \$574 for 1990.

Eagle Ridge originally stated that no refund would be appropriate in its 1990 gross-up report. However, after reviewing our calculations, Eagle Ridge has agreed that a refund of \$574 is appropriate.

Eagle Ridge collected gross-up funds from 21 separate individuals or entities during 1990. We agree that the administrative costs will exceed the individual refund amounts, and we find it appropriate to allow Eagle Ridge to credit its CIAC account for the excess collections.

1991

Eagle Ridge asserts that no refund for 1991 is appropriate. We agree that a refund of gross-up collections for 1991 is not appropriate. The 1991 CIAC report indicates that Eagle Ridge was in a taxable position on an above-the-line basis prior to the inclusion of taxable CIAC and gross-up. Therefore, all taxable CIAC received would be taxed. The report also indicates that a total of \$53,950 gross-up collections has been received. No first year's depreciation was deducted because no depreciable assets were added in 1991. Taxable CIAC of \$89,960 was received. We used the 37.63% combined marginal federal and state tax rates as provided in the 1991 CIAC report to calculate the tax effect. Based on the above, we calculate that Eagle Ridge required more in gross-up to pay the tax impact than it has collected. Therefore, we find that no refund for 1991 is necessary.

1992

Initially, Eagle Ridge stated that a refund of \$328 for 1992 was appropriate. Now, however, Eagle Ridge has proposed crediting CIAC for this amount since the administrative costs of making the refund will exceed the refund amount.

We have calculated a refund of gross-up collections for 1992 of \$323, excluding interest. The 1992 CIAC report indicates that Eagle Ridge was in a taxable position on an above-the-line basis prior to the inclusion of taxable CIAC and gross-up. Therefore,

all taxable CIAC received would be taxed. The report indicates that a total of \$31,713 of gross-up collections has been received, with the first year's depreciation of \$564 associated with \$52,592 in taxable CIAC. We used the 37.63% combined marginal federal and state tax rates as provided in the 1992 CIAC report to calculate the tax effect. Based on the above, we calculate that Eagle Ridge has collected \$323 more in gross-up than was required to pay the tax impact.

Eagle Ridge collected the gross-up funds from 8 separate individuals or entities during 1992. We agree that the administrative costs will exceed the individual refund amounts, and we find it appropriate to allow Eagle Ridge to credit CIAC for the excess collections.

According to its 1992 annual report, Eagle Ridge is 87.23% contributed, which is in excess of the 75% maximum amount of contribution level established by Rule 25-30.580(1)(a), Florida Administrative Code. After a credit to CIAC of \$897, Eagle Ridge will be 87.27% contributed. While Eagle Ridge appears to be over contributed, we do not find that the .04% increase is material.

Based on the foregoing, it is therefore,

ORDERED by the Florida Public Service Commission that Eagle Ridge Utilities, Inc., in lieu of making refunds, shall credit its contributions-in-aid-of-construction account by \$897 to reflect the total excess gross-up collections for 1990 and 1992. It is further

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

By ORDER of the Florida Public Service Commission, this 13th day of April, 1994.

BLANCA S. BAYO, Director  
Division of Records and Reporting

by: Kay Flynn  
Chief, Bureau of Records

( S E A L )

Exhibit A  
2 of 6

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 Records and Reporting at his office at 101 East Gaines Street, Tallahassee, Florida 32399-0870, by the close of business on May 4, 1994.

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.

Exhibit A  
30x6

EAGLE RIDGE UTILITIES, INC.

CALCULATED GROSS-UP REFUND

SOURCE: (Line references are from CIAC Reports)

	1990	1991	1992	1993
1 Form 1120, Line 30 (Line 15)	\$ 453,125	\$ 151,885	\$ 91,798	\$ 0
2 Less CIAC (Line 7)	(267,198)	(89,960)	(52,592)	0
3 Less Gross-up collected (Line 19)	(160,401)	(53,950)	(31,713)	0
4 Add First Year's Depr on CIAC (Line 8)	2,292	0	564	0
5 Add/Less Other Effects (Lines 20 & 21)	(3,017)	(1,932)	(582)	0
6				
7 Adjusted Income Before CIAC and Gross-up	\$ 24,801	\$ 6,043	\$ 7,475	\$ 0
8				
9 Taxable CIAC (Line 7)	\$ 267,198	\$ 89,960	\$ 52,592	\$ 0
10				
11 Taxable CIAC Resulting in a Tax Liability	\$ 267,198	\$ 89,960	\$ 52,592	\$ 0
12 Less first years depr. (Line 8)	(2,292)	0	(564)	0
13				
14 Net Taxable CIAC	\$ 264,906	\$ 89,960	\$ 52,028	\$ 0
15 Combined marginal state and federal tax rate	37.63%	37.63%	37.63%	37.63%
16				
17 Net Income tax on CIAC	\$ 99,684	\$ 33,852	\$ 19,578	\$ 0
18 Less ITC Realized	0	0	0	0
19				
20 Net Income Tax	\$ 99,684	\$ 33,852	\$ 19,578	\$ 0
21 Expansion Factor for gross-up taxes	1.603334936	1.603334936	1.603334936	1.603334936
22				
23 Gross-up Required to pay tax effect	\$ 159,827	\$ 54,276	\$ 31,390	\$ 0
24 Less CIAC Gross-up collected (Line 19)	(160,401)	(53,950)	(31,713)	0
25				
26 REFUND (excluding interest)	\$ (574)	\$ 0	\$ (323)	\$ 0
27				
28				
29 TOTAL REFUND	\$ (897)			
30				

# *Cronin, Jackson, Nixon & Wilson*

CERTIFIED PUBLIC ACCOUNTANTS, P.A.

JAMES L. CARLSTEDT, C.P.A.  
JOHN H. CRONIN, JR., C.P.A.  
ROBERT H. JACKSON, C.P.A.  
BRENDA W. McBARRON, C.P.A.  
ROBERT C. NIXON, C.P.A.  
HOLLY M. TOWNER, C.P.A.  
JAMES L. WILSON, C.P.A.

2560 GULF-TO-BAY BOULEVARD  
SUITE 200  
CLEARWATER, FLORIDA 34625-4419  
(813) 791-4020  
TELECOPIER  
(813) 797-3602

September 24, 1993

Officers and Directors  
Eagle Ridge Utilities, Inc.

As requested, we have prepared the accompanying Special Report of Eagle Ridge Utilities, Inc., consisting of Schedules No. 1 through No. 3. This report is intended solely for use in fulfilling certain reporting requirements related to collection of tax impact charges on contributions in aid of construction, for the year ended December 31, 1992, to be filed with the Florida Public Service Commission. We have not audited or reviewed this Special Report and express no opinion or any other form of assurance on it.

*Cronin, Jackson, Nixon & Wilson*

CRONIN, JACKSON, NIXON & WILSON

*Exhibit A  
5 of 6*

Eagle Ridge Utilities, Inc.  
Above and Below the Line Taxable Income (Loss)  
For the Taxable Year Ended December 31, 1992  
(Unaudited)

Line  
No.

1	<u>Above the line taxable income</u>	
2	Gross receipts/sales (line 1c)	\$ 266,814
3	Deductions:	
4	Bad debts (line 15)	838
5	Taxes (line 17)	14,940
6	Depreciation (Schedule No. 3)	31,289
7	Other deductions (line 26)	<u>212,836</u>
8		<u>259,903</u>
9	Taxable income before CIAC	<u>6,911</u>
10	CIAC:	
11	Taxable CIAC (line 10)	52,592
12	Gross-up (line 10)	31,713
13	Interest on gross-up (line 5)	<u>582</u>
14		<u>84,887</u>
15	Above the line taxable income	<u>91,798</u>
16	<u>Below the line taxable income</u>	
17	Interest (line 5)	1,675
18	Other income (line 10)	<u>7,248</u>
19		<u>8,923</u>
20	Deductions:	
21	Depreciation (Schedule No. 3)	70,693
22	Other deductions (line 26):	
23	CIAC refunds	16,667
24	Contract services - engineering	21,074
25	Contract services - management fees	15,000
26	Net loss on disposition of property (line 9)	2,040
27	Interest (line 18)	<u>7,693</u>
28		<u>133,167</u>
29	Below the line taxable loss	<u>(124,244)</u>
30	Total taxable loss (line 30)	<u>\$ (32,446)</u>

31 Note: All line references are to Form 1120, Page 1, attached to this  
32 report.

*Exhibit A*  
6 of 6  
Schedule No. 2

North Ft. Myers Utility, Inc.  
 Analysis of Above the Line (ATL) and Below the Line (BTL) Treatment of Operating Expenses in Gross-up Reports  
 Before and After Staff Change in Policy in 1996 (1)

Gross-up Reporting Year	Company/Expenses	Before Staff Change in Policy - Pre-1996				After Staff Change in Policy - Post-1996				
		Amount BTL in Co. Gross-up Report	ATL in Company Annual Report	BTL in PSC Order	PSC Order No.	Exhibit Reference	Amount BTL in Co. Gross-up Report	ATL in Company Annual Report	BTL in PSC Order	PSC Order No.
<u>Dec. 31,</u>										
	<u>Eagle Ridge Utilities, Inc.</u>									
1992	Engineering, Mgmt. fees, Loss on retirement	\$ 38,114	Yes	Yes	PSC-94-0448-FOF-SU 04/13/94	A				
1993	Management fees						\$ 15,000	Yes	No (2)	PSC-96-1394-FOF-SU
1994	Management fees						15,000	Yes	No (2)	11/20/96
	<u>Forest Utilities, Inc.</u>									
1990	Office salaries						4,800	Yes	No (3)	PSC-97-0007-FOF-SU
1991	Office salaries						9,675	Yes	No (3)	01/02/97
1992	Office salaries						28,241	Yes	No (3)	"
	<u>Aloha Utilities, Inc.</u>									
1990	Officers' salaries	112,338	Yes	Yes	PSC-94-0444-FOF-WS	D				
1991	Officers' salaries	78,838	Yes	Yes	01/12/95					
1992	Officers' salaries	82,498	Yes	Yes	"					
1993	Officers' salaries						35,847	Yes	No	PSC-98-0319-AS-WS
1994	Officers' salaries						35,847	Yes	No	02/23/98
1995	Officers' salaries, Pension						78,380	Yes	No	"
	<u>Gulf Utility Company</u>									
1987	Pension, Director's fees, Misc., Trans.	44,642	Yes	Yes	PSC-93-0871-FOF-WS	F				
1988	Pension, Director's fees, Misc., Trans.	51,949	Yes	Yes	06/09/93					
1989	Transportation, Miscellaneous	25,028	Yes	Yes	"					
1990	Salaries, Contract Svcs., Trans., Misc.	49,665	Yes	Yes	"					
1991	Salaries, Contract Svcs., Trans., Misc.	39,476	Yes	Yes	"					
1992	Miscellaneous, Engineering						24,688	Yes	Yes	PSC-98-1626-FOF-WS
1993	Engineering, Meals, Amortization						14,058	Yes	Yes	12/07/98 (Note 4)
1994	Amortization, Meals & Entertainment						10,988	Yes	Yes	"
1995	Amortization, Meals & Entertainment						11,299	Yes	Yes	"
1996	Officer's salary, Amortization, Meals & Entertainment, Chemicals						119,208	Yes	Yes	"
<u>May 31,</u>										
	<u>North Ft. Myers Utility, Inc.</u>									
1991	Engineering, Testing, Officer's salary, Prof. fees, Travel, Amortization	526,459	Yes	Yes	PSC-94-0443-FOF-SU 04/13/94	H				
1992	Engineering, Testing, Security, Acctg., Legal, Travel, Officer's salary, Amort.	613,141	Yes	Yes	"					
1993	Engineering, Testing, Officer's salary, Accounting, Legal, Travel, Amort.						475,123	Yes	Yes	PSC-97-0062-FOF-SU
1994	Engineering, Testing, Officer's salary, Accounting, Legal, Travel, Amort.						578,392	Yes	Yes	01/17/97 (Note 5)

North Ft. Myers Utility, Inc.  
Analysis of Above the Line (ATL) and Below the Line (BTL) Treatment of Operating Expenses in Gross-up Reports  
Before and After Staff Change in Policy in 1996 (1)

Notes: (1) Prior to 1996, Staff and Commission policy, as reflected in Orders disposing of gross-up, was to allocate operating expenses ATL or BTL on a cost of service basis. This was consistent with Order No. 23451, to determine, as nearly as possible, the jurisdictional net operating losses (NOLs) on the tax returns, on a stand alone basis.

This procedure was complicated and unwieldy, since each gross-up refund filing amounted to a "mini" rate case. This difficulty was recognized in Docket No. 960397-WS in the Notice of Workshop issued August 4, 1995. Although two workshops were held, no official decisions were made and the Docket was closed in 1996. At about the same time, Staff began a new policy which greatly simplified their analysis of NOLs for gross-up purposes. Under this policy, all expenses reported in the Annual Reports ATL were used as a substitute for determining ATL expenses on the tax returns for gross-up purposes.

The purpose of this schedule and supporting information is to demonstrate that a change in policy and practice actually occurred.

(2) Eagle Ridge first learned of the change in Staff policy in a letter dated February 15, 1996, showing Staff's calculation of refunds.

(3) Staff's original calculation of refund was in accordance with policy prior to 1996. See letter and calculation (Exhibit C) from Ms. Jena Price dated February 28, 1994. However, no action on these refunds was taken until 1996, when refunds for 1993 to 1995 were also considered. By a letter dated October 22, 1996 (Exhibit C), the new Staff policy is stated for the first time for Forest Utilities, Inc.

(4) Even though policy changed for most gross-up reports processed after 1995, Gulf's Order contained a number of BTL expenses which were classified above the line for Annual Report purposes.

(5) Every gross-up refund Order issued to date for North Ft. Myers Utility has reflected the ATL-BTL policy in effect for all companies prior to 1996.

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Disposition of gross-up ) DOCKET NO. 961077-SU  
funds collected by Eagle Ridge ) ORDER NO. PSC-96-1394-FOF-SU  
Utilities, Inc. in Lee County. ) ISSUED: November 20, 1996

---

The following Commissioners participated in the disposition of this matter:

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

NOTICE OF PROPOSED AGENCY ACTION  
ORDER REQUIRING REFUNDS

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.

BACKGROUND

The repeal of Section 118(b) of the Internal Revenue Code (IRC) resulted in making contributions-in-aid-of-construction (CIAC) gross income, and depreciable, for federal tax purposes. By Order No. 16971, issued December 18, 1986, this Commission authorized corporate utilities to collect a CIAC tax gross-up in order for those utilities to pay the tax liability resulting from their receipt of CIAC.

In Order No. 23541, we determined that any water and wastewater utility already collecting the gross-up on CIAC and wishing to continue collecting the gross-up, had to file a petition for approval with the Commission on or before October 29, 1990. Eagle Ridge Utilities, Inc. (Eagle Ridge or utility), filed for authority to continue to gross-up on December 11, 1990. By Order No. 25436, issued December 4, 1991, Eagle Ridge was granted authority to continue to gross-up using the full gross-up formula.

By Orders Nos. 16971 and 23541, we required utilities which gross-up to file annually the information needed for: (1) a determination of the utility's state and federal income tax

*Exhibit B*  
*1 of 12*

ORDER NO. PSC-96-1394-FOF-SU  
DOCKET NO. 961077-SU  
PAGE 2

liability directly attributable to receipt of CIAC for that year; and (2) a determination of whether a refund of gross-up charges collected during that year is appropriate. These orders required that a utility refund on a pro rata basis the gross-up charges collected each year which exceeded the utility's actual above-the-line tax liability attributable to CIAC for the same year.

By Proposed Agency Action (PAA) Order No. PSC-92-0961-FOF-WS, issued September 9, 1992, as amended by Order No. PSC-92-0961A-FOF-WS, issued September 14, 1992, we clarified the refund calculation provisions of Orders Nos. 16971 and 23541. No protest to that PAA Order was filed, and the action taken therein became final.

On March 29, 1996, Docket No. 960397-WS was opened to review the Commission's 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 Order No. PSC-96-0686-FOF-WS, issued May 24, 1996, we directed our staff to continue processing CIAC gross-up and refund cases pursuant to Orders Nos. 16971 and 23541; however, we also directed our staff to make a recommendation to the Commission concerning whether the Commission's policy regarding the collection and refund of CIAC should be changed upon our staff's completion of its review of the proposals and comments offered by the workshop participants.

However, on August 1, 1996, Congress passed The Small Business Job Protection Act of 1996 (The Act) and the President signed The Act 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, Order No. PSC-96-1180-FOF-WS was issued to revoke the authority of utilities to collect gross-up of CIAC and to cancel the respective tariffs unless, within 30 days of the issuance of the order, affected utilities requested a variance. Based on the above, there was no longer a need to review our policy to determine any changes and on September 16, 1996, we voted to close Docket No. 960397-WS. However, as established in Order No. PSC-0686-FOF-WS, all pending CIAC gross-up refund cases are still being processed pursuant to Orders Nos. 16971 and 23541.

Eagle Ridge is a Class B wastewater utility providing service to 606 customers in Lee County. According to its 1995 annual report, the utility reported operating revenues of \$338,486 and a net operating loss of \$53,052.

*Exhibit B*  
*2 of 12*

REFUND CALCULATIONS FOR YEARS 1993 AND 1994

In compliance with Orders Nos. 16971 and 23541, Eagle Ridge filed its 1993 and 1994 annual CIAC reports regarding its collection of gross-up for each year. By letter dated June 18, 1996, our staff submitted preliminary refund calculation numbers to the utility. By letter dated July 22, 1996, the utility responded that it did not agree with our staff's preliminary calculations.

Specifically, the utility disagreed with staff's classifying the entire amount of its management fees as above-the-line expense. Also, the utility believes that \$16,104, the costs associated with preparing the utility's gross-up reports should be deducted from the refund due to the contributors. We find that the contributor should not be held responsible for the legal and accounting charges incurred by the utility in determining whether he is entitled to a refund. Although these costs are incurred to satisfy regulatory requirements, the request for a reduction to the contributor's refund amount is not the appropriate place to seek recovery of these fees. The utility may seek recovery of these expenses in a rate case proceeding.

We have calculated the gross-up required to pay the tax liability resulting from the collection of taxable CIAC by grossing-up the net taxable CIAC amount, in accordance with the method adopted in Orders Nos. PSC-92-0961-FOF-WS and PSC-96-0961A-FOF-WS. Using Eagle Ridge's annual gross-up reports, we have made a refund calculation for each of the years Eagle Ridge collected CIAC and the gross-up, 1993-1994, and we find that refunds are due. Our calculations are reflected on Schedule No. 1, which is attached hereto and by reference incorporated herein. A summary of each year's calculation follows.

1993

The utility proposes that no refund is appropriate for 1993. However, we find that a refund of \$14,589 is appropriate.

In its filing, the utility classified \$30,135 of its management fees as above-the-line expense and \$26,459 as below-the-line expense. We have classified the entire \$56,594 as above-the-line expense. The utility explains that rates for the utility were originally set in 1985, and that we approved only an annual expense of \$7,500 for management and administrative services by Order No. 14133, issued February 27, 1985. Adjusting the \$7,500 figure to reflect customer growth and to reflect the change in the Consumer

Price Index (CPI), the utility calculated an above-the-line management fee of only \$30,135. Also, the utility noted that it had an operating loss of \$62,373 in 1993.

In response to what the utility has stated above, we note that the utility's annual report for 1993 shows management fees to be \$56,594. In reviewing the utility's annual report to determine whether it was overearning, the entire amount of \$56,594 was considered to be utility related and used and useful. For annual report review purposes, this expense was included and considered when determining the utility's net income; therefore, we find that the \$56,594 management fee should be included as an above-the-line expense in calculating the utility's taxable income.

Further, the utility states that it had an operating loss of \$67,593 in 1993. We find that the utility's operating loss should not determine whether the management fees should be classified as an above or below-the-line expense. The utility had the option of filing for a rate case, but chose not to do so.

Based on the above, we have adjusted management fees to reflect \$56,594 as above-the-line expense. This adjustment to management fees changed the utility's reported above-the-line taxable income of \$3,440 to an above-the-line loss of \$23,019. Order No. 23541 requires that CIAC income be netted against the above-the-line loss; therefore, not all of the CIAC collected would create a tax liability. The utility's CIAC report indicates a total of \$158,366 in taxable CIAC was received, with \$5,195 being deducted for the first year's depreciation, resulting in CIAC of \$151,371. When this amount is netted against the above-the-line loss of \$23,019, the amount of taxable CIAC resulting in a tax liability is \$130,152, instead of the \$153,171 as calculated by the utility. Using the 37.63% combined marginal federal and state tax rate as provided in the 1993 CIAC Report, we calculated the tax effect to be \$78,525. The utility collected \$93,114 of gross-up monies; therefore, a refund of \$14,589 is required for 1993.

1994

The utility proposes that no refund is appropriate for 1994. However, we find that a refund of \$5,655 is appropriate.

In its filing, the utility classified \$26,214 of its management fees as above-the-line expense and \$23,786 as below-the-line expense. Based on the same reasoning as stated above, we have classified the entire \$50,000 of management fees as above-the-line expense. This adjustment to management fees changes the utility's reported above-the-line taxable income of \$15,516 to an above-the-

ORDER NO. PSC-96-1394-FOF-SU

DOCKET NO. 961077-SU

PAGE 5

line taxable loss of \$8,019. Order No. 23541 requires that CIAC income be netted against the above-the-line loss; therefore, not all of the CIAC collected would create a tax liability. The utility's CIAC report indicates a total of \$127,684 in taxable CIAC was received, with \$3,407 being deducted for the first year's depreciation, resulting in CIAC of \$124,277. When this amount is netted against the above-the-line-taxable loss of \$8,019, the amount of taxable CIAC resulting in a tax liability is \$116,007, instead of the \$124,277 as calculated by the utility. Using the 37.63% combined marginal federal and state tax rate as provided in the 1994 CIAC Report, we calculated the tax effect to be \$69,990. The utility collected \$75,645 of gross-up monies; therefore, a refund of \$5,655 is required.

The refunds for both the years 1993 and 1994 shall be completed within 6 months of the effective date of the 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 that verifies that the utility has made the refunds. Within 30 days from the date of the refund, the utility shall also provide a list of unclaimed refunds detailing the contributor and the amount, and an explanation of the efforts made to make the refunds.

Upon expiration of the protest period, the docket shall remain open pending completion and verification of the refunds. Our staff shall be given administrative authority to close the docket upon verification that the refunds have been made.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that Eagle Ridge Utilities, Inc., shall refund contributions-in-aid-of-construction gross-up funds in the amount of \$14,589 for 1993, and in the amount of \$5,655 for 1994. 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, 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" below. It is further

ORDERED that all matters contained in the schedule attached hereto are by reference incorporated herein. It is further

Exhibit B  
5 of 12

ORDER NO. PSC-96-1394-FOF-SU  
DOCKET NO. 961077-SU  
PAGE 6

ORDERED that the refunds required herein must be completed within six months of the date of this Order and that Eagle Ridge Utilities, Inc., shall submit copies of canceled checks, credits applied to monthly bills, 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, Eagle Ridge Utilities, Inc., shall provide a list of unclaimed refunds detailing the contributor and the amount, and an explanation of the efforts made to make the refunds. It is further

ORDERED that the docket shall be 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 20th day of November, 1996.

/s/ Blanca S. Bayó

BLANCA S. BAYÓ, Director  
Division of Records and Reporting

This is a facsimile copy. A signed copy of the order may be obtained by calling 1-904-413-6770.

( S E A L )

SOME (OR ALL) ATTACHMENT PAGES ARE NOT ON ELECTRONIC DOCUMENT.

RRJ

Commissioner Deason dissented on the issue of allowing the utility to offset the administrative costs of the refunds and the costs of the gross-up reports against the actual amount refunded.

Exhibit B  
6 of 12

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 Records and Reporting, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on December 11, 1996.

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.

Exhibit B  
7 of 12

ORDER NO. PSC-96-1394-POF-SU  
 DOCKET NO. 961077-SU  
 PAGE 8

SCHEDULE NO. 1

COMMISSION CALCULATED GROSS-UP REFUND

Eagle Ridge Utilities, Inc.  
 SOURCE: (Line references are from CLAC Reports)

	1998	1994
1 Form 1120, Line 30 (Line 15)	\$ 224,074	\$ 192,633
2 Less CIAC (Line 7)	(158,366)	(127,684)
3 Less Gross-up collected (Line 19)	(93,114)	(75,645)
4 Add First Year's Depr on CIAC (Line 8)	5,195	3,407
5 Add/Less Other Effects (Lines 20 & 21)	(808)	(981)
6		
7 Adjusted Income Before CIAC and Gross-up	\$ (23,019)	\$ (8,270)
8		
9 Taxable CIAC (Line 7)	\$ 158,366	\$ 127,684
10 Less first years depr. (Line 8)	\$ (5,195)	\$ (3,407)
11		
12 Adjusted Income After CIAC	\$ 130,152	\$ 116,007
13 Less: NOL Carry Forward	\$ 0	\$ 0
14		
15 Net Taxable CIAC	\$ 130,152	\$ 116,007
16 Combined Marginal state & federal tax rates	37.63%	37.63%
17		
18 Net Income tax on CIAC	\$ 48,976	\$ 43,653
19 Less ITC Realized	0	0
20		
21 Net Income Tax	\$ 48,976	\$ 43,653
22 Expansion Factor for gross-up taxes	1.6033349	1.6033349
23		
24 Gross-up Required to pay tax effect	\$ 78,525	\$ 69,990
25 Less CIAC Gross-up collected (Line 19)	(93,114)	(75,645)
26		
27 (OVER) OR UNDER COLLECTION	\$ (14,589)	\$ (5,655)
28		
29		
30 TOTAL YEARLY REFUND	\$ (14,589)	\$ (5,655)
31		
32		
33 PROPOSED REFUND (excluding interest)	(20,244)	
34		

Exhibit B  
 8 of 12

*Cronin, Jackson, Nixon & Wilson*  
CERTIFIED PUBLIC ACCOUNTANTS, P.A.

JAMES L. CARLSTEDT, C.P.A.  
JOHN H. CRONIN, JR., C.P.A.  
ROBERT H. JACKSON, C.P.A.  
BRENDA W. McBARRON, C.P.A.  
ROBERT C. NIXON, C.P.A.  
HOLLY M. TOWNER, C.P.A.  
JAMES L. WILSON, C.P.A.

2560 GULF-TO-BAY BOULEVARD  
SUITE 200  
CLEARWATER, FLORIDA 34625-4419  
(813) 791-4020  
TELECOPIER  
(813) 797-3602

July 29, 1994

Officers and Directors  
Eagle Ridge Utilities, Inc.

As requested, we have prepared the accompanying Special Report of Eagle Ridge Utilities, Inc., consisting of Schedules No. 1 through No. 4. This report is intended solely for use in fulfilling certain reporting requirements related to collection of tax impact charges on contributions in aid of construction, for the year ended December 31, 1993, to be filed with the Florida Public Service Commission. We have not audited or reviewed this Special Report and express no opinion or any other form of assurance on it.

*Cronin, Jackson, Nixon & Wilson*

CRONIN, JACKSON, NIXON & WILSON

Exhibit B  
9 of 12

Eagle Ridge Utilities, Inc.  
 Above and Below the Line Taxable Income (Loss)  
 For the Taxable Year Ended December 31, 1993  
 (Unaudited)

Line  
No.

1	<u>Above the line taxable income</u>	
2	Gross receipts/sales (Line 1)	\$ 281,627
3	Deductions:	
4	Bad debts (Line 15)	1,185
5	Depreciation (Schedule No. 3)	22,306
6	Taxes and licenses (Line 17)	15,795
7	Other deductions (Line 26)	<u>250,360</u>
8		
9		<u>289,646</u>
10	Above the line loss before CIAC	<u>(8,019)</u>
11	Taxable CIAC (Line 10)	158,366
12	Gross-up (Line 10)	93,114
13	Interest on gross-up (Line 15)	<u>808</u>
14		
15		<u>252,288</u>
16	Above the line taxable income	<u>244,269</u>
17	<u>Below the line taxable income</u>	
18	Income:	
19	Interest (Line 5)	2,438
20	Other income (Line 10)	<u>9,990</u>
21		
22		<u>12,428</u>
23	Deductions:	
24	Depreciation (Schedule No. 3)	76,534
25	Other deductions (Line 26):	
26	Contract services - management fee	15,000
27	Interest (Line 18)	1,083
28	State income taxes (Line 17)	<u>6,723</u>
29		<u>99,340</u>
30	Below the line loss	<u>(86,912)</u>
31	Total taxable income	<u>\$ 157,357</u>

*Exhibit B*  
*10 of 12*

*Cronin, Jackson, Nixon & Wilson*  
CERTIFIED PUBLIC ACCOUNTANTS, P.A.

JAMES L. CARLSTEDT, C.P.A.  
JOHN H. CRONIN, JR., C.P.A.  
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2560 GULF-TO-BAY BOULEVARD  
SUITE 200  
CLEARWATER, FLORIDA 34625-4419  
(813) 791-4020  
TELECOPIER  
(813) 797-3602

June 30, 1995

Officers and Directors  
Eagle Ridge Utilities, Inc.

As requested, we have prepared the accompanying Special Report of Eagle Ridge Utilities, Inc., consisting of Schedules No. 1 through No. 3. This report is intended solely for use in fulfilling certain reporting requirements related to collection of tax impact charges on contributions in aid of construction, for the year ended December 31, 1994, to be filed with the Florida Public Service Commission. We have not audited or reviewed this Special Report and express no opinion or any other form of assurance on it.

*Cronin, Jackson, Nixon & Wilson*

CRONIN, JACKSON, NIXON & WILSON

Exhibit B  
11 of 12

Eagle Ridge Utilities, Inc.  
 Above and Below the Line Taxable Income (Loss)  
 For the Taxable Year Ended December 31, 1994  
 (Unaudited)

Line No.		
1	<u>Above the line taxable income</u>	
2	Gross receipts/sales (Line 1)	\$ 326,460
3	Deductions:	
4	Bad debts (Line 15)	164
5	Taxes and licenses (Line 17)	17,815
6	Depreciation (Schedule No. 3)	21,047
7	Other deductions (Line 26)	<u>280,704</u>
8		
9		<u>319,730</u>
10	Above the line income before CIAC	<u>6,730</u>
11	Taxable CIAC (Line 10)	127,684
12	Gross-up (Line 10)	75,645
13	Interest on gross-up (Line 15)	<u>981</u>
14		
15		<u>204,310</u>
16	Above the line taxable income	<u>211,040</u>
17	<u>Below the line taxable income</u>	
18	Income:	
19	Interest (Line 5)	4,528
20	Other income (Line 10)	<u>8,580</u>
21		
22		<u>13,108</u>
23	Deductions:	
24	Depreciation (Schedule No. 3)	78,923
25	Other deductions (Line 26):	
26	Contract services - management fee	15,000
27	Miscellaneous non-utility	3,037
28	Interest (Line 18)	1,731
29	State income taxes (Line 17)	<u>6,574</u>
30		<u>105,265</u>
31	Below the line loss	<u>(92,157)</u>
32	Total taxable income	<u>\$ 118,883</u>

33 Note: All line references are to the 1994 Federal Income Tax Return  
 34 attached to this report.

*Exhibit B*  
*12 of 12*  
 Schedule No. 2

LAW OFFICES

ROSE, SUNDBSTROM & BENTLEY

A PARTNERSHIP INCLUDING PROFESSIONAL ASSOCIATIONS

2548 BLAIRSTONE PINES DRIVE

TALLAHASSEE, FLORIDA 32301

(904) 877-6555

ROBERT A. ANTISTA  
CHRIS H. BENTLEY, PA  
F. MARSHALL DETERDING  
MARTIN S. FRIEDMAN, PA  
JOHN R. JENKINS  
ROBERT M. C. ROSE, PA  
WILLIAM E. SUNDBSTROM, PA  
DIANE D. TREMOR, PA  
JOHN L. WHARTON

MAILING ADDRESS  
POST OFFICE BOX 1567  
TALLAHASSEE, FLORIDA 32302-1567  
TELECOPIER (904) 656-4029

March 21, 1994

VIA HAND DELIVERY

Ms. Jena Price  
Division of Water and Wastewater  
Florida Public Service Commission  
101 East Gaines Street  
Tallahassee, FL 32399-0850

Re: Forest Utilities, Inc.  
1990 through 1992 CIAC Gross-up Reports  
Our File No. 25052.03

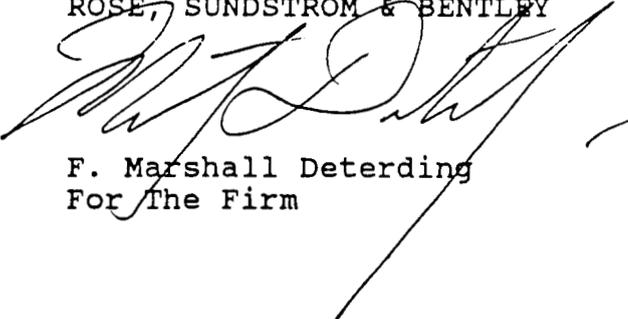
Dear Jena:

Attached is a letter from Bob Nixon, dated March 17, 1994, intended to respond to the inquiries contained in Mr. Hill's letter of February 28, 1994. I believe Mr. Nixon's letter adequately responds to all the questions raised by Mr. Hill's letter.

After review of Mr. Nixon's letter, if you have any further questions, please let me know.

Sincerely,

ROSE, SUNDBSTROM & BENTLEY

  
F. Marshall Deterding  
For The Firm

FMD/lts  
Enclosure

cc: Robert C. Nixon, C.P.A.  
Ms. Judy Mallett  
Mr. David Swor

Exhibit C  
1 of 13

State of Florida

Commissioners:  
J. TERRY DEASON, CHAIRMAN  
SUSAN F. CLARK  
JULIA L. JOHNSON  
DIANE K. KIESLING  
LUIS J. LAUREDO



DIVISION OF WATER &  
WASTEWATER  
CHARLES HILL  
DIRECTOR  
(904) 488-8482

**Public Service Commission**

February 28, 1994

Mr. F. Marshall Deterding  
Rose, Sundstrom & Bentley  
2548 Blairstone Pines Drive  
Tallahassee, Florida 32301

SUBJECT: 1990 through 1992 CIAC Reports for Forest Utilities, Inc.

Dear Mr. Deterding:

We have received the CIAC gross-up reports as filed for each year 1990 through 1992. Orders No. 16971 and 23541 require that any gross-up amounts collected in excess of a utility's actual tax liability resulting from its collection of CIAC, shall be refunded on a pro rata basis to the contributors of those amounts. A copy of our preliminary analysis of the refund calculation is attached. This calculation is consistent with the calculation adopted by the Commission in Order No. PSC-92-0961-FOF-WS.

Please provide the calculation of the combined Federal and State tax rate which is reported in the 1990 CIAC report at 32.04%. Also, there was no first year's depreciation included in the 1990 and 1991 CIAC reports and the tax returns indicate that there was an increase in depreciable plant. Please provide the omitted depreciation for the above mentioned years.

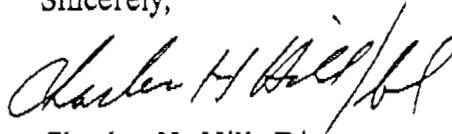
For 1990, how much of the taxable CIAC, \$19,375, was cash and how much was property? If all of the CIAC was cash, please indicate how none was converted to depreciable property when the tax return indicates that there was an increase in depreciable property. Likewise for 1991, CIAC of \$29,375 was reported, please break out the amount that is cash and the amount that is property. Again, the 1991 tax return reports an increase in depreciable property, please show how much cash was converted into depreciable property.

Lastly, there appears to be a discrepancy in Schedule M-1 of the 1992 tax return and the CIAC reported in the supporting schedules, please provide a reconciliation. If the utility disagrees with the enclosed calculations, alternative or corrected amounts with their supporting documentation should be provided no later than March 28, 1994. Should you

*Exhibit C*  
*2/13*

have any questions, please contact Ms. Jena Price in our office.

Sincerely,

A handwritten signature in black ink, appearing to read "Charles H. Hill". The signature is written in a cursive style with a large, stylized "H".

Charles H. Hill, Director  
Division of Water and Wastewater

CHH\JMP\jmp

CC: Division of Auditing and Financial Analysis (Causseaux)

Exhibit c  
3 of 13

Forest Utilities, Inc.

STAFF CALCULATED GROSS-UP REFUND

SOURCE: (Line references are from CIAC Reports)

	1990	1991	1992
1 Form 1120, Line 30 (Line 15)	\$ 81,885	\$ 113,749	\$ 67,687
2 Less CIAC (Line 7)	(19,375)	(29,375)	(11,250)
3 Less Gross-up collected (Line 19)	(12,121)	(19,159)	(7,038)
4 Add First Year's Depr on CIAC (Line 8)	0	0	496
5 Add/Less Other Effects (Lines 20 & 21)	(1,134)	(344)	(186)
6			
7 Adjusted Income Before CIAC and Gross-up	\$ 49,035	\$ 64,871	\$ 49,709
8			
9 Taxable CIAC (Line 7)	\$ 19,375	\$ 29,375	\$ 11,250
10			
11 Taxable CIAC Resulting in a Tax Liability	\$ 19,375	\$ 29,375	\$ 11,250
12 Less first years depr. (Line 8)	0	0	(496)
13			
14 Net Taxable CIAC	\$ 19,375	\$ 29,375	\$ 10,754
15 Combined marginal state and federal tax rate	32.04%	37.63%	37.63%
16			
17 Net Income tax on CIAC	\$ 6,208	\$ 11,054	\$ 4,047
18 Less ITC Realized	0	0	0
19			
20 Net Income Tax	\$ 6,208	\$ 11,054	\$ 4,047
21 Expansion Factor for gross-up taxes	1.471453796	1.603334936	1.603334936
22			
23 Gross-up Required to pay tax effect	\$ 9,135	\$ 17,723	\$ 6,489
24 Less CIAC Gross-up collected (Line 19)	(12,121)	(19,159)	(7,038)
25			
26 PROPOSED REFUND (excluding interest)	\$ (2,986)	\$ (1,436)	\$ (549)
27			
28			
29 TOTAL REFUND	\$ (4,971)		
30			

Exhibit C  
4 of 13

# State of Florida

## Commissioners:

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



DIVISION OF WATER &  
WASTEWATER  
CHARLES HILL  
DIRECTOR  
(904) 413-6900

## Public Service Commission

October 22, 1996

Mr. Robert C. Nixon  
Cronin, Jackson, Nixon & Wilson  
2560 Gulf-To-Bay Boulevard Suite 200  
Clearwater, Florida 34625-4419

Re: 1990 through 1995 CIAC Gross-up Reports for Forest Utilities, Inc. in Lake County

Dear Mr. Nixon:

We have reviewed the CIAC gross-up reports as filed for years 1989 through 1994 for the above referenced utility. Orders No. 16971 and 23541 require that any gross-up amounts collected in excess of a utility's actual tax liability resulting from its collection of CIAC, shall be refunded on a pro rata basis to the contributors of those amounts. A copy of our preliminary analysis of the refund calculation is attached. This calculation is consistent with the calculation adopted by the Commission in Order No. PSC-92-0961-FOF-WS.

The difference between staff's calculation and the utility's is the first years depreciation expense calculated for 1990 and 1991. The utility included first years depreciation expense for the years 1992 through 1995 on CIAC collected. Staff determined the depreciation rate by using the average of the depreciation taken in the years 1992 through 1995. By correspondence dated March 17, 1994, the utility addressed this issue of no first year depreciation on CIAC for 1990 and 1991. Therefore, it is not necessary for the utility to respond again on the issue of first year depreciation of CIAC.

Another difference in staff's calculation, is that all salary and wages expense for employees was considered an above-the-line expense in our calculation. In the CIAC report this expense was titled below-the-line compensation for officers. Why is it appropriate to allocate a portion of the salaries and wages expense for employees below-the-line? In the annual report these expenses are considered above-the-line for regulatory purposes and are use for setting rates. It appears that the utility has collected gross-up in excess of the amount of taxes related to the collection of taxable CIAC.

*Exhibit C*  
*5 of 13*

Letter to Mr. Nixon  
October 22, 1996  
Page Two

Based upon our review, it appears Forest Utilities, Inc. should refund \$26,337 for 1990-95. If the utility disagrees with staff's calculations, alternative or corrected amounts along with supporting documentation should be provided no later than November 19, 1996.

Should you have any questions, please do not hesitate to call me at (904) 413-6984.

Sincerely,



Cheryl Johnson  
Regulatory Analyst IV

CJ:tyg(A:NIXON.LTR)

Enclosures

cc: Mr. F. Marshall Deterding, Attorney  
Division of Water and Wastewater (Hill)  
Division of Legal Services (Jaber)  
Division of Auditing and Financial Analysis (Romig)

Exhibit C  
6 of 13



# *Cronin, Jackson, Nixon & Wilson*

CERTIFIED PUBLIC ACCOUNTANTS, P.A.

JOHN H. CRONIN, JR., C.P.A.  
ROBERT H. JACKSON, C.P.A.  
ROBERT C. NIXON, C.P.A.  
JAMES L. WILSON, C.P.A.  
HOLLY M. TOWNER, C.P.A.  
JAMES L. CARLSTEDT, C.P.A.

2560 GULF-TO-BAY BOULEVARD  
SUITE 200  
CLEARWATER, FLORIDA 34625-4419  
(813) 791-4020  
TELECOPIER  
(813) 797-3602

February 5, 1992

Officers and Directors  
Forest Utilities, Inc.

As requested, we have prepared the accompanying Special Report of Forest Utilities, Inc., consisting of schedules one through four. This report is intended solely for use in fulfilling certain reporting requirements related to collection of tax impact charges on contributions in aid of construction, for the year ended December 31, 1990, to be filed with the Florida Public Service Commission. We have not audited or reviewed this Special Report and express no opinion or any other form of assurance on it.

*Cronin, Jackson, Nixon & Wilson*

CRONIN, JACKSON, NIXON & WILSON

EXHIBIT C  
8 of 13

Forest Utilities, Inc.  
 Schedule of Above and Below the Line Taxable Income  
 For the Taxable Year Ended December 31, 1990  
 (Unaudited)

<u>Line No.</u>	<u>1990</u>
1	<u>Above the line taxable income</u>
2	Gross receipts/sales (line 1a) <span style="float: right;"><u>\$448,640</u></span>
3	Deductions:
4	Compensation of officers (line 12) <span style="float: right;">36,000</span>
5	Salaries & wages (line 13c) <span style="float: right;">57,729</span>
6	Taxes, excluding state income & excise (line 17) <span style="float: right;">34,900</span>
7	Interest (Schedule No. 3)(line 18) <span style="float: right;">10,433</span>
8	Depreciation (Schedule No. 3)(line 21b) <span style="float: right;">18,347</span>
9	Employee benefit programs (line 25) <span style="float: right;">8,008</span>
10	Other deductions, excluding non-utility (line 26) <span style="float: right;"><u>234,188</u></span>
11	<span style="float: right;"><u>399,605</u></span>
12	Taxable income before CIAC <span style="float: right;"><u>49,035</u></span>
13	CIAC:
14	Taxable CIAC <span style="float: right;">19,375</span>
15	CIAC gross-up <span style="float: right;">12,121</span>
16	Interest earned on CIAC gross-up <span style="float: right;"><u>1,134</u></span>
17	<span style="float: right;"><u>32,630</u></span>
18	Above the line taxable income <span style="float: right;"><u>81,665</u></span>
19	<u>Below the line taxable income (loss)</u>
20	Income:
21	Interest (line 5) <span style="float: right;">1,546</span>
22	Other non-utility (line 10) <span style="float: right;"><u>790</u></span>
23	<span style="float: right;"><u>2,336</u></span>
24	Deductions:
25	Compensation of officers (line 12) <span style="float: right;">4,800</span>
26	Taxes - state income & excise (line 17) <span style="float: right;">2,175</span>
27	Interest (Schedule No. 3)(line 18) <span style="float: right;">19,697</span>
28	Depreciation (Schedule No. 3)(line 21b) <span style="float: right;">16,050</span>
29	Other deductions - non-utility (line 25) <span style="float: right;"><u>819</u></span>
30	<span style="float: right;"><u>43,541</u></span>
31	Below the line taxable income (loss) <span style="float: right;"><u>(41,205)</u></span>
32	Total taxable income (line 30) <span style="float: right;"><u>\$ 40,460</u></span>
33	Note: All line references relate to page 1 of the federal tax return
34	attached to this report.

# *Cronin, Jackson, Nixon & Wilson*

CERTIFIED PUBLIC ACCOUNTANTS, P.A.

JOHN H. CRONIN, JR., C.P.A.  
ROBERT H. JACKSON, C.P.A.  
ROBERT C. NIXON, C.P.A.  
JAMES L. WILSON, C.P.A.  
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JAMES L. CARLSTEDT, C.P.A.

2560 GULF-TO-BAY BOULEVARD  
SUITE 200  
CLEARWATER, FLORIDA 34625-4419  
(813) 791-4020  
TELECOPIER  
(813) 797-3602

October 16, 1992

Officers and Directors  
Forest Utilities, Inc.

As requested, we have prepared the accompanying Special Report of Forest Utilities, Inc., consisting of Schedules No. 1 through No. 4. This report is intended solely for use in fulfilling certain reporting requirements related to collection of tax impact charges on contributions in aid of construction, for the year ended December 31, 1991, to be filed with the Florida Public Service Commission. We have not audited or reviewed this Special Report and express no opinion or any other form of assurance on it.

*Cronin, Jackson, Nixon & Wilson*

CRONIN, JACKSON, NIXON & WILSON

EXHIBIT C  
10 of 13

Forest Utilities, Inc.  
 Schedule of Above and Below the Line Taxable Income  
 For the Taxable Year Ended December 31, 1991

Line  
No.

1	<u>Above the line taxable income (loss)</u>	
2	Gross receipts/sales (line 1a)	<u>\$481,289</u>
3	Deductions:	
4	Compensation of officers (line 12)	48,000
5	Salaries and wages (line 13c)	63,369
6	Taxes, excluding state income and excise (line 17)	43,313
7	Interest (Schedule No. 3) (line 18)	5,435
8	Depreciation (Schedule No. 3) (line 21b)	17,526
9	Employee benefits programs (line 25)	15,517
10	Other deductions, excluding non-utility (line 26)	<u>223,258</u>
11	Total deductions	<u>416,418</u>
12	Taxable income before CIAC	<u>64,871</u>
13	CIAC:	
14	Taxable CIAC	29,375
15	CIAC gross-up	19,159
16	Interest earned on CIAC gross-up	<u>344</u>
17	Total CIAC	<u>48,878</u>
18	Above the line taxable income (loss)	<u>113,749</u>
19	<u>Below the line taxable income (loss)</u>	
20	Income:	
21	Interest (line 5)	4,980
22	Other non-utility (line 10)	<u>1,002</u>
23	Total other income	<u>5,982</u>
24	Deductions:	
25	Compensation of officers (line 12)	9,675
26	Taxes - state income and excise	2,972
27	Interest (Schedule No. 3) (line 18)	31,967
28	Depreciation (Schedule No. 3) (line 21b)	25,231
29	Other deductions - non-utility (line 26)	<u>1,577</u>
30	Total other deductions	<u>71,422</u>
31	Below the line taxable income (loss)	<u>(65,440)</u>
32	Total taxable income (line 30)	<u>\$ 48,309</u>
33	Note: All line references refer to page 1 of the Federal Tax Return	
34	attached to this report.	

*Exhibit C*  
*11 of 13*

*Cronin, Jackson, Nixon & Wilson*  
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2560 GULF-TO-BAY BOULEVARD  
SUITE 200  
CLEARWATER, FLORIDA 34625-4419  
(813) 791-4020  
TELECOPIER  
(813) 797-3602

November 1, 1993

Officers and Directors  
Forest Utilities, Inc.

As requested, we have prepared the accompanying Special Report of Forest Utilities, Inc., consisting of Schedules No. 1 through No. 4. This report is intended solely for use in fulfilling certain reporting requirements related to collection of tax impact charges on contributions in aid of construction, for the year ended December 31, 1992, to be filed with the Florida Public Service Commission. We have not audited or reviewed this Special Report and express no opinion or any other form of assurance on it.

*Cronin, Jackson, Nixon & Wilson*

CRONIN, JACKSON, NIXON & WILSON

Exhibit C  
12 of 13

Forest Utilities, Inc.  
 Schedule of Above and Below the Line Taxable Income  
 For the Taxable Year Ended December 31, 1992

Line  
No.

1	<u>Above the line taxable income (loss)</u>	
2	Gross receipts/sales (line 1a)	\$ 486,225
3	Deductions:	
4	Compensation of officers (line 12)	60,000
5	Salaries and wages (line 13c)	73,378
6	Repairs (line 14)	12,633
7	Taxes	47,322
8	Interest (Schedule No. 3) (line 18)	11,196
9	Depreciation (Schedule No. 3) (line 21b)	24,070
10	Employee benefits programs (line 25)	11,087
11	Other deductions, excluding non-utility (line 26)	<u>197,326</u>
12	Total deductions	<u>437,012</u>
13	Taxable income before CIAC	<u>49,213</u>
14	CIAC:	
15	Taxable CIAC	11,250
16	CIAC gross-up	7,038
17	Interest earned on CIAC gross-up	<u>186</u>
18	Total CIAC	<u>18,474</u>
19	Above the line taxable income	<u>67,687</u>
20	<u>Below the line taxable loss</u>	
21	Income:	
22	Interest (line 5)	3,255
23	Capital gain - sale of securities (line 8)	11,483
24	Other non-utility (line 10)	<u>1,314</u>
25	Total other income	<u>16,052</u>
26	Deductions:	
27	Compensation of officers (line 12)	28,241
28	Interest (Schedule No. 3) (line 18)	30,470
29	Depreciation (Schedule No. 3) (line 21b)	24,652
30	Other deductions - non-utility (line 26)	1,049
31	Refund - prior year's gross-up (line 26)	<u>40,873</u>
32	Total other deductions	<u>125,285</u>
33	Below the line taxable loss	<u>(109,233)</u>
34	Total taxable loss (line 30)	<u>\$ (41,546)</u>
35	Note: All line references refer to page 1 of the Federal Tax Return	
36	attached to this report.	

*Exhibit C*  
*13 of 13*

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Disposition of  
contribution-in-aid-of-  
construction (CIAC) gross-up  
funds collected by Gulf Utility  
Company in Lee County.

DOCKET NO. 980943-WS  
ORDER NO. PSC-98-1626-FOF-WS  
ISSUED: December 7, 1998

The following Commissioners participated in the disposition of  
this matter:

JULIA L. JOHNSON, Chairman  
J. TERRY DEASON  
SUSAN F. CLARK  
JOE GARCIA  
E. LEON JACOBS, JR.

NOTICE OF PROPOSED AGENCY ACTION ORDER  
REQUIRING REFUNDS FOR THE YEARS 1992 THROUGH 1994,  
BUT NO REFUNDS FOR THE YEARS 1995 AND 1996

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

Gulf Utility Company (Gulf or utility), is a Class A utility  
providing service to approximately 7,282 water and 2,584 wastewater  
customers in Lee County. According to its 1997 annual report, the  
utility reported gross operating revenues of \$2,068,756 and  
\$1,556,271 for water and wastewater, respectively, and net  
operating income of \$108,751 for water and net operating income of  
\$278,885 for wastewater.

As a result of the repeal of Section 118(b) of the Internal  
Revenue Code, effective January 1, 1987, contributions-in-aid-of-  
construction (CIAC) became gross income and were depreciable for  
federal tax purposes. Therefore, by Order No. 16971, issued  
December 18, 1986, we authorized corporate utilities to collect the

Exhibit G  
10 of 22

gross-up on CIAC in order to meet the tax impact resulting from the inclusion of CIAC as gross income.

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 CIAC. The information would also determine whether refunds of gross-up would be appropriate. These orders also required that all gross-up collections for a tax year, which are in excess of a utility's actual tax liability for the same year, should be refunded on a pro rata basis to those persons who contributed the taxes. However, the Small Business Job Protection Act of 1996 (The Act), which became law on August 20, 1996, provided for the non-taxability of CIAC collected by water and wastewater utilities effective retroactively for amounts received after June 12, 1996.

The disposition of gross-up funds collected by the utility for 1987-1991 was handled in Docket No. 930216-WS, Order No. PSC-95-0508-FOF-WS, issued April 25, 1995. The purpose of this Order is to address the disposition of gross-up funds collected by the utility for 1992-1996.

#### REFUND REQUIREMENT

In compliance with Orders Nos. 16971 and 23541, Gulf filed its 1992-1996 annual CIAC reports regarding its collection of gross-up. By letter dated October 6, 1998, our staff submitted preliminary refund calculation numbers to the utility. On October 21, 1998, the utility filed a response indicating that it agreed with our staff's preliminary calculations, and that a refund of \$40,469 was appropriate for 1992-1996.

We have calculated the gross-up required to pay the tax liability resulting from the collection of taxable CIAC by grossing-up the net taxable CIAC amount, in accordance with the method adopted in Order No. PSC-92-0961-FOF-WS. Our calculations, taken from the information provided by the utility in its gross-up report, are reflected on the schedule attached to this Order. A summary of the 1992 through 1996 refund calculation follows.

#### 1992

The utility's 1992 CIAC report indicates that the utility was in a taxable position on an above-the-line basis prior to the inclusion of taxable CIAC and gross-up. Therefore, all of the taxable CIAC received would be taxed. The report indicates a total of \$528,301 in taxable CIAC was received, with \$4,886 being

*Exhibit G  
2 of 22*

deducted for the first year's depreciation. Using the 37.63 percent combined marginal federal and state tax rate as provided in the 1992 CIAC Report, and applying this rate to the net \$523,415, we calculate an income tax effect of \$196,961. When this amount is multiplied by the expansion factor for gross-up taxes, the amount of gross-up required to pay the tax effect on the CIAC is calculated to be \$315,794. The utility collected \$321,518 of gross-up monies; therefore, a refund of \$5,724 is required. This amount does not include accrued interest which must be refunded from December 31, 1992 through the date of the refund.

1993

The utility's 1993 CIAC report indicates that the utility was in a taxable position on an above-the-line basis prior to the inclusion of taxable CIAC and gross-up. Therefore, all of the taxable CIAC received would be taxed. The report indicates a total of \$957,765 in taxable CIAC was received, with \$18,803 being deducted for the first year's depreciation. Using the 37.63 percent combined marginal federal and state tax rate as provided in the 1993 CIAC Report, and applying this rate to the net \$938,962, we calculate an income tax effect of \$353,331. When this amount is multiplied by the expansion factor for gross-up taxes, the amount of gross-up required to pay the tax effect on the CIAC is calculated to be \$566,508. The utility collected \$578,151 of gross-up monies; therefore, a refund of \$11,643 is required. This amount does not include accrued interest which must be refunded from December 31, 1993 through the date of the refund.

1994

The utility's 1994 CIAC report indicates that the utility was in a taxable position on an above-the-line basis prior to the inclusion of taxable CIAC and gross-up. Therefore, all of the taxable CIAC received would be taxed. The report indicates a total of \$1,469,031 in taxable CIAC was received, with \$38,301 being deducted for the first year's depreciation. Using the 37.63 percent combined marginal federal and state tax rate as provided in the 1994 CIAC Report, and applying this rate to the net \$1,430,730, we calculate an income tax effect of \$538,384. When this amount is multiplied by the expansion factor for gross-up taxes, the amount of gross-up required to pay the tax effect on the CIAC is calculated to be \$863,210. The utility collected \$886,312 of gross-up monies; therefore, a refund of \$23,102 is required. This amount does not include accrued interest which must be refunded from December 31, 1994 through the date of the refund.

The refunds, for the years 1992-1994 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 that verifies that the utility has made the refunds. Within 30 days from the date of the refund, the utility shall also provide a list of unclaimed refunds detailing contributor and amount, and an explanation of the efforts made to make the refund.

1995

The utility's 1995 CIAC report indicates that the utility was in a taxable position on an above-the-line basis prior to the inclusion of taxable CIAC and gross-up. Therefore, all of the taxable CIAC received would be taxed. The report indicates a total of \$1,110,304 in taxable CIAC was received, with \$35,635 being deducted for the first year's depreciation. Using the 37.63 percent combined marginal federal and state tax rate as provided in the 1995 CIAC Report, and applying this rate to the net \$1,074,669, we calculate an income tax effect of \$404,398. When this amount is multiplied by the expansion factor for gross-up taxes, the amount of gross-up required to pay the tax effect on the CIAC is calculated to be \$648,385. The utility collected \$617,226 of gross-up monies; therefore, no refund is required for 1995.

1996

The utility's 1996 CIAC report indicates that the utility was in a taxable position on an above-the-line basis prior to the inclusion of taxable CIAC and gross-up. Therefore, all of the taxable CIAC received would be taxed. The report indicates a total of \$546,906 in taxable CIAC (through June 12, 1996) was received, with \$8,235 being deducted for the first year's depreciation. Using the 37.63 percent combined marginal federal and state tax rate as provided in the 1996 CIAC Report, and applying this rate to the net \$538,671, we calculate an income tax effect of \$202,702. When this amount is multiplied by the expansion factor for gross-up taxes, the amount of gross-up required to pay the tax effect on the CIAC is calculated to be \$324,999. The utility collected \$320,647 of gross-up monies; therefore, no refund is required for 1996.

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. The docket may be administratively closed upon our

ORDER NO. PSC-98-1626-FOF-WS  
DOCKET NO. 980943-WS  
PAGE 5

staff's verification that the refunds have been made, and there are no unclaimed refunds.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that Gulf Utility Company shall refund excess gross-up of contributions-in-aid-of-construction in the amounts of \$5,724 for 1992, \$11,643 for 1993, and \$23,102 for 1994. It is further

ORDERED that no refunds are required for 1995 and 1996. 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 28-106.201, 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 schedule attached to this Order is incorporated into and made a part of this Order. 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 Gulf Utility Company shall refund accrued interest from December 31, 1992, for the 1992 refund, from December 31, 1993, for the 1993 refund, and from December 31, 1994, for the 1994 refund, 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 Gulf Utility Company shall submit copies of canceled checks, credits applied to monthly bills 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, Gulf Utility Company shall provide a list of unclaimed refunds detailing

*Exhibit G*  
*5 of 22*

ORDER NO. PSC-98-1626-FOF-WS  
DOCKET NO. 980943-WS  
PAGE 6

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

ORDERED that the docket shall be administratively closed upon expiration of the protest period, if no timely protest is filed by a substantially affected person, and upon our staff's verification that the refunds have been made, and there are no unclaimed refunds.

By ORDER of the Florida Public Service Commission this 7th day of December, 1998.

BLANCA S. BAYÓ, Director  
Division of Records and Reporting

By: s/ Kay Flynn  
Kay Flynn, Chief  
Bureau of Records

This is a facsimile copy. A signed copy of the order may be obtained by calling 1-850-413-6770.

( 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.

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. Any person whose substantial interests are affected by the action proposed by this order may file a petition for a formal proceeding, in the form provided by Rule 28-106.201, Florida Administrative Code. This petition must be received by the Director, Division of

Exhibit G  
6 of 22

Records and Reporting, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on December 28, 1998.

In the absence of such a petition, this order shall become effective on the day subsequent to the above date.

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**

Gulf Utility Company  
 SOURCE: (Line references are from

	1992	1993	1994	1995
1 Form 1120, Line 30 (Line 15)	\$ 992,548	\$ 1,678,556	\$ 2,503,60	\$ 1,722
2 Less CIAC (Line 7)	(528,301)	(957,765)	(1,469,03)	(1,103)
3 Less Gross-up Collected (Line 8)	(321,518)	(578,151)	(886,312)	(672)
4 Add First Year's Depr on CIAC	4,886	18,803	38,301	53
5 Add/Less Other Effects (Lines 6)	(2,347)	(4,984)	(4,348)	(26)
7 Adjusted Income Before CIAC and	\$ 145,268	\$ 156,469	\$ 182,211	\$ 47
9 Taxable CIAC (Line 7)	\$ 528,301	\$ 957,765	\$ 1,469,03	\$ 1,103
1 Less first years depr. (Line 8)	\$ (4,886)	\$ (18,803)	\$ (38,301)	\$ (565)
1 Adjusted Income After CIAC	\$ 668,683	\$ 1,095,43	\$ 1,612,94	\$ 1,123
1 Less: NOL Carry Forward	\$ 0	\$ 0	\$ 0	\$ 0
1 Net Taxable CIAC	\$ 523,415	\$ 938,962	\$ 1,430,73	\$ 1,076
1 Combined Marginal state &	37.63%	37.63%	37.63%	38
1 Net Income tax on CIAC	\$ 196,961	\$ 353,331	\$ 538,384	\$ 438

Exhibit G  
 7 of 22

Exhibit G  
8 of 22

1	Less ITC Realized	0					
2	Net Income Tax	\$ 196,961	\$ 353,331	\$ 538,384	\$ 404,398	\$ 202,702	0
3	Expansion Factor for gross-up	1.60333493	1.60333493	1.60333493	1.60333493	1.60333493	1.60333493
4	Gross-up Required to pay tax	\$ 315,794	\$ 566,508	\$ 863,210	\$ 648,385	\$ 324,999	\$ 324,999
5	Less CIAC Gross-up collected	(321,518)	(578,151)	(886,312)	(617,226)	(320,647)	(320,647)
6	(OVER) OR UNDER COLLECTION	\$ (5,724)	\$ (11,643)	\$ (23,102)	\$ 31,159	\$ 4,352	0
7	TOTAL YEARLY REFUND	\$ (5,724)	\$ (11,643)	\$ (23,102)	\$ 31,159	\$ 4,352	0
8	REFUND (excluding interest)	\$ (40,469)	\$ (11,643)	\$ (23,102)	\$ 31,159	\$ 4,352	0

# *Cronin, Jackson, Nixon & Wilson*

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March 29, 1994

Officers and Directors  
Gulf Utility Company

As requested, we have prepared the accompanying Special Report of Gulf Utility Company, consisting of Schedules No. 1 through No. 6. This report is intended solely for use in fulfilling certain reporting requirements related to collection of tax impact charges on contributions in aid of construction, for the year ended December 31, 1992, to be filed with the Florida Public Service Commission. We have not audited or reviewed this Special Report and express no opinion or any other form of assurance on it.

*Cronin, Jackson, Nixon & Wilson*

CRONIN, JACKSON, NIXON & WILSON

Gulf Utility Company  
 Schedule of Above and Below the Line Taxable Income  
 Tax Year Ended December 31, 1992  
 (unaudited)

152,847  
 - 43,487 Meter fees  
 35,908 Utility Service  
(75,799)  
145,268

<u>Above the line taxable income</u>		
1	Gross receipts/sales	\$ 2,618,804
2	Meter, tap fees and miscellaneous CIAC not 3 subject to gross-up	<u>43,487</u>
4	Deductions:	<u>2,662,291</u>
	Compensation of officers	184,221
	Salaries and wages	317,332
	Bad debts	2,690
	Rents	3,952
	Taxes	271,261
	Interest (Schedule No. 3)	522,513
	Depreciation (Schedule No. 5)	302,298
	Employee benefits	166,388
	Other deductions excluding amortization, meals and entertainment, and engineering	<u>738,789</u>
		<u>2,509,444</u>
4	Above the line income before CIAC	<u>152,847</u>
	CIAC:	
5	Taxable CIAC	528,301
	Gross-up collections	<u>321,518</u>
		<u>849,819</u>
	Total above the line income	<u>1,002,666</u>
<u>Below the line taxable income (loss)</u>		
	Income:	
	Interest income	\$ <u>343,591</u>
	Deductions:	
	Amortization of bond issue costs	6,344
	Taxes	19,398
	Interest (Schedule No. 3)	435,289
	Depreciation (Schedule No. 5)	477,964
	Other deductions:	
	Miscellaneous amortization	603
	Meals and entertainment	2,045
	Engineering	<u>22,040</u>
		<u>963,683</u>
	Total below the line loss	<u>(620,092)</u>
	Total taxable income	<u>\$ 382,574</u>

# *Cronin, Jackson, Nixon & Wilson*

CERTIFIED PUBLIC ACCOUNTANTS, P.A.

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ROBERT C. NIXON, C.P.A.  
HOLLY M. TOWNER, C.P.A.  
JAMES L. WILSON, C.P.A.

2560 GULF-TO-BAY BOULEVARD  
SUITE 200  
CLEARWATER, FLORIDA 34625-4419  
(813) 791-4020  
TELECOPIER  
(813) 797-3602

September 26, 1994

Officers and Directors  
Gulf Utility Company

As requested, we have prepared the accompanying Special Report of Gulf Utility Company, consisting of Schedules No. 1 through No. 6. This report is intended solely for use in fulfilling certain reporting requirements related to collection of tax impact charges on contributions in aid of construction for the year ended December 31, 1993, to be filed with the Florida Public Service Commission. We have not audited or reviewed this Special Report and express no opinion or any other form of assurance on it.

*Cronin, Jackson, Nixon & Wilson*

CRONIN, JACKSON, NIXON & WILSON

*Exhibit G  
11 of 22*

Gulf Utility Company  
 Schedule of Above and Below the Line Taxable Income  
 For the Year Ended December 31, 1993

*225714*  
 \* -145237 KFE  
 \* - 40490 A/E  
 \* - 15803 W/P  
 \* - 58002 + etc  
 + 15000  
 15000

Line No.

1	<u>Above the line taxable income</u>	
2	Income:	
3	Operating revenue (line 1c)	\$2,821,541
4	Meter, tap fees, and miscellaneous CIAC	
5	not subject to gross-up (1)	<u>40,490</u> <i>TD 1572</i>
6		<u>2,862,031</u>
7	Deductions:	
8	Compensation of officers (line 12)	230,264
9	Salaries and wages (line 13c)	294,390
10	Bad debts (line 15)	1,994
11	Rents (line 16)	3,479
12	Taxes (line 17)(2)	288,534
13	Interest (line 18, Schedule No. 3)	483,329
14	Depreciation (line 21b, Schedule No. 4)	278,462
15	Employee benefit programs (line 25)	151,687
16	Other deductions (line 26, Schedule No. 5)	<u>846,178</u>
17		<u>2,578,317</u>
18	Above the line income before CIAC	<u>283,714</u>
19	CIAC:	
20	Taxable CIAC	957,765
21	Gross-up collections	<u>578,151</u>
22		<u>1,535,916</u>
23	Total above the line income	<u>1,819,630</u>
24	<u>Below the line income (loss)</u>	
25	Income:	
26	Interest (line 5)	324,704
27	Capital gains (line 8)	<u>36,037</u>
28		<u>360,741</u>
29	Deductions:	
30	Taxes (line 17)(2)	56,980
31	Interest (line 18, Schedule No. 3)	557,030
32	Depreciation (line 21, Schedule No. 4)	435,858
33	Other deductions (line 26, Schedule No. 5)	103,277
34	Amortization of acquisition adjustment (line 10)	<u>8,904</u>
35		<u>1,162,049</u>
36	Total below the line loss	<u>(801,308)</u>
37	Total taxable income	<u>\$1,018,322</u>

Gulf Utility Company  
 Above and Below the Line "Other Deductions"  
 For the Year Ended December 31, 1993

<u>Line No.</u>		<u>Total "Other" Deductions</u>	<u>Above the Line</u>	<u>Below the Line</u>
1	<u>Description:</u>			
2	Fuel for power produced	\$ 323	\$ 323	
3	Purchased power	199,230	199,230	
4	Chemicals	181,005	181,005	
5	Material and supplies	77,984	77,984	
6	Contractual services -			
7	engineering	5,751	5,751	
8	Contractual services -			
9	accounting	3,370	3,370	
10	Contractual services - legal	28,100	28,100	
11	Contractual services - other	138,439	138,439	
12	Sludge removal	12,625	12,625	
13	Transportation expense	19,254	19,254	
14	Insurance	81,065	81,065	
15	Regulatory expense	18,431	18,431	
16	General expense	21,945	21,945	
17	Meter services	58,502	58,502	
18	Gross-up refunds	89,373		\$ 89,373
19	Engineering development	11,827		11,827
20	Meals and entertainment (80%)	2,077		2,077
21	Amortization (franchise fee)	154		154
22		<u>\$ 949,455</u>	<u>\$846,178</u>	<u>\$103,277</u>

*Cronin, Jackson, Nixon & Wilson*

CERTIFIED PUBLIC ACCOUNTANTS, P.A.

JAMES L. CARLSTEDT, C.P.A.  
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2560 GULF-TO-BAY BOULEVARD  
SUITE 200  
CLEARWATER, FLORIDA 34625-4419  
(813) 791-4020  
FACSIMILE  
(813) 797-3602

November 15, 1995

Officers and Directors  
Gulf Utility Company

As requested, we have prepared the accompanying Special Report of Gulf Utility Company, consisting of Schedules No. 1 through No. 6. This report is intended solely for use in fulfilling certain reporting requirements related to collection of tax impact charges on contributions in aid of construction for the year ended December 31, 1994, to be filed with the Florida Public Service Commission. We have not audited or reviewed this Special Report and express no opinion or any other form of assurance on it.

*Cronin, Jackson, Nixon & Wilson*

CRONIN, JACKSON, NIXON & WILSON

EXHIBIT G  
14 of 22

Gulf Utility Company  
 Schedule of Above and Below the Line Taxable Income  
 For the Year Ended December 31, 1994

223,224  
 - 83,503 AFP1  
 - 65,168 meter fee  
 107,658 meter  
            
 <41,013>  
182,211

<u>Line No.</u>		
1	<u>Above the line taxable income</u>	
2	Income:	
3	Operating revenue (line 1c)	\$3,065,578
4	Rate case amortization (line 10)	17,038
5	Meter, tap fees, and miscellaneous CIAC	
6	not subject to gross-up (Note 1)	<u>65,168</u>
7		<u>3,147,784</u>
8	Deductions:	
9	Compensation of officers (line 12)	241,893
10	Salaries and wages (line 13c)	373,796
11	Rents (line 16)	3,428
12	Taxes (line 17)(Note 2)	299,695
13	Interest (line 18, Schedule No. 3)	479,511
14	Depreciation (line 21b, Schedule No. 4)	314,766
15	Employee benefit programs (line 25)	180,624
16	Other deductions (line 26, Schedule No. 5)	<u>1,030,847</u>
17		<u>2,924,560</u>
18	Above the line income before CIAC	<u>223,224</u>
19	CIAC:	
20	Taxable CIAC (line 10)	1,469,031
21	Gross-up collections (line 10)	<u>886,312</u>
22		<u>2,355,343</u>
23	Total above the line income	<u>2,578,567</u>
24	<u>Below the line income (loss)</u>	
25	Income:	
26	Interest (line 5)	329,908
27	Engineering and prior years' amortized	
28	gross-up (line 10)	<u>31,272</u>
29		<u>361,180</u>
30	Deductions:	
31	Taxes (line 17)(Note 2)	104,323
32	Interest (line 18, Schedule No. 3)	484,926
33	Depreciation (line 21, Schedule No. 4)	500,579
34	Other deductions (line 26, Schedule No. 5)	19,612
35	Amortization of acquisition adjustment (line 10)	<u>8,904</u>
36		<u>1,118,344</u>
37	Total below the line loss	<u>(757,164)</u>
38	Total taxable income	<u>\$1,821,403</u>

Gulf Utility Company  
 Above and Below the Line "Other Deductions"  
 For the Year Ended December 31, 1994

<u>Line No.</u>		<u>Total "Other" Deductions</u>	<u>Above the Line</u>	<u>Below the Line</u>
1	<u>Description:</u>			
2	Purchased water	\$ 7,704	\$ 7,704	
3	Sludge Removal	28,123	28,123	
4	Fuel for power produced	154	154	
5	Purchased power	194,345	194,345	
6	Chemicals	165,952	165,952	
7	Material and supplies	94,370	94,370	
8	Contractual services:			
9	Engineering	6,936	6,936	
10	Accounting	43,203	43,203	
11	Legal	16,552	16,552	
12	Other	<u>173,790</u>	<u>173,790</u>	
13		<u>240,481</u>	<u>240,481</u>	
14	Transportation expense	30,112	30,112	
15	Insurance	80,143	80,143	
16	Regulatory and general expense	81,805	81,805	
17	Amortization - engineering and			
18	permits	9,117		\$ 9,117 ✓
19	Meter services	107,658	107,658	
20	Construction period interest	1,261		1,261
21	Gross-up refunds	7,363		7,363
22	Amortization (franchise fee)	154		154 ✓
23	50% of Meals and entertainment	<u>1,717</u>		<u>1,717</u> ✓
24		<u>\$1,050,459</u>	<u>\$1,030,847</u>	<u>\$ 19,612</u>

# *Cronin, Jackson, Nixon & Wilson*

CERTIFIED PUBLIC ACCOUNTANTS, P.A.

JAMES L. CARLSTEDT, C.P.A.  
JOHN H. CRONIN, JR., C.P.A.  
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2560 GULF-TO-BAY BOULEVARD  
SUITE 200  
CLEARWATER, FLORIDA 34625-4419  
(813) 791-4020  
FACSIMILE  
(813) 797-3602

December 13, 1996

Officers and Directors  
Gulf Utility Company

As requested, we have prepared the accompanying Special Report of Gulf Utility Company, consisting of Schedules No. 1 through No. 6. This report is intended solely for use in fulfilling certain reporting requirements related to collection of tax impact charges on contributions in aid of construction for the year ended December 31, 1995, to be filed with the Florida Public Service Commission. We have not audited or reviewed this Special Report and express no opinion or any other form of assurance on it.

*Cronin, Jackson, Nixon & Wilson*

CRONIN, JACKSON, NIXON & WILSON

Exhibit G  
17 of 22

Gulf Utility Company  
 Schedule of Above and Below the Line Taxable Income  
 For the Year Ended December 31, 1995

*13,964*  
 - 55,086 *with the*  
 88,837 *with*  
 Service

---

*33,749*

---

*47,713*

---

Line No.		
1	<u>Above the line taxable income</u>	
2	Income:	
3	Operating revenue (line 1c)	\$3,242,148
4	Rate case amortization (line 10)	9,939
5	Meter, tap fees, and miscellaneous CIAC	
6	not subject to gross-up (Note 1)	<u>55,088</u>
7		<u>3,307,175</u>
8	Deductions:	
9	Compensation of officers (line 12)	290,759
10	Salaries and wages (line 13c)	397,855
11	Rents (line 16)	13,601
12	Taxes (line 17) (Note 2)	331,814
13	Interest (line 18, Schedule No. 3)	528,101
14	Depreciation (line 21b, Schedule No. 4)	425,027
15	Employee benefit programs (line 25)	218,345
16	Other deductions (line 26, Schedule No. 5)	<u>1,087,709</u>
17		<u>3,293,211</u>
18	Above the line income before CIAC	<u>13,964</u>
19	CIAC:	
20	Taxable CIAC (line 10)	1,110,304
21	Gross-up collections (line 10)	<u>617,226</u>
22		<u>1,727,530</u>
23	Total above the line income	<u>1,741,494</u>
24	<u>Below the line income (loss)</u>	
25	Income:	
26	Interest (line 5)	353,118
27	Engineering and prior years' amortized	
28	gross-up (line 10)	<u>40,345</u>
29		<u>393,463</u>
30	Deductions:	
31	Taxes (line 17) (Note 2)	62,106
32	Interest (line 18, Schedule No. 3)	387,663
33	Depreciation (line 21, Schedule No. 4)	557,714
34	Other deductions (line 26, Schedule No. 5)	15,768
35	Amortization of acquisition adjustment (line 10)	<u>8,904</u>
36		<u>1,032,155</u>
37	Total below the line loss	<u>(638,692)</u>
38	Total taxable income	<u>\$1,102,802</u>

Gulf Utility Company  
 Above and Below the Line "Other Deductions"  
 For the Year Ended December 31, 1995

<u>Line No.</u>		<u>Total "Other" Deductions</u>	<u>Above the Line</u>	<u>Below the Line</u>
1	<u>Description:</u>			
2	Sludge removal	\$ 67,759	\$ 67,759	
3	Purchased power	209,977	209,977	
4	Fuel for power produced	646	646	
5	Chemicals	164,851	164,851	
6	Material and supplies	96,817	96,817	
7	Contractual services:			
8	Engineering	17,430	17,430	
9	Accounting	41,670	41,670	
10	Legal	36,931	36,931	
11	Other	<u>176,937</u>	<u>176,937</u>	
12		<u>272,968</u>	<u>272,968</u>	
13	Transportation expense	23,035	23,035	
14	Insurance	81,945	81,945	
15	Regulatory and general expense	80,874	80,874	
16	Amortization - engineering and			
17	permits	9,117		\$ 9,117
18	Meter services	88,837	88,837	
19	Construction period interest	1,261		1,261
20	Gross-up refunds	3,208		3,208
21	Amortization (franchise fee)	154		154
22	50% of Meals and entertainment	<u>2,028</u>		<u>2,028</u>
23		<u>\$1,103,477</u>	<u>\$1,087,709</u>	<u>\$ 15,768</u>

# *Cronin, Jackson, Nixon & Wilson*

CERTIFIED PUBLIC ACCOUNTANTS, P.A.

JAMES L. CARLSTEDT, C.P.A.  
JOHN H. CRONIN, JR., C.P.A.  
ERIC M. DOAN, C.P.A.  
ROBERT H. JACKSON, C.P.A.  
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TRACY A. RIZZO, C.P.A.  
HOLLY M. TOWNER, C.P.A.  
JAMES L. WILSON, C.P.A.

2560 GULF-TO-BAY BOULEVARD  
SUITE 200  
CLEARWATER, FLORIDA 33765-4419  
(813) 791-4020  
FACSIMILE  
(813) 797-3602

February 24, 1998

Officers and Directors  
Gulf Utility Company

As requested, we have prepared the accompanying Special Report of Gulf Utility Company, consisting of Schedules No. 1 through No. 6.

This report is intended solely for use in fulfilling certain reporting requirements related to collection of tax impact charges on contributions in aid of construction for the year ended December 31, 1996, to be filed with the Florida Public Service Commission.

We have not audited or reviewed this Special Report and express no opinion or any other form of assurance on it.

*Cronin, Jackson, Nixon & Wilson*  
CRONIN, JACKSON, NIXON & WILSON

*Exhibit G  
20 of 22*

Gulf Utility Company  
 Schedule of Above & Below the Line Taxable Income (Loss)  
 For the Year Ended December 31, 1996  
 (Unaudited)

23874  
 - 31447 Meter fees  
 68464 Meter Service  
 37017  
 60891

Line No.		
1	<u>Above the line taxable income</u>	
2	Income:	
3	Gross receipts/sales (Line 1c)	\$ 3,344,627
4	Meter, tap fees & miscellaneous CIAC not subject to gross-up (Note 1)	31,447
5		<u>3,376,074</u>
6	Deductions:	
7	Compensation of officers (Line 12)	179,661
8	Salaries & wages (Line 13)	517,297
9	Rents (Line 16)	59,565
10	Taxes & licenses (Line 17)(Note 2)	349,313
11	Interest (Line 18)(Schedule No. 3)	567,724
12	Depreciation (Line 21b)(Schedule No. 4)	344,581
13	Employee benefit programs (Line 25)	232,722
14	Other deductions (Line 26)(Schedule No. 5)	1,101,337
15		<u>3,352,200</u>
16	Above the line loss before CIAC	<u>23,874</u>
17	CIAC:	
18	Taxable CIAC (Line 10)	546,906
19	Gross-up collections (Line 10)	320,647
20		<u>867,553</u>
21	Above the line taxable income	<u>891,427</u>
22	<u>Below the line taxable loss</u>	
23	Income:	
24	Interest (Line 5)	247,960
25	Amortization of engineering & prior years gross-up (Line 10)	52,815
26	Tax loss on disposal of assets	(32,312)
27		<u>268,463</u>
28	Deductions:	
29	Officers salary (Mann)	29,856
30	Taxes & licenses (Line 17)(Note 2)	5,720
31	Interest (Line 18)(Schedule No. 3)	348,474
32	Depreciation (Line 21b)(Schedule No. 4)	797,209
33	Other deductions (Line 26)(Schedule No. 5)	188,343
34		<u>1,369,602</u>
35	Below the line taxable loss	<u>(1,101,139)</u>
36	Net taxable loss	<u>\$ (209,712)</u>

Gulf Utility Company  
Above & Below the Line Other Deductions  
For the Year Ended December 31, 1996  
(Unaudited)

Line No.	Description	Total "Other" Deductions	Above the Line	Below the Line
1	<u>Description</u>			
2	Sludge removal	\$ 45,196	\$ 45,196	
3	Purchased power	243,909	243,909	
4	Fuel for power purchased	332	332	
5	Chemicals	185,084	155,541	\$ 29,543 (1)
6	Materials & supplies	122,263	122,263	
7	<u>Contractual services</u>			
8	Engineering	24,947	24,947	
9	Accounting	42,589	42,589	
10	Legal	24,587	24,587	
11	Testing	85,236	85,236	
12	Other	108,729	108,729	
13		<u>286,088</u>	<u>286,088</u>	
14	Transportation expense	22,321	22,321	
15	Insurance expense	74,250	74,250	
16	Regulatory & general expense	74,456	74,456	
17	Amortization of debt issue costs	8,517	8,517	
18	Meter services	68,464	68,464	
19	Construction period interest	1,261		1,261
20	Amortization - engineering & permits	58,170		58,170
21	Rate case costs	97,730		97,730
22	Amortization of franchise fees	154		154
23	50% of meals & entertainment	1,485		1,485
24		<u>\$ 1,289,680</u>	<u>\$ 1,101,337</u>	<u>\$ 188,343</u>

25 Note (1): Remove chemicals for corrosion control disallowed in Order No. PSC-97-1544-FOF-WS.

# State of Florida

Commissioners:  
SUSAN F. CLARK  
J. TERRY DEASON, CHAIRMAN  
JULIA L. JOHNSON  
DIANE K. KIESLING  
LUIS J. LAUREDO



DIVISION OF WATER &  
WASTEWATER  
CHARLES HILL  
DIRECTOR  
(904) 488-8482

## Public Service Commission

January 14, 1994

Mr. F. Marshall Deterding  
Rose, Sundstrom & Bentley  
Post Office Box 1567  
Tallahassee, Florida 32302-1567

Subject: 1990 through 1992 CIAC Reports for Aloha Utilities, Inc.

We have reviewed the CIAC gross-up reports as filed for each year 1990 through 1992 for the above referenced utility. Orders No. 16971 and 23541 require that any gross-up amounts collected in excess of a utility's actual tax liability resulting from its collection of CIAC, shall be refunded on a pro rata basis to the contributors of those amounts. A copy of our preliminary analysis of the refund calculation is attached. This calculation is consistent with the calculation adopted by the Commission in Order No. PSC-92-0961-FOF-WS.

Staff's calculations differ from the utility's in two areas. First, staff has removed the interest earned on the gross-up escrow account in determining the above-the-line taxable income prior to taxable CIAC consideration. Second, the utility has calculated an "effective" tax rate of 39.50% for 1990 and 1991. The maximum combined marginal federal and state tax rates result in a tax rate of 37.63%, which staff has employed.

The amounts included in our calculation were taken from the annual CIAC gross-up reports filed by the utility. Staff believes the utility has collected gross-up in excess of the amount of taxes related to the collection of taxable CIAC in 1991. The information indicates the gross-up required in years 1990 and 1992 exceed the amount of gross-up collected, and no refund would be required.

Based upon our review, it appears Aloha Utilities, Inc. should refund \$6,216 (excluding interest) for 1991, for the amount of over-collected gross-up. The utility does not propose a refund for any year, 1990 through 1992. If the utility disagrees with the enclosed calculations, alternative or corrected amounts with their supporting documentation should

*Exhibit D  
10 of 9*

Mr. Deterding  
Page 2

be provided no later than February 15, 1994.

Should you have any questions, please contact Mrs. Sherri S. Meador in our office.

Sincerely,



Charles H. Hill, Director  
Division of Water and Wastewater

CHH/SSM/ssm

cc: Division of Auditing and Financial Analysis (Causseaux)

Exhibit D  
2 of 9

ALOHA UTILITIES, INC.

STAFF CALCULATED GROSS-UP REFUND

SOURCE: (Line references are from CIAC Reports)

	1990	1991	1992	1993
1 Form 1120, Line 30 (Line 15)	\$ 1,020,053	\$ 1,964,380	\$ 733,089	\$ 0
2 Less CIAC (Line 7)	(608,545)	(1,116,535)	(331,525)	0
3 Less Gross-up collected (Line 19)	(359,492)	(669,921)	(177,703)	0
4 Add First Year's Depr on CIAC (Line 8)	8,942	16,474	4,857	0
5 Add/Less Other Effects (Lines 20 & 21)	(5,635)	(5,441)	0	0
6				
7 Adjusted Income Before CIAC and Gross-up	\$ 55,323	\$ 188,957	\$ 228,718	\$ 0
8				
9 Taxable CIAC (Line 7)	\$ 608,545	\$ 1,116,535	\$ 331,525	\$ 0
10				
11 Taxable CIAC Resulting in a Tax Liability	\$ 608,545	\$ 1,116,535	\$ 331,525	\$ 0
12 Less first years depr. (Line 8)	(8,942)	(16,474)	(4,857)	0
13				
14 Net Taxable CIAC	\$ 599,603	\$ 1,100,061	\$ 326,668	\$ 0
15 Combined marginal state and federal tax rate	37.63%	37.63%	37.63%	37.63%
16				
17 Net Income tax on CIAC	\$ 225,631	\$ 413,953	\$ 122,925	\$ 0
18 Less ITC Realized	0	0	0	0
19				
20 Net Income Tax	\$ 225,631	\$ 413,953	\$ 122,925	\$ 0
21 Expansion Factor for gross-up taxes	1.603334936	1.603334936	1.603334936	1.603334936
22				
23 Gross-up Required to pay tax effect	\$ 361,762	\$ 663,705	\$ 197,090	\$ 0
24 Less CIAC Gross-up collected (Line 19)	(359,492)	(669,921)	(177,703)	0
25				
26 PROPOSED REFUND (excluding interest)	\$ 0	\$ (6,216)	\$ 0	\$ 0
27				
28				
29 TOTAL REFUND	\$ (6,216)			
30				

# *Cronin, Jackson, Nixon & Wilson*

CERTIFIED PUBLIC ACCOUNTANTS, P.A.

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2560 GULF-TO-BAY BOULEVARD  
SUITE 200  
CLEARWATER, FLORIDA 34625-4419  
(813) 791-4020  
TELECOPIER  
(813) 797-3602

January 20, 1992

1990

Officers and Directors  
Aloha Utilities, Inc.

As requested, we have prepared the accompanying Special Report of Aloha Utilities, Inc., consisting of schedules one through three. This report is intended solely for use in fulfilling certain reporting requirements related to collection of tax impact charges on contributions in aid of construction, for the year ended December 31, 1990, to be filed with the Florida Public Service Commission. We have not audited or reviewed this Special Report and express no opinion or any other form of assurance on it.

*Cronin, Jackson, Nixon & Wilson*

CRONIN, JACKSON, NIXON & WILSON

Exhibit D  
479

Aloha Utilities, Inc.  
 Schedule of Above and Below the Line Taxable Income  
 For the Taxable Year Ended December 31, 1990  
 (Unaudited)

<u>Line No.</u>	<u>1990</u>
1 <u>Above the line taxable income</u>	
2 Gross receipts/sales (line 1)	<u>\$2,706,870</u>
3 Deductions:	
4 Compensation of officers (line 12)	71,508
5 Salaries and wages (line 13c)	275,763
6 Bad debts (line 15)	13,521
7 Rents (line 16)	10,439
8 Taxes (excluding state income and excise) (line 17)	300,970
9 Interest (line 18)	39,162
10 Depreciation (Schedule No. 3) (line 21b)	182,249
11 Employee benefits (line 25)	164,300
12 Other deductions (line 26)	<u>1,602,577</u>
13	<u>2,660,489</u>
14 Taxable income (loss) before CIAC	<u>46,381</u>
15 CIAC:	
16 Taxable CIAC (line 10)	608,545
17 CIAC gross-up (line 10)	359,492
18 Interest on CIAC gross-up (line 10)	<u>5,635</u>
19	<u>973,672</u>
20 Above the line taxable income	<u>1,020,053</u>
21 <u>Below the line taxable income (loss)</u>	
22 Income: Interest (line 5)	<u>7,292</u>
23 Deductions:	
24 Compensation of officers (line 12)	112,338
25 Taxes - state income and excise (line 17)	44,882
26 Depreciation (Schedule No. 3) (line 21b)	<u>93,967</u>
27	<u>251,187</u>
28 Below the line taxable income (loss)	<u>(243,895)</u>
29 Total taxable income (line 30)	<u>\$ 776,158</u>
30 Note: Line references noted above relate to page 1 of the attached 1990	
31 federal income tax return of Aloha Utilities, Inc.	

# Cronin, Jackson, Nixon & Wilson

CERTIFIED PUBLIC ACCOUNTANTS, P.A.

JOHN H. CRONIN, JR., C.P.A.  
ROBERT H. JACKSON, C.P.A.  
ROBERT C. NIXON, C.P.A.  
JAMES L. WILSON, C.P.A.  
HOLLY M. TOWNER, C.P.A.  
JAMES L. CARLSTEDT, C.P.A.

2560 GULF-TO-BAY BOULEVARD  
SUITE 200  
CLEARWATER, FLORIDA 34625-4419  
(813) 791-4020  
TELECOPIER  
(813) 797-3602

1991

October 15, 1992

Officers and Directors  
Aloha Utilities, Inc.

As requested, we have prepared the accompanying Special Report of Aloha Utilities, Inc., consisting of Schedules No. 1 through No. 3. This report is intended solely for use in meeting certain reporting requirements related to collection of tax impact charges on contributions in aid of construction for the year ended December 31, 1991, to be filed with the Florida Public Service Commission. We have not audited or reviewed this Special Report and express no opinion or any other form of assurance on it.

*Cronin, Jackson, Nixon & Wilson*

CRONIN, JACKSON, NIXON & WILSON

Exhibit D  
6 of 9

Aloha Utilities, Inc.  
Schedule of Above and Below the Line Taxable Income  
For the Taxable Year Ended December 31, 1991  
(Unaudited)

<u>Line No.</u>		
1	<u>Above the line taxable income</u>	
2	Gross receipts/sales (line 1)	<u>\$2,792,057</u>
3	Deductions:	
4	Compensation of officers (line 12)	116,825
5	Salaries and wages (line 13c)	291,901
6	Bad debts (line 15)	5,650
7	Rents (line 16)	15,125
8	Taxes (excluding state income and excise) (line 17)	351,829
9	Interest (line 18)	38,953
10	Depreciation (Schedule No. 3) (line 21b)	76,454
11	Pension and profit sharing (line 24)	209,472
12	Other deductions (line 26)	<u>1,513,365</u>
13		<u>2,619,574</u>
14	Taxable income before CIAC	<u>172,483</u>
15	CIAC:	
16	Taxable CIAC (line 10)	1,116,535
17	CIAC gross-up (line 10)	669,921
18	Interest on CIAC gross-up (line 10)	<u>5,441</u>
19		<u>1,791,897</u>
20	Above the line taxable income	<u>1,964,380</u>
21	<u>Below the line taxable income (loss)</u>	
22	Income: Interest (line 5)	12,135
23	Meter fees (line 10)	<u>24,671</u>
24		<u>36,806</u>
25	Deductions:	
26	Compensation of officers (line 12)	78,838
27	Taxes - state income and excise (line 17)	99,053
28	Depreciation (Schedule No. 3) (line 21b)	<u>116,386</u>
29		<u>294,277</u>
30	Below the line taxable income (loss)	<u>(257,471)</u>
31	Total taxable income (line 30)	<u>\$1,706,909</u>
32	Note: Line references noted above relate to page 1 of the	
33	1991 federal income tax return of Aloha Utilities, Inc.	

Schedule No. 2

*Exhibit D*  
*7 of 9*

# *Cronin, Jackson, Nixon & Wilson*

CERTIFIED PUBLIC ACCOUNTANTS, P.A.

JAMES L. CARLSTEDT, C.P.A.  
JOHN H. CRONIN, JR., C.P.A.  
ROBERT H. JACKSON, C.P.A.  
BRENDA W. McBARRON, C.P.A.  
ROBERT C. NIXON, C.P.A.  
HOLLY M. TOWNER, C.P.A.  
JAMES L. WILSON, C.P.A.

2560 GULF-TO-BAY BOULEVARD  
SUITE 200  
CLEARWATER, FLORIDA 34625-4419  
(813) 791-4020  
TELECOPIER  
(813) 797-3602

1992

September 24, 1993

Officers and Directors  
Aloha Utilities, Inc.

As requested, we have prepared the accompanying Special Report of Aloha Utilities, Inc., consisting of Schedules No. 1 through No. 3. This report is intended solely for use in meeting certain reporting requirements related to collection of tax impact charges on contributions in aid of construction for the year ended December 31, 1992, to be filed with the Florida Public Service Commission. We have not audited or reviewed this Special Report and express no opinion or any other form of assurance on it.

*Cronin, Jackson, Nixon & Wilson*

CRONIN, JACKSON, NIXON & WILSON

Exhibit D  
8 of 9

Aloha Utilities, Inc.  
 Schedule of Above and Below the Line Taxable Income  
 For the Taxable Year Ended December 31, 1992  
 (Unaudited)

Line  
 No.

1	<u>Above the line taxable income</u>	
2	Gross receipts/sales (line 1)	<u>\$3,085,695</u>
3	Deductions:	
4	Compensation of officers (line 12)	121,002
5	Salaries and wages (line 13c)	336,963
6	Rents (line 16)	20,413
7	Taxes (excluding state income and excise) (line 17)	394,165
8	Interest (line 18)	12,270
9	Depreciation (Schedule No. 3) (line 21b)	82,841
10	Pension and profit sharing (line 24)	211,781
11	Other deductions (line 26)	<u>1,682,399</u>
12		<u>2,861,834</u>
13	Taxable income before CIAC	<u>223,861</u>
14	CIAC:	
15	Taxable CIAC (line 10) (Note 2)	331,525
16	CIAC gross-up (line 10)	<u>177,703</u>
17		<u>509,228</u>
18	Above the line taxable income	<u>733,089</u>
19	<u>Below the line taxable income (loss)</u>	
20	Income:	
21	Interest (line 5)	2,113
22	Meter fees (line 10)	<u>25,635</u>
23		<u>27,748</u>
24	Deductions:	
25	Loss on plant abandonment (line 9)	229,978
26	Compensation of officers (line 12)	82,498
27	Taxes - state income	16,790
28	Depreciation (Schedule No. 3) (line 21b)	<u>138,093</u>
29		<u>467,359</u>
30	Below the line taxable loss	<u>(439,611)</u>
31	Total taxable income (line 30)	<u>\$ 293,478</u>
32	Notes: (1) Line references noted above relate to page 1 of the	
33	1992 federal income tax return of Aloha Utilities, Inc.	
34	(2) Taxable CIAC includes \$2,141 improperly classified as	
35	interest on CIAC gross-up per the 1992 tax returns.	

Exhibit D  
 9/9

Schedule No. 2

## BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Disposition of  
contribution-in-aid-of-  
construction gross-up funds  
collected by Aloha Utilities,  
Inc. In Pasco County.

DOCKET NO. 971529-WS  
ORDER NO. PSC-98-0319-AS-WS  
ISSUED: February 23, 1998

The following Commissioners participated in the disposition of  
this matter:

JULIA L. JOHNSON, Chairman  
J. TERRY DEASON  
SUSAN F. CLARK  
JOE GARCIA  
E. LEON JACOBS, JR.

NOTICE OF PROPOSED AGENCY ACTION ORDER ACCEPTING SETTLEMENT OFFER  
AND REQUIRING NO REFUNDS FOR THE YEARS 1993 THROUGH 1996

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

Aloha Utilities, Inc. (Aloha or utility) is a Class A utility providing service to approximately 11,038 water and 10,554 wastewater customers in Pasco County. According to its 1996 annual report, operating revenues were \$1,885,752 for water and \$2,811,605 for wastewater. The utility reported net operating income of \$94,254 for the water system and \$407,422 for the wastewater system.

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.

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ORDER NO. PSC-98-0319-AS-WS  
DOCKET NO. 971529-WS  
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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 CIAC. The information would also determine whether refunds of gross-up would be appropriate. These orders also required that all gross-up collections for a tax year, which are in excess of a utility's actual 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. Aloha filed for authority to continue to gross-up on December 28, 1990. By Order No. 25526, issued December 24, 1991, we granted Aloha's petition for continued gross-up authority using the full gross-up formula.

On September 9, 1992, we issued Proposed Agency Action Order (PAA) 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, PAA Order No. PSC-92-0961A-FOF-WS was issued. This order included Attachment A which reflects the generic calculation form. No protests were filed, and these 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 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.

However, the Small Business Job Protection Act of 1996 (The Act) was signed into 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

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PAGE 3

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 closed Docket No. 960397-WS, by Order No. PSC-96-1253-FOF-WS, issued October 8, 1996. However, as established in Order No. PSC-96-0686-FOF-WS, all pending CIAC gross-up refund cases are being processed pursuant to Orders Nos. 16971 and 23541.

The disposition of gross-up funds collected by the utility in 1990-1992 was handled in Docket No. 940156-WS and Order No. PSC-94-0444-FOF-WS was issued accordingly. The purpose of this docket is to address the disposition of gross-up funds collected by the utility from 1993 to 1996, and to address the utility's proposal that 50 percent of its legal and accounting costs be offset against the refund amount.

#### REFUND REQUIREMENT

In compliance with Orders Nos. 16971 and 23541, Aloha filed its 1993 through 1996 annual CIAC reports regarding its collection of gross-up for each year. By letter dated November 14, 1997, our staff submitted preliminary refund calculation numbers to the utility. By letter dated December 22, 1997, the utility stated that while they do not agree with staff's above-the-line classification of officers' salaries, they accepted the staff's refund calculations for 1993-1996.

Our refund calculations are based on the method adopted in Order No. PSC-92-0961-FOF-WS. The adjustments have been explained in the body of this Order and are reflected on the schedule attached to this Order. A summary of each year's refund calculation follows.

1993

The utility proposes that no refund is appropriate. We agree that a refund of gross-up collections for 1993 is not appropriate.

The 1993 CIAC report indicates the utility was in a taxable position on an above-the-line basis prior to the inclusion of taxable CIAC and gross-up. Therefore, all of the taxable CIAC received would be taxed. The report indicates a total of \$553,643 in taxable CIAC was received, with \$7,651 being deducted for the

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first year's depreciation. Using the 37.63 percent combined marginal federal and state tax rates as provided in the 1993 CIAC report, we calculate net income taxes to be \$205,457. When this amount is multiplied by the expansion factor for gross-up taxes, the amount of gross-up required to pay the tax effect on the CIAC is calculated to be \$329,416.

In December, 1992, Aloha received and booked \$24,010 of property CIAC from Heritage Lake Development. Such CIAC was included as income on the 1992 tax return and the 1992 gross-up refund report filed with the Commission. However, the related gross-up of \$13,927 was not received and booked until January, 1993. Therefore, the gross-up amount collected in 1993 has been adjusted to properly match 1993 CIAC with the related 1993 gross-up collections. As a result, the amount of gross-up collected by the utility in 1993 is \$327,570. The utility required more in gross-up to pay the tax impact than the utility collected; therefore, no refund is necessary.

1994

The utility proposes that no refund is appropriate. We agree that a refund of gross-up collections for 1994 is not appropriate.

The 1994 CIAC report indicates the utility was in a taxable position on an above-the-line basis prior to the inclusion of taxable CIAC and gross-up. Therefore, all of the taxable CIAC received would be taxed. The report indicates a total of \$1,301,370 in taxable CIAC was received, with \$15,192 being deducted for the first year's depreciation. Using the 37.63 percent combined marginal federal and state tax rates as provided in the 1994 CIAC report, we calculate net income taxes to be \$483,989. When this amount is multiplied by the expansion factor for gross-up taxes, the amount of gross-up required to pay the tax effect on the CIAC is calculated to be \$775,996. The utility collected \$762,413 of gross-up monies. The utility required more in gross-up to pay the tax impact than the utility collected; therefore, no refund is necessary.

1995

The utility proposes that no refund is appropriate. We agree that a refund of gross-up collections for 1995 is not appropriate.

The 1995 CIAC report indicates the utility was in a taxable position on an above-the-line basis prior to the inclusion of

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ORDER NO. PSC-98-0319-AS-WS  
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PAGE 5

taxable CIAC and gross-up. Therefore, all of the taxable CIAC received would be taxed. The report indicates a total of \$401,761 in taxable CIAC was received, with \$7,043 being deducted for the first year's depreciation. Using the 37.63 percent combined marginal federal and state tax rates as provided in the 1995 CIAC report, we calculate net income taxes to be \$148,532. When this amount is multiplied by the expansion factor for gross-up taxes, the amount of gross-up required to pay the tax effect on the CIAC is calculated to be \$238,147. The utility collected \$235,421 of gross-up monies. The utility required more in gross-up to pay the tax impact than the utility collected; therefore, no refund is necessary.

1996

The utility proposes that no refund is appropriate. We agree.

The 1996 CIAC report indicates the utility was in a taxable position on an above-the-line basis prior to the inclusion of taxable CIAC and gross-up. Therefore, all of the taxable CIAC received would be taxed. The report indicates a total of \$454,632 in taxable CIAC was received, with \$17,065 being deducted for the first year's depreciation. Using the 37.63 percent combined marginal federal and state tax rates as provided in the 1996 CIAC report, we calculate net income taxes to be \$164,656. When this amount is multiplied by the expansion factor for gross-up taxes, the amount of gross-up required to pay the tax effect on the CIAC is calculated to be \$263,999. The utility collected \$266,858 of gross-up monies. Therefore, the utility collected \$2,859 more in gross-up than was required to pay the tax impact.

However, the utility provided documentation for legal and accounting fees of \$6,100, and requested that 50 percent of these fees be offset against any over collection. A review of these costs shows that all of the legal and accounting fees submitted by the utility are directly associated with preparing the required reports and calculating the tax effect, and, thus, are legitimate expenses. Fifty percent of this amount is \$3,050. 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.

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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 Aloha's settlement proposal.

Although 50 percent of the utility's legal and accounting fees equals \$3,050, only \$2,859 of this amount is necessary to offset the overcollection of \$2,859. When the legal and accounting fees of \$2,859 is offset against the overcollection of \$2,859, there is nothing left to refund, and no refund is required for 1996.

Based on all the above, no refund is required for the years 1993 through 1996.

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PAGE 7

CLOSING OF DOCKET

Upon expiration of the protest period, if a timely protest is not received from a substantially affected person, this docket shall be closed.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that the request of Aloha Utilities, Inc., to offset fifty percent of the legal and accounting fees against any overcollections is accepted. 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 no refunds are required for the collection of gross-up on Contributions-in-Aid-of-Construction for the years 1993 through 1996. 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 in the event this Order becomes final, this Docket shall be closed.

EXHIBIT E  
7 of 19

ORDER NO. PSC-98-0319-AS-WS  
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PAGE 8

By ORDER of the Florida Public Service Commission this 23rd  
day of February, 1998.

/s/ Blanca S. Bayó  
BLANCA S. BAYÓ, Director  
Division of Records and Reporting

This is a facsimile copy. A signed  
copy of the order may be obtained by  
calling 1-850-413-6770.

(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.

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 March 16, 1998.

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ORDER NO. PSC-98-0319-AS-WS  
DOCKET NO. 971529-WS  
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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.

Exhibit E  
9/19

ORDER NO. PSC-98-0319-AS-WS  
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Aloha Utilities, Inc.  
 SOURCE: (Line references

	1993	1994	1995	1996
1 Form 1120, Line 30 (Line \$	1,117	2,130	869,36	1,530,94
2 Less CIAC (Line 7)	(553,6	(1,301	(401,7	(454,632
3 Less Gross-up Collected	(341,4	(762,4	(235,4	(266,858
4 Add First Year's Depr on	7,651	15,192	7,043	17,065
5 Add/Less Other Effects	(1,779	(1,455	(968)	(1,055)
6	-	-	-	-
7 Adjusted Income Before \$	228,04	80,548	238,25	825,468
8	-	-	-	-
9 Taxable CIAC (Line 7) \$	553,64	1,301	401,76	454,632
1 Less first years depr. \$	(7,651	(15,19	(7,043	(17,065)
11	-	-	-	-
1 Adjusted Income After CIAC \$	774,03	1,366	632,97	1,263,03
1 Less: NOL Carry Forward \$	0	0	0	0
11	-	-	-	-
1 Net Taxable CIAC \$	545,99	1,286	394,71	437,567
1 Combined Marginal state &	37.63%	37.63%	37.63%	37.63%
11	-	-	-	-
1 Net Income tax on CIAC \$	205,45	483,98	148,53	164,656
1 Less ITC Realized	0	0	0	0
2	-	-	-	-
2 Net Income Tax \$	205,45	483,98	148,53	164,656
2 Expansion Factor for	1.603334	1.603334	1.603334	1.603334
2	-	-	-	-
2 Gross-up Required to pay \$	329,41	775,99	238,14	263,999
2 Less CIAC Gross-up	(341,4	(762,4	(235,4	(266,858
2 Less 1992 Gross-up	13,927			
2 Adjusted 1993 Gross-up	(327,5			
2	-	-	-	-
2 (OVER) OR UNDER COLLECTION \$	1,846	13,583	2,726	(2,859)
2	-	-	-	-
2 TOTAL YEARLY REFUND \$	0	0	0	(2,859)
3 Offset of Legal and				
3	-	-	-	-
3 PROPOSED REFUNDS \$	0	0	0	0

Exhibit E  
 10/19

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



DIVISION OF WATER &  
 WASTEWATER  
 CHARLES HILL  
 DIRECTOR  
 (904) 413-6900

## Public Service Commission

November 14, 1997

Mr. F. Marshall Deterding  
 Rose, Sundstrom & Bentley  
 Post Office Box 1567  
 Tallahassee, Florida 32302-1567

Re: 1993, 1994, 1995 and 1996 CIAC Reports for Aloha Utilities, Inc.

Dear Mr. Deterding:

We have reviewed the Special Reports of Aloha Utilities, Inc. consisting of Schedules Nos. 1 through 4. A copy of our preliminary analysis of the refund calculation is attached. This calculation is consistent with the calculation adopted by the Commission in Order No. PSC-92-0961-FOF-WS. For 1993-1996, staff's calculation of Above the line taxable income (Schedule No. 2) differs from the utility's because of the following adjustments made:

### 1993

The utility's 1993 annual report shows \$151,385 as the amount for Officers Compensation, therefore, staff has increased Officers Compensation by \$23,215 to reflect the amount stated in the utility's annual report. Depreciation has been adjusted by \$7,651 to reflect First year's depreciation as above the line. As a result, Above the line taxable income per staff's calculations is \$1,117,308.

### 1994

The utility's 1994 annual report shows \$167,998 as the amount for Officers Compensation, therefore, staff has increased Officers Compensation by \$39,828 to reflect the amount stated in the utility's annual report. Salaries and wages has been decreased by \$35,100 to reflect the amount stated on the utility's tax return. Depreciation has been adjusted by \$15,192 to reflect First year's depreciation as above the line. As a result, Above the line taxable income per staff's calculations is \$2,130,594.

### 1995

The utility's 1995 annual report shows \$179,881 as the amount for Officers Compensation, therefore, staff has increased Officers Compensation by \$61,822 to reflect the amount stated in the utility's annual report. The utility's 1995 annual report shows \$224,542 as the amount for Employees Pensions and Benefits, therefore, Pension and profit

Letter to Mr. Deterding  
November 14, 1997  
Page 2

sharing has been increased by \$15,811 to reflect the entire amount as above the line. Depreciation has been adjusted by \$7,043 to reflect First year's depreciation as above the line. As a result, Above the line taxable income per staff's calculations is \$869,363.

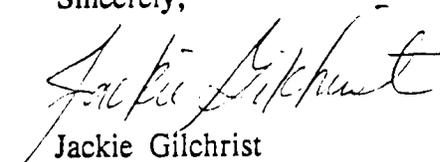
1996

Depreciation has been adjusted by \$17,065 to reflect First year's depreciation as above the line. As a result, Above the line taxable income per staff's calculations is \$1,530,948.

Based upon our review, we agree that Aloha does not owe a refund for 1991-1995 and an offset of the legal and accounting fees against the proposed refund amount results in no refund being required for 1996. If the utility disagrees with staff's calculations, alternative or corrected amounts along with supporting documentation should be provided no later than December 14, 1997.

If you should have any questions, please do not hesitate to contact me.

Sincerely,



Jackie Gilchrist  
Regulatory Analyst

Enclosure

cc: Division of Auditing and Financial Analysis (Causseaux)  
Mr. Robert C. Nixon

Exhibit E  
12 of 19

## COMMISSION CALCULATED GROSS-UP REFUND

Aloha Utilities, Inc.

SOURCE: (Line references are from CIAC Reports)

	1993	1994	1995	1996
1 Form 1120, Line 30 (Line 15)	\$ 1,117,308	\$ 2,130,594	\$ 869,363	\$ 1,530,948
2 Less CIAC (Line 7)	(553,643)	(1,301,370)	(401,761)	(454,632)
3 Less Gross-up Collected (Line 10)	(341,497)	(762,413)	(235,421)	(266,858)
4 Add First Year's Depr on CIAC (Line 8)	7,651	15,192	7,043	17,065
5 Add/Less Other Effects (Lines 20 & 21)	(1,779)	(1,455)	(968)	(1,055)
6				
7 Adjusted Income Before CIAC and Gross-up	\$ 228,040	\$ 80,548	\$ 238,256	\$ 825,468
8				
9 Taxable CIAC (Line 7)	\$ 553,643	\$ 1,301,370	\$ 401,761	454,632
10 Less first years depr. (Line 8)	\$ (7,651)	\$ (15,192)	\$ (7,043)	(17,065)
11				
12 Adjusted Income After CIAC	\$ 774,032	\$ 1,366,726	\$ 632,974	\$ 1,263,035
13 Less: NOL Carry Forward	\$ 0	\$ 0	\$ 0	0
14				
15 Net Taxable CIAC	\$ 545,992	\$ 1,286,178	\$ 394,718	\$ 437,567
16 Combined Marginal state & federal tax rates	37.63%	37.63%	37.63%	37.63%
17				
18 Net Income tax on CIAC	\$ 205,457	\$ 483,989	\$ 148,532	\$ 164,656
19 Less ITC Realized	0	0	0	0
20				
21 Net Income Tax	\$ 205,457	\$ 483,989	\$ 148,532	\$ 164,656
22 Expansion Factor for gross-up taxes	1.6033349	1.6033349	1.6033349	1.6033349
23				
24 Gross-up Required to pay tax effect	\$ 329,416	\$ 775,996	\$ 238,147	\$ 263,999
25 Less CIAC Gross-up Collected (Line 19)	(341,497)	(762,413)	(235,421)	(266,858)
Less 1992 Gross-up Collected in 1993	13,927			
Adjusted 1993 Gross-up Collected	(327,570)			
26				
27 (OVER) OR UNDER COLLECTION	\$ 1,846	\$ 13,583	\$ 2,726	\$ (2,859)
28				
29 TOTAL YEARLY REFUND	\$ 0	\$ 0	\$ 0	\$ (2,859)
30 Offset of Legal and Accounting Fees				3,050
31				
32				\$ 191
33				
34 PROPOSED REFUND (excluding interest)	\$ 0	\$ 0	\$ 0	\$ 0

Exhibit E  
13 of 19

*Cronin, Jackson, Nixon & Wilson*  
CERTIFIED PUBLIC ACCOUNTANTS, P.A.

JAMES L. CARLSTEDT, C.P.A.  
JOHN H. CRONIN, JR., C.P.A.  
ROBERT H. JACKSON, C.P.A.  
BRENDA W. McBARRON, C.P.A.  
ROBERT C. NIXON, C.P.A.  
HOLLY M. TOWNER, C.P.A.  
JAMES L. WILSON, C.P.A.

2560 GULF-TO-BAY BOULEVARD  
SUITE 200  
CLEARWATER, FLORIDA 34625-4419  
(813) 791-4020  
TELECOPIER  
(813) 797-3602

1993

August 4, 1994

Officers and Directors  
Aloha Utilities, Inc.

As requested, we have prepared the accompanying Special Report of Aloha Utilities, Inc., consisting of Schedules No. 1 through No. 4. This report is intended solely for use in fulfilling certain reporting requirements related to collection of tax impact charges on contributions in aid of construction, for the year ended December 31, 1993, to be filed with the Florida Public Service Commission. We have not audited or reviewed this Special Report and express no opinion or any other form of assurance on it.

*Cronin, Jackson, Nixon & Wilson*

CRONIN, JACKSON, NIXON & WILSON

Exhibit E  
14 of 19

Aloha Utilities, Inc.  
Schedule of Above and Below the Line Taxable Income  
For the Taxable Year Ended December 31, 1993  
(Unaudited)

<u>Line</u> <u>No.</u>		
1	<u>Above the line taxable income</u>	
2	Gross receipts/sales (Line 1)	<u>\$3,645,731</u>
3	Deductions:	
4	Officers compensation (Line 12)	128,170
5	Salaries and wages (Line 13c)	368,313
6	Bad debts (Line 15)	3,243
7	Rents (Line 16)	26,059
8	Taxes (Line 17)	428,992
9	Interest (Line 18)	13,058
10	Depreciation (Schedule No. 3; Line 21b)	59,293
11	Employee benefit programs (Line 25)	241,333
12	Other deductions (Line 26)	<u>2,126,015</u>
13		<u>3,394,476</u>
14	Taxable income before CIAC	<u>251,255</u>
15	CIAC:	
16	Taxable CIAC (Line 10)	553,643
17	CIAC gross-up (Line 10)	341,497
18	Interest earned	<u>1,779</u>
19		<u>896,919</u>
20	Above the line taxable income	<u>1,148,174</u>
21	<u>Below the line taxable income (loss)</u>	
22	Income:	
23	Interest (Line 5)	13,286
24	Meter fees (Line 10)	<u>31,367</u>
25		<u>44,653</u>
26	Expenses:	
27	Compensation of officers	35,847
28	Taxes - State income	49,331
29	Depreciation (Schedule No. 3; Line 21b)	<u>160,641</u>
30		<u>245,819</u>
31		<u>245,819</u>
32	Below the line taxable loss	<u>(201,166)</u>
33	Total taxable income (Line 30)	<u>\$ 947,008</u>

Note: Line reference shown above refer to page one of the 1993 Federal income tax return of Aloha Utilities, Inc.

*Exhibit E*  
*15 of 19*

*Cronin, Jackson, Nixon & Wilson*  
CERTIFIED PUBLIC ACCOUNTANTS, P.A.

JAMES L. CARLSTEDT, C.P.A.  
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2560 GULF-TO-BAY BOULEVARD  
SUITE 200  
CLEARWATER, FLORIDA 34625-4419  
(813) 791-4020  
FACSIMILE  
(813) 797-3602

1994

December 13, 1996

Officers and Directors  
Aloha Utilities, Inc.

As requested, we have prepared the accompanying Special Report of Aloha Utilities, Inc., consisting of Schedules No. 1 through No. 4. This report is intended solely for use in fulfilling certain reporting requirements related to collection of tax impact charges on contributions in aid of construction, for the year ended December 31, 1994, to be filed with the Florida Public Service Commission. We have not audited or reviewed this Special Report and express no opinion or any other form of assurance on it.

*Cronin, Jackson, Nixon & Wilson*  
CRONIN, JACKSON, NIXON & WILSON

Exhibit E  
16 of 19

Aloha Utilities, Inc.  
 Schedule of Above and Below the Line Taxable Income  
 For the Taxable Year Ended December 31, 1994  
 (Unaudited)

Line  
No.

1	<u>Above the line taxable income</u>	
2	Gross receipts/sales (Line 1)	<u>\$3,733,084</u>
3	Deductions:	
4	Officers' compensation (Line 12)	128,170
5	Salaries and wages (Line 13)	402,783
6	Bad debts (Line 15)	4,223
7	Rents (Line 16)	20,707
8	Taxes and licenses (Line 17)	429,404
9	Interest (Line 18)	12,466
10	Depreciation (Line 21b)	56,578
11	Employee benefit program (Line 26)	218,705
12	Other deductions (Line 26)	<u>2,374,772</u>
13		<u>3,647,808</u>
14	Taxable income before CIAC	<u>85,276</u>
15	CIAC:	
16	Taxable CIAC (Line 10)	1,301,370
17	CIAC gross-up (Line 10)	762,413
18	Interest earned (Line 5)	<u>1,455</u>
19		<u>2,065,238</u>
20	Above the line taxable income	<u>2,150,514</u>
21	<u>Below the line taxable income (loss)</u>	
22	Income:	
23	Interest (Line 5)	12,549
24	Meter fees (Line 10)	<u>44,431</u>
25		
26		<u>56,980</u>
27	Expenses:	
28	Compensation of officers (Line 12)	35,847
29	Taxes (Line 17)	111,989
30	Depreciation	<u>188,990</u>
31		<u>336,826</u>
32	Below the line taxable loss	<u>(279,846)</u>
33	Total taxable income (Line 30)	<u>\$1,870,668</u>
34	Note (1): Line references noted above refer to page 1 of the 1994	
35	Federal income tax return of Aloha Utilities, Inc.	

*Cronin, Jackson, Nixon & Wilson*  
CERTIFIED PUBLIC ACCOUNTANTS, P.A.

JAMES L. CARLSTEDT, C.P.A.  
JOHN H. CRONIN, JR., C.P.A.  
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(813) 797-3602

1995

December 13, 1996

Officers and Directors  
Aloha Utilities, Inc.

As requested, we have prepared the accompanying Special Report of Aloha Utilities, Inc., consisting of Schedules No. 1 through No. 4. This report is intended solely for use in fulfilling certain reporting requirements related to collection of tax impact charges on contributions in aid of construction, for the year ended December 31, 1995, to be filed with the Florida Public Service Commission. We have not audited or reviewed this Special Report and express no opinion or any other form of assurance on it.

*Cronin, Jackson, Nixon & Wilson*  
CRONIN, JACKSON, NIXON & WILSON

Exhibit E  
18 of 19

Aloha Utilities, Inc.  
 Schedule of Above and Below the Line Taxable Income  
 For the Taxable Year Ended December 31, 1995  
 (Unaudited)

<u>Line No.</u>		
1	<u>Above the line taxable income</u>	
2	Gross receipts/sales (Line 1)	<u>\$3,991,972</u>
3	Deductions:	
4	Officers' compensation (Line 12)	118,059
5	Salaries and wages (Line 13)	340,400
6	Bad debts (Line 15)	11,272
7	Rents (Line 16)	20,906
8	Taxes and licenses (Line 17)	457,847
9	Interest (Line 18)	14,359
10	Depreciation (Line 21b)	67,736
11	Pension and profit sharing (Line 24)	115,867
12	Employee benefit program (Line 26)	92,864
13	Other deductions (Line 26)	<u>2,436,773</u>
14		<u>3,676,083</u>
15	Taxable income before CIAC	<u>315,889</u>
16	CIAC:	
17	Taxable CIAC (Line 10)	401,761
18	CIAC gross-up (Line 10)	235,421
19	Interest earned (Line 5)	<u>968</u>
20		<u>638,150</u>
21	Above the line taxable income	<u>954,039</u>
22	<u>Below the line taxable income (loss)</u>	
23	Income:	
24	Interest (Line 5)	13,008
25	Meter fees (Line 10)	28,073
26	Gain on asset disposal (Line 9)	<u>1,208</u>
27		
28		<u>42,289</u>
29	Expenses:	
30	Compensation of officers (Line 12)	62,569
31	Taxes and licenses (Line 17)	40,855
32	Depreciation (Line 21b)	215,067
33	Pension and profit sharing (Line 24)	<u>15,811</u>
34		<u>334,302</u>
35	Below the line taxable loss	<u>(292,013)</u>
36	Total taxable income (Line 30)	<u>\$ 662,026</u>

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Disposition of ) DOCKET NO. 930216-WS  
Contributions-in-Aid-of- ) ORDER NO. PSC-93-0871-FOF-WS  
Construction (CIAC) Gross-Up ) ISSUED: June 9, 1993  
Funds Received by GULF UTILITY )  
COMPANY in Lee County. )  
\_\_\_\_\_)

The following Commissioners participated in the disposition of this matter:

J. TERRY DEASON, Chairman  
THOMAS M. BEARD  
SUSAN F. CLARK  
JULIA L. JOHNSON  
LUIS J. LAUREDO

NOTICE OF PROPOSED AGENCY ACTION  
ORDER REQUIRING REFUND

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.

Background

The repeal of Section 118(b) of the Internal Revenue Code (IRC) resulted in making contributions-in-aid-of-construction (CIAC) gross income and depreciable for federal tax purposes. By Order No. 16971, issued December 18, 1986, this Commission authorized corporate utilities to collect a CIAC tax gross-up in order for those utilities to pay the tax liability resulting from their receipt of CIAC.

In Order No. 23541, issued October 1, 1990, we ordered all water and wastewater utilities which were collecting the CIAC tax gross-up and which wanted to continue do so to file a petition for approval of same on or before October 29, 1990. Gulf Utility Company (Gulf or utility) filed a petition, and by proposed agency action (PAA) Order No. PSC-92-0742-FOF-WS, issued July 30, 1992, we proposed authorizing Gulf to continue to gross-up. However, Southwest Florida Capital Corporation protested that Order, so that matter proceeded to an administrative hearing. Since no final decision has been made in that case, the question of whether Gulf will be allowed to collect the gross-up on a prospective basis is yet to be resolved.

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1 of 17  
DOCUMENT NUMBER-DATE

06213 JUN-93

ORDER NO. PSC-93-0871-FOF-WS  
DOCKET NO. 930216-WS  
PAGE 2

By Orders Nos. 16971 and 23541, we required utilities which gross-up to file annually the information needed for (1) a determination of the utility's state and federal income tax liability directly attributable to receipt of CIAC for that year and (2) a determination of whether a refund of gross-up charges collected that year is appropriate. These orders required that a utility refund on a pro rata basis the gross-up charges collected each year which exceeded the utility's actual above-the-line tax liability attributable to CIAC for the same year.

By PAA Order No. PSC-92-0961-FOF-WS, issued September 9, 1992, as amended by Order No. PSC-92-0961A-FOF-WS, issued September 14, 1992, we clarified the refund calculation provisions of Orders Nos. 16971 and 23541. No protest to that PAA Order was filed, so the action taken therein became final.

Gulf is a class A utility providing water and wastewater service in Lee County. According to its 1991 annual report, Gulf had \$1,484,296 in operating revenue and \$44,650 in net operating income for its water system and had \$660,570 in operating revenue and \$44,650 in net operating income for its wastewater system.

#### Refund Calculations For Years 1987 Through 1991

In compliance with Order No. 16971, Gulf filed annual CIAC gross-up reports for 1987 through 1991. By letter dated April 10, 1991, Gulf amended its CIAC reports for 1987, 1988 and 1989. In response to some of our staff's preliminary refund calculations sent to Gulf on March 1, 1993, Gulf submitted copies of a special report containing Gulf's proposed refund calculation on April 7, 1993. Our calculations are reflected on Schedule No. 1, which is attached hereto and by reference incorporated herein. Our calculations differ with Gulf's in two respects.

First, in calculating net taxable CIAC, Gulf reduced the amount of taxable CIAC by the first year's depreciation only for years where there was above-the-line income exclusive of CIAC and gross-up. If there was an above-the-line loss, Gulf included the first year's depreciation in the loss, but did not subtract it from taxable CIAC to compute net taxable CIAC, apparently on the theory that the loss already included a reduction for the depreciation.

We believe it is appropriate to separately account for the first year's depreciation on taxable CIAC when calculating above-the-line income or loss, thus excluding all effects of gross-up

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2 of 17

ORDER NO. PSC-93-0871-FOF-WS  
DOCKET NO. 930216-WS  
PAGE 3

from that calculation, and to subtract the first year's depreciation from taxable CIAC when calculating the amount of net taxable CIAC. This is done so we can isolate the above-the-line income or loss as if CIAC gross-up were not a factor. The full gross-up formula, which Gulf used for the years in question, takes into account the first year's depreciation using a half-year convention. Depreciation is an expense which reduces the amount of taxable CIAC and the amount of taxes due.

We note that our calculation of net taxable CIAC agrees with Gulf's for each year except 1988. For that year, Gulf shows an above-the-line loss of \$76,885. That amount, however, includes \$99,700 in first year depreciation associated with taxable CIAC. As is shown in our calculation on Schedule No. 1, Gulf would have \$22,815 in above-the-line income when depreciation is added in. Therefore, no reduction to the amount of taxable CIAC should be made in 1988 for an above-the-line loss.

Our second disagreement with Gulf's calculations concerns the tax rate. Gulf used a combined effective state and federal tax rate which it calculated from its returns. By Order No. PSC-92-0961-FOF-WS, we adopted, and we have consistently used, the combined federal and state tax rates, and not combined effective tax rates. We have used the combined state and federal rates since the net amount of taxable CIAC will in fact be taxed at the combined rates and not at the effective rates.

We note that Gulf's proposed effective tax rates are higher than the combined federal and state tax rates for each year except 1987. In 1987, the federal tax rate was 46% for the first six months and 34% for the last six months. We calculated the average of the two combined federal and state rates and arrived at a combined federal and state tax rate of 43.3%; Gulf's effective federal and state rate for 1987 was 42.10%.

According to Order No. 23541, all gross-up amounts in excess of a utility's actual tax liability resulting from its collection of CIAC in a year should be refunded on a pro rata basis to those persons who paid the gross-up that year. According to our calculations, Gulf has a refund obligation for each year, 1987-1991. A summary of each year's calculation follows.

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3 of 17

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PAGE 4

1987

The utility calculated a \$18,624 refund for 1987; we calculated a \$5,708 refund. The 1987 CIAC report indicates that a total of \$275,502 of gross-up charges were collected and that the first year's depreciation on CIAC was \$7,479. The utility had an above-the-line loss of \$100,334 prior to consideration of taxable CIAC and associated depreciation. We reduced the amount of taxable CIAC to account for this above-the-line loss and used the 43.30% combined federal and state tax rates to calculate the net income tax on CIAC. We then compared the gross-up required to pay the tax to the gross-up charges collected. The \$5,708 difference is the amount of the refund. The amount does not include the accrued interest from December 31, 1987, to the date of refund which must also be refunded.

1988

The utility calculated a \$26,658 refund for 1988; we calculated a \$49,212 refund. The 1988 CIAC report indicates that a total of \$1,407,307 of gross-up charges were collected and that the first year's depreciation on CIAC was \$99,700. Gulf had above-the-line income of \$22,815 for the year. We used the 37.63% combined federal and state tax rates to calculate the net income tax on CIAC. We then compared the gross-up required to pay the tax to the gross-up charges collected. The \$49,212 difference is the amount of the refund. The amount does not include the accrued interest from December 31, 1988, to the date of refund which must also be refunded.

1989

The utility calculated a \$37,670 refund for 1989; we calculated a \$45,309 refund. The 1989 CIAC report indicates that a total of \$1,328,581 of gross-up charges were collected and that the first year's depreciation on CIAC was \$39,437. Gulf had above-the-line income of \$192,702 for the year. We used the 37.63% combined federal and state tax rates to calculate the net income tax on CIAC. We then compared the gross-up required to pay the tax to the gross-up charges collected. The \$45,309 difference is the amount of the refund. The amount does not include the accrued interest from December 31, 1989, to the date of refund which must also be refunded.

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DOCKET NO. 930216-WS  
PAGE 5

1990

The utility calculated a \$25,677 refund for 1990; we calculated a \$32,462 refund. The 1990 CIAC report indicates that a total of \$1,021,526 of gross-up charges were collected and that the first year's depreciation on CIAC was \$60,146. Gulf had above-the-line income of \$120,292 for the year. We used the 37.63% combined federal and state tax rates to calculate the net income tax on CIAC. We then compared the gross-up required to pay the tax to the gross-up charges collected. The \$32,462 difference is the amount of the refund. This amount does not include the accrued interest from December 31, 1990, to the date of refund which must also be refunded.

1991

The utility calculated a \$114,402 refund for 1991; we calculated a \$120,447 refund. The 1991 CIAC report indicates that a total of \$665,291 of gross-up charges were collected and that the first year's depreciation on the CIAC was \$24,630. The utility had an above-the-line loss of \$177,642 prior to consideration of taxable CIAC and associated depreciation. We reduced the amount of taxable CIAC to account for this above-the-line loss and used the 37.63% combined federal and state tax rates to calculate the net income tax on CIAC. We then compared the gross-up required to pay the tax to the gross-up charges collected. The \$120,447 difference is the amount of the refund. This amount does not include the accrued interest from December 31, 1991, to the date of refund which must also be refunded.

Conclusion

Based upon the foregoing, Gulf is hereby required to refund on a pro rata basis to all persons who paid gross-up charges in a given year \$5,708 for 1987, \$49,212 for 1988, \$45,309 for 1989, \$32,462 for 1990, and \$120,447 for 1991, plus accrued interest through the date of the refund. The refunds must be completed within six months of the date of this Order. Gulf shall submit copies of canceled checks, bills which have had credits applied to them, or other evidence which verifies that the refunds have been made within 30 days of completion of the refund.

Exhibit F  
5/17

ORDER NO. PSC-93-0871-FOF-WS  
DOCKET NO. 930216-WS  
PAGE 6

Based on the foregoing, it is, therefore

ORDERED by the Florida Public Service Commission 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

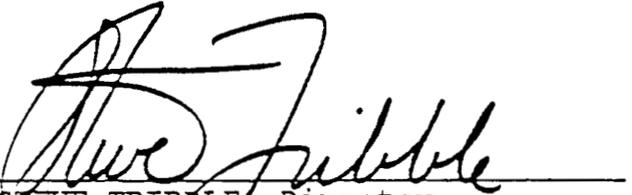
ORDERED that, as set forth hereinabove, Gulf Utility Company is hereby required to refund on a pro rata basis to all persons who paid gross-up charges in a given year \$5,708 for 1987, \$49,212 for 1988, \$45,309 for 1989, \$32,462 for 1990, and \$120,447 for 1991, plus accrued interest from the date of collection through the date of the refund. It is further

ORDERED that the refunds required herein must be completed within six months of the date of this Order and that Gulf Utility Company shall submit copies of canceled checks, bills which have had credits applied to them, or other evidence verifying that the refunds have been made within 30 days of completion of the refund. It is further

ORDERED that all matters contained in the schedule attached hereto are by reference incorporated herein. It is further

ORDERED that the docket will be closed upon expiration of the protest period if no timely protest is filed.

By ORDER of the Florida Public Service Commission this 9th day of June, 1993.

  
\_\_\_\_\_  
STEVE TRIBBLE, Director  
Division of Records and Reporting

( S E A L )

MJF

Exhibit F  
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ORDER NO. PSC-93-0871-FOF-WS  
DOCKET NO. 930216-WS  
PAGE 7

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 Records and Reporting at his office at 101 East Gaines Street, Tallahassee, Florida 32399-0870, by the close of business on June 30, 1993.

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.

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DOCKET NO. 930216-WS  
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## SCHEDULE NO. 1

## GULF UTILITY COMPANY

## COMMISSION CALCULATED GROSS-UP REFUND

SOURCE: (Line references are from CIAC Reports)

	1987	1988	1989	1990	1991
1 Form 1120, Line 30 (Line 15)	\$ 633,346	\$ 3,364,665	\$ 3,482,926	\$ 2,238,372	\$ 1,092,219
2 Less CIAC (Line 7)	(461,100)	(2,350,680)	(2,166,402)	(1,699,474)	(1,105,326)
3 Less Gross-up collected (Line 19)	(275,502)	(1,407,307)	(1,328,581)	(1,021,526)	(665,291)
4 Add First Year's Debr on CIAC (Line 8)	7,479	99,700	39,437	60,146	24,630
5 Add/Less Other Effects (Lines 20 & 21)	(4,557)	316,437	165,322	542,774	476,126
6					
7 Adjusted Income Before CIAC and Gross-up	\$ (100,334)	\$ 22,815	\$ 192,702	\$ 120,292	\$ (177,642)
8					
9 Taxable CIAC (Line 7)	\$ 461,100	\$ 2,350,680	\$ 2,166,402	\$ 1,699,474	\$ 1,105,326
10					
11 Taxable CIAC Resulting in a Tax Liability	\$ 360,766	\$ 2,350,680	\$ 2,166,402	\$ 1,699,474	\$ 927,684
12 Less first years depr. (Line 8)	(7,479)	(99,700)	(39,437)	(60,146)	(24,630)
13					
14 Net Taxable CIAC	\$ 353,287	\$ 2,250,980	\$ 2,126,965	\$ 1,639,328	\$ 903,054
15 Effective state and federal tax rate	43.30%	37.63%	37.63%	37.63%	37.63%
16					
17 Net Income tax on CIAC	\$ 152,973	\$ 847,044	\$ 800,377	\$ 616,879	\$ 339,819
18 Less ITC Realized	0	0	0	0	0
19					
20 Net Income Tax	\$ 152,973	\$ 847,044	\$ 800,377	\$ 616,879	\$ 339,819
21 Expansion Factor for gross-up taxes	1.763668430	1.603334936	1.603334936	1.603334936	1.603334936
22					
23 Gross-up Required to pay tax effect	\$ 269,794	\$ 1,358,095	\$ 1,283,272	\$ 989,064	\$ 544,844
24 Less CIAC Gross-up collected (Line 19)	(275,502)	(1,407,307)	(1,328,581)	(1,021,526)	(665,291)
25					
26 PROPOSED REFUND (excluding interest)	\$ (5,708)	\$ (49,212)	\$ (45,309)	\$ (32,462)	\$ (120,447)
27					
28					
29 TOTAL REFUND	\$ (253,138)				
30					

Exhibit F  
8 of 17

# *Cronin, Jackson, Nixon & Wilson*

CERTIFIED PUBLIC ACCOUNTANTS, P.A.

JAMES L. CARLSTEDT, C.P.A.  
JOHN H. CRONIN, JR., C.P.A.  
ROBERT H. JACKSON, C.P.A.  
BRENDA W. McBARRON, C.P.A.  
ROBERT C. NIXON, C.P.A.  
HOLLY M. TOWNER, C.P.A.  
JAMES L. WILSON, C.P.A.

2560 GULF-TO-BAY BOULEVARD  
SUITE 200  
CLEARWATER, FLORIDA 34625-4419  
(813) 791-4020  
TELECOPIER  
(813) 797-3602

April 7, 1993

Officers and Directors  
Gulf Utility Company

As requested, we have prepared the accompanying Special Report of Gulf Utility Company, consisting of Schedules No. 1 through No. 8. This report is intended solely for use in fulfilling certain reporting requirements related to the collection of tax impact charges on contributions in aid of construction, for the five years ended December 31, 1991, to be filed with the Florida Public Service Commission. We have not audited or reviewed this Special Report and express no opinion on it.

*Cronin, Jackson, Nixon & Wilson*

CRONIN, JACKSON, NIXON & WILSON

*Exhibit F  
9 of 17*

Gulf Utility Company  
 Schedule of Proposed Gross-up Refunds  
 For the Years 1987 through 1991  
 (Unaudited)

	1987	1988	1989	1990	1991
Above the line taxable income (loss) (Schedule No. 2) (1)	\$ (107,813)	\$ (76,885)	N/A	N/A	\$ (202,272)
Taxable CIAC (Schedule No. 2) (2)	461,100	2,350,680	2,166,402	1,699,474	1,105,326
First year depreciation on CIAC			(39,437)	(60,146)	
Net taxable CIAC	353,287	2,273,795	2,126,965	1,639,328	903,054
Effective state and federal tax rate (Schedule No. 3)	42.10%	37.78%	37.77%	37.79%	37.89%
Actual tax on CIAC	148,734	859,040	803,355	619,502	342,167
Expansion factor for gross-up (3)	1.7271	1.6072	1.6069	1.6075	1.6100
Gross-up required	256,878	1,380,649	1,290,911	995,849	550,889
Gross-up collected (Schedule No. 2)	275,502	1,407,307	1,328,581	1,021,526	665,291
Gross-up (refund) deficiency	<u>\$ (18,624)</u>	<u>\$ (26,658)</u>	<u>\$ (37,670)</u>	<u>\$ (25,677)</u>	<u>\$ (114,402)</u>

Refund Summary

1987	\$ 18,624
1988	26,658
1989	37,670
1990	25,677
1991	<u>114,402</u>

Total refund proposed (4) \$ 223,031

Notes: (1) First year depreciation is included in losses for 1987, 1998, and 1991. Company had income in 1989 and 1990.

(2) Taxable CIAC by year is summarized as follows:

	1987	1988	1989	1990	1991
Plant capacity charges	\$ 401,881	\$ 678,847	\$ 1,075,424	\$ 601,827	\$ 485,750
Water property	56,841	575,243	448,269	468,327	158,936
Sewer property		1,095,965	646,370	629,043	460,011
Other	2,378	625	(3,661)	277	629
Total	<u>\$ 461,100</u>	<u>\$ 2,350,680</u>	<u>\$ 2,166,402</u>	<u>\$ 1,699,474</u>	<u>\$ 1,105,326</u>

(3)  $\frac{1}{1 - \text{Effective tax rate}}$

(4) Proposed refund will be made on a pro-rata basis, plus accrued interest to the date of refund.

*Exhibit F*  
*10 of 17*

GULF UTILITY COMPANY  
TAXABLE INCOME RECONCILIATION  
ABOVE AND BELOW THE LINE  
DECEMBER 31, 1987

<u>INCOME</u>	<u>TOTAL</u>	<u>ABOVE</u>	<u>BELOW</u>
GROSS RECEIPTS	1,152,548	1,152,548	0
INTEREST	5,055	0	5,055
OTHER INCOME:			0
CONNECTION FEES (1)	401,881	0	401,881
WATER LINES/HYDRANTS/MAINS/SERVICES	56,841	0	56,841
SEWER MAINS/LIFT STATIONS/LINES	0	0	0
OTHER CIAC	2,378	0	2,378
TAP INS & METER INSTALLATIONS	51,362	51,362	0
JETTING & JACK & BORE FEES	7,680	7,680	0
PERMITS	2,460	2,460	0
NET GAIN (LOSS) SECTION 4797	(1,476)	0	(1,476)
SALES TAX INCOME	9	0	9
CIAC AMORTIZATION	77,247	77,247	0
OTHER CIAC AMORTIZATION	0	0	0
RATE CASE AMORTIZATION	0	0	0
TAX IMPACT FUNDS CIAC	275,502	0	275,502
<b>TOTAL INCOME</b>	<b>2,031,487</b>	<b>1,291,297</b>	<b>740,190</b>
<u>DEDUCTIONS</u>			
OFFICERS COMPENSATION	131,232	131,232	
SALARIES & WAGES	195,423	195,423	
BAD DEBTS	0	0	
RENTS	17,063	17,063	
TAXES	106,482	69,912	36,570
INTEREST	139,944	139,944	0
DEPRECIATION	308,758	289,653	19,105
PENSION & PROFIT SHARING	51,775	32,046	19,729
EMPLOYEE BENEFIT	15,348	15,348	
OTHER DEDUCTIONS:			
AMORTIZATION	3,687	3,687	0
PURCHASED WATER & POWER	100,015	100,015	
CHEMICALS	74,586	74,586	
MATERIALS & SUPPLIES	93,286	93,286	
CONTRACTUAL SERVICES	76,413	76,413	0
TRANSPORTATION MEALS & ENTERTAINMENT	7,853	0	7,853
INSURANCE	46,633	46,633	
METERS & METER INSTALLATION	62,487	62,487	0
REGULATORY ASSESSMENT FEE	28,879	28,879	
SLUDGE REMOVAL	1,031	1,031	
RATE CASE COSTS	2,286	2,286	0
SERVICES	0	0	
MISCELLANEOUS AMORTIZATION	15,302	0	15,302
MISCELLANEOUS	36,246	19,186	17,060
<b>TOTAL DEDUCTIONS</b>	<b>1,514,729</b>	<b>1,399,110</b>	<b>115,619</b>
<b>TAXABLE INCOME</b>	<b>516,758</b>	<b>(107,813)</b>	<b>624,571</b>

(1) Plant capacity charges

GULF UTILITY COMPANY  
TAXABLE INCOME RECONCILIATION  
ABOVE AND BELOW THE LINE  
DECEMBER 31, 1988

<u>INCOME</u>	<u>TOTAL</u>	<u>ABOVE</u>	<u>BELOW</u>
GROSS RECEIPTS	1,404,986	1,404,986	0
INTEREST	89,447	0	89,447
OTHER INCOME:			
CONNECTION FEES (1)	678,847	0	678,847
WATER LINES/HYDRANTS/MAINS/SERVICES	575,243	0	575,243
SEWER MAINS/LIFT STATIONS/LINES	1,095,965	0	1,095,965
OTHER CIAC	625	0	625
TAP INS & METER INSTALLATIONS	87,616	87,616	0
JETTING & JACK & BORE FEES	10,200	10,200	0
PERMITS	4,410	4,410	0
AMORTIZATION PURCHASED BOND DISCOUNT	8,811	0	8,811
SALES TAX INCOME	4	0	4
CIAC AMORTIZATION	77,247	77,247	0
OTHER CIAC AMORTIZATION	7,651	0	7,651
RATE CASE AMORTIZATION	21,051	21,051	0
TAX IMPACT FUNDS CIAC	1,407,307	0	1,407,307
<b>TOTAL INCOME</b>	<b>5,469,410</b>	<b>1,605,510</b>	<b>3,863,900</b>
<u>DEDUCTIONS</u>			
OFFICERS COMPENSATION	135,982	135,982	0
SALARIES & WAGES	204,186	204,186	0
BAD DEBTS	199	199	0
RENTS	16,062	16,062	0
TAXES	310,784	107,579	203,205
INTEREST	216,845	119,026	97,819
DEPRECIATION	410,254	341,093	69,161
PENSION & PROFIT SHARING	45,718	24,725	20,993
EMPLOYEE BENEFIT	24,313	24,313	0
OTHER DEDUCTIONS:			
AMORTIZATION	6,343	6,343	0
PURCHASED WATER & POWER	128,652	128,652	0
CHEMICALS	105,394	105,394	0
MATERIALS & SUPPLIES	74,212	74,212	0
CONTRACTUAL SERVICES	127,431	127,431	0
TRANSPORTATION MEALS & ENTERTAINMENT	11,449	0	11,449
INSURANCE	56,857	56,857	0
METERS & METER INSTALLATION	38,819	38,819	0
REGULATORY ASSESSMENT FEE	27,757	27,757	0
SLUDGE REMOVAL	4,290	4,290	0
RATE CASE COSTS	51,635	51,635	0
SERVICES	37,096	37,096	0
LEGAL	8,430	8,430	0
SEWER	20,729	20,729	0
MISCELLANEOUS AMORTIZATION	216	0	216
MISCELLANEOUS	41,092	21,585	19,507
<b>TOTAL DEDUCTIONS</b>	<b>2,104,745</b>	<b>1,682,395</b>	<b>422,350</b>
<b>TAXABLE INCOME</b>	<b>3,364,665</b>	<b>(76,885)</b>	<b>3,441,550</b>

(1) Plant capacity charges

*Exhibit F*  
*12 of 17*

Schedule No. 2  
Page 2 of 5

GULF UTILITY COMPANY  
TAXABLE INCOME RECONCILIATION  
ABOVE AND BELOW THE LINE  
DECEMBER 31, 1989

<u>INCOME</u>	<u>TOTAL</u>	<u>ABOVE</u>	<u>BELOW</u>
GROSS RECEIPTS	1,721,080	1,721,080	
INTEREST	542,547	0	542,547
OTHER INCOME:			
CONNECTION FEES (1)	1,075,424-	0	1,075,424
WATER LINES/HYDRANTS/MAINS/SERVICES	448,269	0	448,269
SEWER MAINS/LIFT STATIONS/LINES	646,370	0	646,370
OTHER CIAC	(3,661)	0	(3,661)
TAP INS & METER INSTALLATIONS	72,781	72,781	0
JETTING & JACK & BORE FEES	6,960	6,960	0
PERMITS	3,810	3,810	0
AMORTIZATION PURCHASED BOND DISCOUNT	149,061	0	149,061
SALES TAX INCOME	182	0	182
CIAC AMORTIZATION	77,247	77,247	0
OTHER CIAC AMORTIZATION	0	0	
RATE CASE AMORTIZATION	0	0	0
TAX IMPACT FUNDS CIAC	1,328,581	0	1,328,581
<b>TOTAL INCOME</b>	<b>6,068,651</b>	<b>1,881,878</b>	<b>4,186,773</b>
<u>DEDUCTIONS</u>			
OFFICERS COMPENSATION	147,746	147,746	
SALARIES & WAGES	246,595	246,595	
BAD DEBTS	1,472	1,472	0
RENTS	14,343	14,343	
TAXES	325,838	142,542	183,296
INTEREST	821,897	171,037	650,860
DEPRECIATION	500,549	242,291	258,258
PENSION & PROFIT SHARING	0	0	
EMPLOYEE BENEFIT	91,085	91,085	
OTHER DEDUCTIONS:			
AMORTIZATION	6,239	6,239	0
PURCHASED WATER & POWER	135,091	135,091	
CHEMICALS	132,619	132,619	
MATERIALS & SUPPLIES	63,627	63,627	
CONTRACTUAL SERVICES	163,145	163,145	
TRANSPORTATION MEALS & ENTERTAINMENT	12,127	0	12,127
INSURANCE	51,773	51,773	
METERS & METER INSTALLATION	40,205	40,205	0
REGULATORY ASSESSMENT FEE	1,800	1,800	
SLUDGE REMOVAL	4,490	4,490	
RATE CASE COSTS	0	0	0
SERVICES	29,091	29,091	0
LEGAL	0	0	
SEWER	0	0	
MISCELLANEOUS AMORTIZATION	29,952	0	29,952
MISCELLANEOUS	56,324	43,423	12,901
<b>TOTAL DEDUCTIONS</b>	<b>2,876,008</b>	<b>1,728,613</b>	<b>1,147,395</b>
<b>TAXABLE INCOME</b>	<b>3,192,643</b>	<b>153,265</b>	<b>3,039,378</b>

(1) Plant capacity charges

Exhibit F  
13 of 17

Schedule No. 2  
Page 3 of 5

GULF UTILITY COMPANY  
TAXABLE INCOME RECONCILIATION  
ABOVE AND BELOW THE LINE  
DECEMBER 31, 1990

<u>INCOME</u>	<u>TOTAL</u>	<u>ABOVE</u>	<u>BELOW</u>
GROSS RECEIPTS	1,923,793	1,923,793	
INTEREST	553,085	0	553,085
OTHER INCOME:			
CONNECTION FEES (1)	601,827	0	601,827
WATER LINES/HYDRANTS/MAINS/SERVICES	468,327	0	468,327
SEWER MAINS/LIFT STATIONS/LINES	629,043	0	629,043
OTHER CIAC	277	0	277
TAP INS & METER INSTALLATIONS	47,742	47,742	0
JETTING & JACK & BORE FEES	5,640	5,640	0
PERMITS	1,440	1,440	0
AMORTIZATION PURCHASED BOND DISCOUNT	100,428	0	100,428
SALES TAX INCOME	0	0	0
CIAC AMORTIZATION	77,247	77,247	0
NET GAIN (LOSS) SECTION 4797	175	0	175
RATE CASE AMORTIZATION	0	0	0
TAX IMPACT FUNDS CIAC	1,021,526	0	1,021,526
<b>TOTAL INCOME</b>	<b>5,430,550</b>	<b>2,055,862</b>	<b>3,374,688</b>
<u>DEDUCTIONS</u>			
OFFICERS COMPENSATION	165,364	165,364	
SALARIES & WAGES	323,654	316,384	7,270
BAD DEBTS	4,519	4,519	0
RENTS	4,003	4,003	
TAXES	297,133	164,349	132,784
INTEREST	791,682	180,266	611,416
DEPRECIATION	658,881	262,809	396,072
PENSION & PROFIT SHARING	0	0	
EMPLOYEE BENEFIT	112,055	112,055	
OTHER DEDUCTIONS:			
AMORTIZATION	6,467	6,467	0
PURCHASED WATER & POWER	148,731	148,731	
CHEMICALS	159,397	159,397	
MATERIALS & SUPPLIES	89,841	89,841	
CONTRACTUAL SERVICES	207,895	192,023	15,872
TRANSPORTATION MEALS & ENTERTAINMENT	15,321	0	15,321
INSURANCE	67,191	67,191	
METERS & METER INSTALLATION	36,437	36,437	0
REGULATORY ASSESSMENT FEE	33,469	33,469	
SLUDGE REMOVAL	5,327	5,327	
RATE CASE COSTS	0	0	0
SERVICES	0	0	0
LEGAL	0	0	
SEWER	0	0	
MISCELLANEOUS AMORTIZATION	0	0	
MISCELLANEOUS	64,811	53,609	11,202
<b>TOTAL DEDUCTIONS</b>	<b>3,192,178</b>	<b>2,002,241</b>	<b>1,189,937</b>
<b>TAXABLE INCOME</b>	<b>2,238,372</b>	<b>53,621</b>	<b>2,184,751</b>

(1) Plant capacity charges

*Exhibit F*  
*14 of 17*

Schedule No. 2  
Page 4 of 5

GULF UTILITY COMPANY  
TAXABLE INCOME RECONCILIATION  
ABOVE AND BELOW THE LINE  
DECEMBER 31, 1991

<u>INCOME</u>	<u>TOTAL</u>	<u>ABOVE</u>	<u>BELOW</u>
GROSS RECEIPTS	2,144,867	2,144,867	
INTEREST	438,540	0	438,540
OTHER INCOME:			
CONNECTION FEES (1)	485,750	0	485,750
WATER LINES/HYDRANTS/MAINS/SERVICES	158,936	0	158,936
SEWER MAINS/LIFT STATIONS/LINES	460,011	0	460,011
OTHER CIAC	629	0	629
TAP INS & METER INSTALLATIONS	36,366	36,366	
JETTING & JACK & BORE FEES	3,360	3,360	
PERMITS	685	685	
AMORTIZATION PURCHASED BOND DISCOUNT	32,870	0	32,870
SALES TAX INCOME	0	0	
CIAC AMORTIZATION	77,247	77,247	
NET GAIN (LOSS) SECTION 4797	0	0	
RATE CASE AMORTIZATION	0	0	
TAX IMPACT FUNDS CIAC	665,291	0	665,291
<b>TOTAL INCOME</b>	<b>4,504,552</b>	<b>2,262,525</b>	<b>2,242,027</b>
<u>DEDUCTIONS</u>			
OFFICERS COMPENSATION	187,799	187,799	
SALARIES & WAGES	355,017	337,420	17,597
BAD DEBTS	3,699	3,699	
RENTS	3,315	3,315	
TAXES	301,505	244,293	57,212
INTEREST	980,064	481,500	498,564
DEPRECIATION	764,907	234,981	529,926
PENSION & PROFIT SHARING	0	0	
EMPLOYEE BENEFIT	141,914	141,914	
OTHER DEDUCTIONS:			
AMORTIZATION	603	603	
PURCHASED WATER & POWER	158,022	158,022	
CHEMICALS	193,533	193,533	
MATERIALS & SUPPLIES	94,804	94,804	
CONTRACTUAL SERVICES	202,440	190,193	12,247
TRANSPORTATION MEALS & ENTERTAINMENT	21,681	18,225	3,456
INSURANCE	59,309	59,309	
METERS & METER INSTALLATION	24,575	24,575	
REGULATORY ASSESSMENT FEE	39,205	39,205	
SLUDGE REMOVAL	8,703	8,703	
RATE CASE COSTS		0	
SERVICES		0	
LEGAL		0	
SEWER		0	
MISCELLANEOUS AMORTIZATION		0	
MISCELLANEOUS	48,880	42,704	6,176
<b>TOTAL DEDUCTIONS</b>	<b>3,589,975</b>	<b>2,464,797</b>	<b>1,125,178</b>
<b>TAXABLE INCOME</b>	<b>914,577</b>	<b>(202,272)</b>	<b>1,116,849</b>

(1) Plant capacity charges

*Exhibit F*  
*15 of 17*

Schedule No. 2  
Page 5 of 5

GULF UTILITY  
TAXABLE INCOME RECONCILIATION  
SUPPLEMENTAL SCHEDULES

	1987	1988	1989	1990
<b><u>SALARIES &amp; WAGES</u></b>				
TOTAL WAGES	195,423	204,186	246,595	323,654
DISALLOWED WAGES				(7,270)
ABOVE THE LINE WAGES	<u>195,423</u>	<u>204,186</u>	<u>246,595</u>	<u>316,384</u>
<b><u>INTEREST EXPENSE</u></b>				
INTEREST EXPENSE	139,944	216,845	821,897	791,682
INTEREST ALLOWED	(139,944)	(119,026)	(171,037)	(180,266)
BELOW THE LINE INTEREST EXPENSE	<u>0</u>	<u>97,819</u>	<u>650,860</u>	<u>611,416</u>
<b><u>TAX EXPENSE</u></b>				
TOTAL TAXES	106,482	310,784	325,838	297,133
STATE INCOME TAXES	(36,570)	(203,205)	(183,296)	(132,784)
ABOVE THE LINE TAX EXPENSE	<u>69,912</u>	<u>107,579</u>	<u>142,542</u>	<u>164,349</u>
<b><u>MISCELLANEOUS</u></b>				
TOTAL PER TAX RETURN	36,246	41,092	56,324	64,811
DIRECTORS FEES	(9,000)	(6,000)	0	0
BUSINESS PROMOTION EXPENSES	(8,060)	(13,507)	(12,901)	(11,202)
	<u>19,186</u>	<u>21,585</u>	<u>43,423</u>	<u>53,609</u>
<b><u>MISCELLANEOUS AMORTIZATION</u></b>				
PER TAX RETURN	15,302	216	29,952	0
ENVIROGRO WRITE OFF			(20,442)	
RECALCINING FACILITY WRITE OFF			(9,510)	
OTHER AMORTIZATION		(216)		
KEOHANE COSTS	(15,302)			
ABOVE THE LINE TOTAL	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>

GULF UTILITY  
TAXABLE INCOME RECONCILIATION  
SUPPLEMENTAL SCHEDULES

1991

SALARIES & WAGES

TOTAL WAGES	355,017
DISALLOWED WAGES	<u>(17,597)</u>
ABOVE THE LINE WAGES	<u>337,420</u>

TAX EXPENSE

TOTAL TAXES	301,505
STATE INCOME TAXES	<u>(57,212)</u>
ABOVE THE LINE TAX EXPENSE	<u>244,293</u>

MISCELLANEOUS

TOTAL PER TAX RETURN	48,880
DIRECTORS FEES	
BUSINESS PROMOTION EXPENSES	<u>(6,176)</u>
	<u>42,704</u>

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Disposition of	)	DOCKET NO. 940158-SU
Contributions-in-Aid-of-	)	ORDER NO. PSC-94-0443-FOF-SU
Construction (CIAC) Gross-UP	)	ISSUED: April 13, 1994
Funds Collected by NORTH FORT	)	
MYERS UTILITY, INC. in Lee	)	
County	)	

ORDER NO. PSC-94-0443-FOF-SU  
DOCKET NO. 940158-SU  
PAGE 2

Exhibit H  
10/13

By Orders Nos. 16971 and 23541, we required utilities which gross-up to file annually the information needed for (1) a determination of the utility's state and federal income tax liability directly attributable to receipt of CIAC for that year and (2) a determination of whether a refund of gross-up charges collected during that year is appropriate. These orders required that a utility refund on a pro rata basis the gross-up charges collected each year which exceeded the utility's actual above-the-line tax liability attributable to CIAC for the same year.

The following Commissioners participated in the disposition of this matter:

- J. TERRY DEASON, Chairman
- SUSAN F. CLARK
- JULIA L. JOHNSON
- DIANE K. KIESLING
- LUIS J. LAUREDO

By Proposed Agency Action (PAA) Order No. PSC-92-0961-FOF-WS, issued September 9, 1992, as amended by Order No. PSC-92-0961A-FOF-WS, issued September 14, 1992, we clarified the refund calculation provisions of Order Nos. 16971 and 23541. No protest to that PAA Order was filed, so the action taken therein became final.

NOTICE OF PROPOSED AGENCY ACTION  
ORDER FINDING REFUND NOT REQUIRED

North Fort Myers is a class B wastewater utility providing wastewater service to 2,556 customers in Lee County. According to its 1992 annual report, North Fort Myers had \$686,547 in operating revenue and a net operating loss of \$204,452 for the wastewater system.

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.

Refund Calculations For Years 1990 Through 1991

Background

In compliance with Order No. 16971, North Fort Myers filed annual CIAC gross-up reports for 1990 through 1991. Using North Fort Myers' annual gross-up reports, we have made a refund calculation for each of the years North Fort Myers collected CIAC and the gross-up, 1990-1991, and we find that no refunds are due. Our calculations are reflected on Schedule No. 1, which is attached hereto and by reference incorporated herein. A summary of each year's calculation follows.

The repeal of Section 118(b) of the Internal Revenue Code (IRC) resulted in making contributions-in-aid-of-construction (CIAC) gross income and depreciable for federal tax purposes. By Order No. 16971, issued December 18, 1986, this Commission authorized corporate utilities to collect a CIAC tax gross-up in order for those utilities to pay the tax liability resulting from their receipt of CIAC.

1990

In Order No. 23541, the Commission determined that any water and wastewater utility already collecting the gross-up on CIAC and wishing to continue collecting the gross-up, had to file a petition for approval with the Commission on or before October 29, 1990. North Fort Myers filed for authority to continue to gross-up on December 27, 1990. By Order No. PSC-92-0251-FOF-SU, issued April 27, 1992, North Fort Myers was granted authority to continue to gross-up using the full gross-up formula.

North Fort Myers' 1990 CIAC report indicates that the utility was in a taxable position on an above-the-line basis prior to the inclusion of taxable CIAC and gross-up. North Fort Myers' 1990 CIAC report indicates that a total of \$109,206 in CIAC gross-up charges was collected, and the first year's depreciation on the CIAC was \$10,608 associated with \$282,885 in taxable CIAC. We used the 37.63% combined federal and state tax rates to calculate the net income tax on CIAC. Since the utility required more in gross-up to pay the tax impact than was collected, no refund is necessary.

DOCUMENT NUMBER-DATE  
03452 APR 13 1994  
PSC-RECORDS/REPORTING

1991

North Fort Myers' 1991 CIAC report indicates that the utility was in a taxable position on an above-the-line basis prior to the inclusion of taxable CIAC and gross-up. North Fort Myers' 1991 CIAC report indicates that a total of \$66,812 in CIAC gross-up charges was collected, with no first year depreciation deduction because no depreciable assets were added in 1991. Taxable CIAC of \$157,768 was collected. We used the 37.63% combined federal and state tax rates to calculate the net income tax on CIAC. Since the utility required more in gross-up to pay the tax impact than was collected, no refund is necessary.

Based on the foregoing, it is, therefore,

ORDERED by the Florida Public Service Commission that North Fort Myers Utility, Inc., 18500 Tucker Lane, North Fort Myers, Florida 33917, is not required to refund any CIAC gross-up funds collected for the period 1990 through 1991. 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 docket should be closed upon expiration of the protest period if no timely protest is filed.

By ORDER of the Florida Public Service Commission this 13th day of April, 1994.

  
\_\_\_\_\_  
BLANCA S. BAYO, Director  
Division of Records and Reporting

( S E A L )

MSN

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 Records and Reporting at his office at 101 East Gaines Street, Tallahassee, Florida 32399-0870, by the close of business on May 4, 1994.

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.

Exhibit H  
2 of 13

NORTH FORT MYERS UTILITY, INC.

CALCULATED GROSS-UP REFUND

SOURCE: (Line references are from CIAC Reports)

	<i>5/31/91</i> 1990	<i>5/31/92</i> 1991	1992	1993
1 Form 1120, Line 30 (Line 15)	\$ 437,441	\$ 275,322	\$ 0	\$ 0
2 Less CIAC (Line 7)	(282,885)	(157,768)	0	0
3 Less Gross-up collected (Line 19)	(109,206)	(66,812)	0	0
4 Add First Year's Depr on CIAC (Line 8)	10,608	0	0	0
5 Add/Less Other Effects (Lines 20 & 21)	0	0	0	0
6				
7 Adjusted Income Before CIAC and Gross-up	\$ 55,958	\$ 50,742	\$ 0	\$ 0
8				
9 Taxable CIAC (Line 7)	\$ 282,885	\$ 157,768	\$ 0	\$ 0
10				
11 Taxable CIAC Resulting in a Tax Liability	\$ 282,885	\$ 157,768	\$ 0	\$ 0
12 Less first years depr. (Line 8)	(10,608)	0	0	0
13				
14 Net Taxable CIAC	\$ 272,277	\$ 157,768	\$ 0	\$ 0
15 Combined marginal state and federal tax rate	37.63%	37.63%	37.63%	37.63%
16				
17 Net Income tax on CIAC	\$ 102,458	\$ 59,368	\$ 0	\$ 0
18 Less ITC Realized	0	0	0	0
19				
20 Net Income Tax	\$ 102,458	\$ 59,368	\$ 0	\$ 0
21 Expansion Factor for gross-up taxes	1.603334936	1.603334936	1.603334936	1.603334936
22				
23 Gross-up Required to pay tax effect	\$ 164,274	\$ 95,187	\$ 0	\$ 0
24 Less CIAC Gross-up collected (Line 19)	(109,206)	(66,812)	0	0
25				
26 REFUND (excluding interest)	\$ 0	\$ 0	\$ 0	\$ 0
27				
28				
29 TOTAL REFUND	\$ 0			
30				

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FLORIDA PUBLIC SERVICE COMMISSION

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

MEMORANDUM

March 10, 1994

TO : DIRECTOR, DIVISION OF RECORDS AND REPORTING

FROM : DIVISION OF WATER AND WASTEWATER (MEADOR, MCCASKILL)  
DIVISION OF LEGAL SERVICES (NASH)

RE : UTILITY: NORTH FORT MYERS UTILITIES, INC.  
DOCKET NO.: 940158-SU  
COUNTIES: LEE  
CASE: DISPOSITION OF GROSS-UP FUNDS COLLECTED

AGENDA : MARCH 22, 1994 - REGULAR - PROPOSED AGENCY ACTION -  
PARTIES MAY PARTICIPATE

Handwritten signatures and initials in the right margin, including what appears to be 'JFK' and 'AS'.

CRITICAL DATES: NONE

RECOMMENDATION FILE NAME: I:\WP\WAW\940158.RCM WAW

CASE BACKGROUND

The repeal of Section 118(b) of the Internal Revenue Code (I.R.C.) resulted in making contributions-in-aid-of-construction (CIAC) gross income and depreciable for federal tax purposes. In Order No. 16971, issued December 18, 1986, the Commission 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.

Orders Nos. 16971 and 23541, issued October 1, 1990, require that utilities annually file information which would be used to determine the actual state and federal income tax liability directly attributable to the CIAC, and whether a refund of the gross-up is appropriate for any given year for which gross-up was in effect. These orders also required that all gross-up collections for a tax year which are in excess of a utility's actual tax liability for the same year resulting from its collection of CIAC should be refunded on a pro rata basis to those persons who contributed the taxes.

Exhibit 14  
4/13  
DOCUMENT NUMBER-DATE  
02333 MAR 10 94  
FPSO-RECORDS/REPORTING

In Order No. 23541, the Commission determined that any water and wastewater utility already collecting the gross-up on CIAC and wishing to continue collecting the gross-up, had to file a petition for approval with the Commission on or before October 29, 1990. North Fort Myers Utilities, Inc. (North Ft. Myers or utility) filed for authority to continue to gross-up on December 27, 1990. By Order No. Psc-92-0251-FOF-SU, issued April 27, 1992, North Ft. Myers was granted authority to continue to gross-up using the full gross-up formula.

On September 9, 1992, this Commission issued Proposed Agency Action Order No. PSC-92-0961-FOF-WS, which clarified the provision of Orders Nos. 16971 and 23541 for the calculation of refunds of gross-up of CIAC. On September 14, 1992, Order No. PSC-92-0961A-FOF-WS, was issued which included Attachment A which reflects the generic calculation form. No protests were filed, and the Order became final.

North Ft. Myers is a Class B wastewater utility which provides wastewater service to 2,556 customers in Lee County. According to their 1992 annual report, operating revenue of \$686,547 was reported. The utility reported a net operating loss of \$204,452 for the wastewater system.

#### DISCUSSION OF ISSUES

ISSUE 1: Should North Fort Myers Utilities, Inc. be required to refund excess gross-up collections for 1990 and 1991?

RECOMMENDATION: No, the utility required more gross-up than was collected in each year; therefore, no refund is necessary.  
(MEADOR, MCCASKILL)

STAFF ANALYSIS: In compliance with Order No. 16971, North Ft. Myers filed its 1990 and 1991 annual CIAC reports regarding its collection of gross-up for each year. By letter dated January 14, 1994, staff submitted their preliminary refund calculation numbers to the utility.

By letter dated February 1, 1994, the utility responded that they agreed with staff's preliminary calculations.

Staff has calculated the gross-up required to pay the tax liability resulting from the collection of taxable CIAC by grossing-up the net taxable CIAC amount, in accordance with the

DOCKET NO. 940158-SU  
MARCH 10, 1994

method adopted in Order No. PSC-92-0961-FOF-WS.

ANNUAL GROSS-UP REFUND AMOUNTS

Based upon the foregoing, staff has calculated the amount of refund per year which is appropriate. Our calculations, taken from the information provided by the utility in its gross-up reports filed each year are reflected on Schedule No. 1. A summary of each year's refund calculation follows.

**1990**

The utility proposes that no refund is appropriate.

Staff agrees that a refund of gross-up collections for 1990 is not appropriate. The 1990 CIAC report indicates the utility was in a taxable position on an above-the-line basis prior to the inclusion of taxable CIAC and gross-up. Therefore, all taxable CIAC received would be taxed. The report indicates a total of \$109,206 gross-up collections were received, with the first year's depreciation of \$10,608 associated with \$282,885 in taxable CIAC. Staff has used the 37.63% combined marginal federal and state tax rates as provided in the 1990 CIAC Report to calculate the tax effect. Based upon the foregoing, staff calculates that the utility required more in gross-up to pay the tax impact than was collected; therefore, no refund is necessary.

**1991**

The utility proposes that no refund is appropriate.

Staff agrees that a refund of gross-up collections for 1991 is not appropriate. The 1991 CIAC report indicates the utility was in a taxable position on an above-the-line basis prior to the inclusion of taxable CIAC and gross-up. Therefore, all taxable CIAC received would be taxed. The report indicates a total of \$66,812 gross-up collections were received. No first year's depreciation was deducted because no depreciable assets were added in 1991. Taxable CIAC of \$157,768 was received. Staff has used the 37.63% combined marginal federal and state tax rates as provided in the 1991 CIAC Report to calculate the tax effect. Based upon the foregoing, staff calculates that the utility required more in gross-up to pay the tax impact than was collected; therefore, no refund is necessary.

DOCKET NO. 940158-SU  
MARCH 10, 1994

ISSUE 2: Should the docket be closed?

RECOMMENDATION: Yes. (McCASKILL, NASH)

STAFF ANALYSIS: If a timely protest is not filed, upon expiration of the protest period, processing of this docket is complete and the docket should be closed.

THE FORT MYERS UTILITY, INC.  
SOURCE: (Line references are from CIAC Reports)

## STAFF CALCULATED GROSS-UP REFUND

	5/31/91 1990	5/31/92 1991	1992	1993
1 Form 1120, Line 30 (Line 15)	\$ 437,441	\$ 275,322	\$ 0	\$ 0
2 Less CIAC (Line 7)	(282,885)	(157,768)	0	0
3 Less Gross-up collected (Line 19)	(109,206)	(66,812)	0	0
4 Add First Year's Depr on CIAC (Line 8)	10,608	0	0	0
5 Add/Less Other Effects (Lines 20 & 21)	0	0	0	0
6				
7 Adjusted Income Before CIAC and Gross-up	\$ 55,958	\$ 50,742	\$ 0	\$ 0
8				
9 Taxable CIAC (Line 7)	\$ 282,885	\$ 157,768	\$ 0	\$ 0
10				
11 Taxable CIAC Resulting in a Tax Liability	\$ 282,885	\$ 157,768	\$ 0	\$ 0
12 Less first years depr. (Line 8)	(10,608)	0	0	0
13				
14 Net Taxable CIAC	\$ 272,277	\$ 157,768	\$ 0	\$ 0
15 Combined marginal state and federal tax rate	37.63%	37.63%	37.63%	37.63%
16				
17 Net Income tax on CIAC	\$ 102,458	\$ 59,368	\$ 0	\$ 0
18 Less ITC Realized	0	0	0	0
19				
20 Net Income Tax	\$ 102,458	\$ 59,368	\$ 0	\$ 0
21 Expansion Factor for gross-up taxes	1.603334936	1.603334936	1.603334936	1.603334936
.2				
23 Gross-up Required to pay tax effect	\$ 164,274	\$ 95,187	\$ 0	\$ 0
24 Less CIAC Gross-up collected (Line 19)	(109,206)	(66,812)	0	0
25				
26 PROPOSED REFUND (excluding interest)	\$ 0	\$ 0	\$ 0	\$ 0
27				
28				
29 TOTAL REFUND	\$ 0			
30				

# *Cronin, Jackson, Nixon & Wilson*

CERTIFIED PUBLIC ACCOUNTANTS, P.A.

JOHN H. CRONIN, JR., C.P.A.  
ROBERT H. JACKSON, C.P.A.  
ROBERT C. NIXON, C.P.A.  
JAMES L. WILSON, C.P.A.  
HOLLY M. TOWNER, C.P.A.  
JAMES L. CARLSTEDT, C.P.A.

2560 GULF-TO-BAY BOULEVARD  
SUITE 200  
CLEARWATER, FLORIDA 34625-4419  
(813) 791-4020  
TELECOPIER  
(813) 797-3602

May 5, 1992

Officers and Directors  
North Fort Myers Utility, Inc.

As requested, we have prepared the accompanying Special Report of North Fort Myers Utility, Inc., consisting of Schedules No. 1 through 4. This report is intended solely for use in meeting certain reporting requirements related to collection of tax impact charges on contributions in aid of construction for the year ended May 31, 1991, to be filed with the Florida Public Service Commission. We have not audited or reviewed this Special Report and express no opinion or any other form of assurance on it.

*Cronin, Jackson, Nixon & Wilson*

CRONIN, JACKSON, NIXON & WILSON

Exhibit H  
9 of 13

North Fort Myers Utility, Inc.  
 Schedule of Above and Below the Line Taxable Income (Loss)  
 For the Taxable Year Ended May 31, 1991  
 (Unaudited)

<u>Line No.</u>		<u>1991</u>
1	<u>Above the line taxable income (loss)</u>	
2	Gross receipts/sales (line 1c)	\$ 593,835
3	Cost of goods sold, excluding security, engineering, and	
4	testing and depreciation (line 2)	<u>(192,238)</u>
5	Gross profit (line 3)	<u>401,597</u>
6	Deductions:	
7	Salaries and wages (line 13c)	78,627
8	Rents (line 16)	8,861
9	Taxes (line 17)	33,217
10	Interest (line 18)(Schedule No. 3)	77,282
11	Depreciation (line 21a)(Schedule No. 3)	105,679
12	Other deductions (line 26):	
13	Miscellaneous	2,161
14	Insurance	16,958
15	Professional fees	20,000
16	Office	4,574
17	Uniforms	1,356
18	Auto	3,952
19	Telephone	3,674
20	Other	<u>(94)</u>
21		<u>356,247</u>
22	Taxable income (loss) before CIAC	<u>45,350</u>
23	CIAC:	
24	Taxable CIAC (line 10)	282,885
25	Taxable gross-up (line 10)	<u>109,206</u>
26		<u>392,091</u>
27	Total above the line taxable income	<u>437,441</u>
28	<u>Below the line taxable income (loss)</u>	
29	Income:	
30	Interest (line 5)	73,388
31	Net gain (loss) (line 9)	(217,424)
32	Other income (line 10)	99
33		<u>(143,937)</u>
34	Deductions:	
35	Compensation of officers (line 12)	130,000
36	Interest (line 18)(Schedule No. 3)	1,118,489
37	Depreciation (line 21a)(Schedule No. 3)	348,886
38	Other deductions:	
39	Amortization	1,003
40	Travel and entertainment	26,885
41	Professional fees	132,495
42	Cost of goods sold (line 2):	
43	Security	27,939
44	Engineering	<u>208,137</u>
45		<u>1,993,834</u>
46	Total below the line taxable income (loss)	<u>(2,137,771)</u>
47	Total taxable income (loss) (line 28)	<u><u>\$ (1,700,330)</u></u>

Schedule No. 2

*Exhibit H*  
*10 of 13*

# *Cronin, Jackson, Nixon & Wilson*

CERTIFIED PUBLIC ACCOUNTANTS, P.A.

JAMES L. CARLSTEDT, C.P.A.  
JOHN H. CRONIN, JR., C.P.A.  
ROBERT H. JACKSON, C.P.A.  
BRENDA W. McBARRON, C.P.A.  
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2560 GULF-TO-BAY BOULEVARD  
SUITE 200  
CLEARWATER, FLORIDA 34625-4419  
(813) 791-4020  
TELECOPIER  
(813) 797-3602

January 29, 1993

Officers and Directors  
North Fort Myers Utility, Inc.

As requested, we have prepared the accompanying Special Report of North Fort Myers Utility, Inc., consisting of Schedules No. 1 through No. 4. This report is intended solely for use in fulfilling certain reporting requirements related to collection of tax impact charges on contributions in aid of construction, for the year ended May 31, 1992, to be filed with the Florida Public Service Commission. We have not audited or reviewed this Special Report and express no opinion or any other form of assurance on it.

*Cronin, Jackson, Nixon & Wilson*

CRONIN, JACKSON, NIXON & WILSON

Exhibit H  
11 of 13

North Fort Myers Utility, Inc.  
 Schedule of Above and Below the Line Taxable Income  
 For the Taxable Year Ended May 31, 1992  
 (Unaudited)

Line No.		
1	<u>Above the line taxable income</u>	
2	Gross receipts/sales (Line 1c)	\$ 626,487
3	Cost of goods sold (Line 2):	
4	Cost of labor (Schedule A, Line 3)	120,041
5	Utilities	61,030
6	Repairs & maintenance	54,888
7	Supplies	950
8	Engineering & testing	2,500
9		<u>239,409</u>
10	Deductions:	
11	Salaries & wages (Line 13c)	104,974
12	Rents (Line 16)	7,123
13	Taxes (Line 17), excluding officers payroll	74,034
14	Interest (Line 18, Schedule No. 3)	24,275
15	Depreciation (Line 21b, Schedule No. 3)	60,366
16	Other deductions:	
17	Insurance	19,058
18	Auto expense	3,634
19	Accounting	20,000
20	Telephone	2,411
21	Uniforms	2,878
22	Miscellaneous	7,741
23	Office expense	9,842
24		<u>336,336</u>
25	Above the line taxable income (loss) before CIAC	<u>50,742</u>
26	CIAC (Line 10)	157,768 ✓
27	Gross-up (Line 10)	66,812
28		<u>224,580</u>
29	Total above the line taxable income	<u>275,322</u> ✓
30	<u>Below the line taxable income</u>	
31	Interest income (Line 5)	<u>21,420</u>
32	Cost of goods sold (Line 2):	
33	Engineering & testing	140,436
34	Security	12,018
35		<u>152,454</u>

North Fort Myers Utility, Inc.  
 Schedule of Above and Below the Line Taxable Income  
 For the Taxable Year Ended May 31, 1992  
 (Unaudited)

<u>Line</u> <u>No.</u>		
1	Deductions:	
2	Officers salaries (Line 12)	156,928
3	Taxes - officers payroll (Line 17)	6,190
4	Interest (Line 18, Schedule No. 3)	1,163,561
5	Depreciation (Line 21b, Schedule No. 3)	307,723
6	Other deductions:	
7	Amortization	1,002
8	Travel & entertainment	21,454
9	Accounting	43,721
10	Legal	234,582
11	Telephone	<u>3,000</u>
12		<u>1,938,161</u>
13	Below the line taxable income (loss)	<u>(2,069,195)</u>
14	Total taxable income (loss) (Line 28)	<u>\$(1,793,873)</u>
15	Note: All line references relate to North Fort Myers Utility, Inc.,	
16	Form 1120, pages 1 and 2.	

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Disposition of gross-up	)	DOCKET NO. 961263-SU
funds collected by North Fort	)	ORDER NO. PSC-97-0062-FOF-SU
Myers Utility, Inc. in Lee	)	ISSUED: January 17, 1997
County	)	

---

The following Commissioners participated in the disposition of this matter:

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

*5/31/93; 5/31/93*

NOTICE OF PROPOSED AGENCY ACTION  
ORDER ON DISPOSITION OF CIAC GROSS-UP FUNDS

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

North Ft. Myers Utility, Inc. (NFMU or utility) is a Class A wastewater utility providing service to approximately 4,966 customers in Lee County. According to its 1995 annual report, the utility reported gross operating revenues of \$1,493,279 and a net operating loss of \$131,325.

As a result 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. By 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.

Order Nos. 16971, issued December 18, 1986, and 23541, issued October 1, 1990, require that utilities annually file information which would be used to determine the actual state and federal income tax liability directly attributable to the CIAC. The information would also determine whether refunds of gross-up would be appropriate. These orders require that all gross-up collections

*Exhibit I  
10/11*

for a tax year, which are in excess of a utility's actual tax liability for the same year, should be refunded on a pro rata basis to those persons who contributed the taxes.

By Order No. 23541, this Commission required water and wastewater utilities that wished to continue collecting gross-up on CIAC to file a petition for approval. By Order No. 25532, issued December 24, 1991, we granted NFMU authority to continue to gross-up using the full gross-up formula. By Order No. PSC-92-0130-FOF-WS, issued March 31, 1992, we granted Sunray authority to continue to gross-up using the full gross-up formula. On September 9, 1992, this Commission issued Proposed Agency Action 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. Order No. PSC-92-0961A-FOF-WS, issued on September 14, 1992, set forth the generic calculation form.

By Order No. PSC-96-0686-FOF-WS, issued May 24, 1996, we directed our staff to continue processing CIAC gross-up and refund cases pursuant to Order Nos. 16971 and 23541. We also determined that further study of the policy and possible alternatives should be pursued. However, The Small Business Job Protection Act of 1996 (The Act) signed into law on August 20, 1996, significantly changed the treatment of CIAC. 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, by Order No. PSC-96-1180-FOF-WS, we revoked the authority of utilities to collect gross-up of CIAC and canceled the respective tariffs unless affected utilities requested a variance.

DISPOSITION OF CIAC GROSS-UP FUNDS FOR 1992 AND 1993

As established in Order No. PSC-96-0686-FOF-WS, all pending CIAC gross-up refund cases shall be processed pursuant to Order Nos. 16971 and 25341. In compliance with Orders Nos. 16971 and 23541, NFMU filed its 1992 and 1993 annual CIAC reports regarding its collection of gross-up for each year. We calculated the gross-up required to pay the tax liability resulting from the collection of taxable CIAC by grossing-up the net taxable CIAC amount, in accordance with the method adopted in Order No. PSC-92-0961-FOF-WS.

NFMU's 1992 CIAC report indicated that the utility was in a taxable position on an above-the-line basis prior to the inclusion of taxable CIAC and gross-up. Therefore, all of the taxable CIAC received would be taxed. The report indicated a total of \$1,129,778 in taxable CIAC for that year, with \$5,794 being deducted for the first year's depreciation. Using the 37.63 percent

*Exhibit I  
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combined marginal federal and state tax rates as provided in the 1992 CIAC Report to calculate a tax effect of \$422,955. When this amount is multiplied by the expansion factor for gross-up taxes, the amount of gross-up required to pay the tax effect on the CIAC is \$678,139. The utility collected \$563,410 of gross-up monies. Because the utility required more in gross-up to pay the tax impact than the utility collected, we conclude that no refund is necessary.

As to 1993, the utility received taxable CIAC of \$409,690. We deducted \$20,008 for the first year's depreciation, resulting in net taxable CIAC of \$389,682. The utility's 1993 CIAC report indicated that the utility operated at a loss before the inclusion of CIAC in income. Order No. 23541 requires that CIAC income be netted against the above-the-line loss; therefore, not all of the CIAC collected would create a tax liability. When CIAC in the amount of \$389,682 is netted against the calculated loss of \$56,189, the amount of taxable CIAC resulting in a tax liability is \$333,493. We used the 37.63 percent combined marginal federal and state tax rates as provided in the 1993 CIAC Report to calculate net income taxes of \$125,493. When this amount is multiplied by the expansion factor for gross-up taxes, the amount of gross-up required to pay the tax effect on the CIAC is calculated to be \$201,207. The utility collected \$191,017 of gross-up monies. The utility required more in gross-up to pay the tax impact than the utility collected. Therefore, we conclude that no refund is necessary for 1993.

In its filing, the utility did not make a deduction for first year's depreciation, and indicated that it did not believe that first year's depreciation should be deducted. We were not persuaded by the utility's argument. Depreciation is an allowable deduction for federal tax purposes, which the utility claimed on its federal tax returns in determining taxable income. Depreciation is an integral part of the determination of taxable income, which should be calculated by reducing the amount of taxable CIAC collected in each year by the amount of first year's depreciation deduction taken by the utility. By definition, CIAC charges are intended for plant and are to be utilized for the acquisition, or construction of utility property, and therefore, the CIAC collected will be converted into property and, thus, depreciated. To the extent that cash CIAC is used and useful, first year's depreciation exists because the cash either pays for a prior investment made by the utility or it provides for new plant in the year it is received by the utility. Based on the foregoing, first year's depreciation was included in our calculation of the net taxable amount of CIAC.

ORDER NO. PSC-97-0062-FOF-SU  
DOCKET NO. 961263-SU  
PAGE 4

If a timely protest is not filed by a substantially affected person within the protest period set forth below, this docket shall be closed.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that North Fort Myers Utilities, Inc., is not required to refund any CIAC gross-up funds collected in 1992 and 1993. It is further

ORDERED that the provisions of this Order issued as proposed agency action 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 Records and Reporting, at 2540 Shumard Oak Boulevard, Tallahassee, Florida, 32399-0863, by the date set forth in the Notice of Further Proceedings below.

By ORDER of the Florida Public Service Commission, this 17th day of January, 1997.

BLANCA S. BAYÓ, Director  
Division of Records and Reporting

by: /s/ Kay Flynn  
Chief, Bureau of Records

This is a facsimile copy. A signed copy of the order may be obtained by calling 1-904-413-6770.

( S E A L )

MEO

Exhibit I  
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ORDER NO. PSC-97-0062-FOF-SU  
DOCKET NO. 961263-SU  
PAGE 5

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 Records and Reporting, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on February 7, 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.

Exhibit I  
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*Cronin, Jackson, Nixon & Wilson*  
CERTIFIED PUBLIC ACCOUNTANTS, P.A.

JAMES L. CARLSTEDT, C.P.A.  
JOHN H. CRONIN, JR., C.P.A.  
ROBERT H. JACKSON, C.P.A.  
BRENDA W. McBARRON, C.P.A.  
ROBERT C. NIXON, C.P.A.  
HOLLY M. TOWNER, C.P.A.  
JAMES L. WILSON, C.P.A.

2560 GULF-TO-BAY BOULEVARD  
SUITE 200  
CLEARWATER, FLORIDA 34625-4419  
(813) 791-4020  
TELECOPIER  
(813) 797-3602

July 11, 1994

Officers and Directors  
North Fort Myers Utility, Inc.

In accordance with your request, we have prepared the accompanying Special Report of North Fort Myers Utility, Inc., consisting of Schedules No. 1 through No. 6. This report is intended solely for use in fulfilling certain reporting requirements related to collections of tax impact charges on contributions in aid of construction (CIAC), for the fiscal year ended May 31, 1993, to be filed with the Florida Public Service Commission. We have not audited or reviewed this Special Report and express no opinion or any other form of assurance on it.

*Cronin, Jackson, Nixon & Wilson*

CRONIN, JACKSON, NIXON & WILSON

Exhibit I  
6 of 11

North Fort Myers Utility, Inc.  
 Schedule of Above and Below the Line Taxable Income (Loss)  
 Year Ended May 31, 1993

<u>Above the line taxable income</u>	
Gross receipts/sales (line 1c)	\$ 789,047
Cost of goods sold (line 2, Schedule A):	
Cost of labor	158,536
Utilities	83,338
Repairs & Maintenance	33,524
Supplies	7,838
	<u>283,236</u>
	505,811
Other above the line income:	
Miscellaneous service income (Statement 1)	6,099
Amortization of pre 1987 CIAC (Note 1)	58,481
Gross above the line profit	<u>570,391</u>
Deductions:	
Salaries & wages (line 13c)	150,135
Rents (line 16)	7,123
Taxes (line 17, Schedule No. 3)	70,528
Interest (line 18, Schedule No. 3)	19,083
Depreciation (line 21b, Schedule No. 3)	180,031
Other deductions (line 26, statement 2, Schedule No. 4)	92,816
	<u>519,716</u>
	50,675
Above the line income before CIAC	<u>1,129,778</u>
CIAC (line 10, statement 1, note 1)	563,410
CIAC gross-up (line 10, note 1)	<u>1,693,188</u>
	1,743,863
Total above the line taxable income	<u>1,743,863</u>
<u>Below the line taxable income (loss)</u>	
Income:	
Interest (line 5)	<u>52,789</u>
Deductions:	
Cost of goods sold (line 2, Schedule A)	
Security	700 -
Engineering & testing	136,791 -
Officers compensation (line 2)	166,144 -
Taxes (line 17, Schedule No. 3)	18,364
Interest (line 18, Schedule No. 3)	760,532
Depreciation (line 21b, Schedule No. 3)	258,538
Other deductions (line 26, statement 2, Schedule No. 4)	171,488 -
	<u>1,512,557</u>
Below the line income (loss) before NOL deduction	(1,459,768)
Below the NOL deduction (see previous years filings) (line 29c)	<u>(2,288,696)</u>
Total below the line taxable income (loss)	<u>(3,748,464)</u>
Total taxable income (loss) (line 30)	<u>\$ (2,004,601)</u>

Note (1): A breakdown of "Other Income" shown on line 10 and statement 1 of the tax return is as follows:

CIAC	\$ 1,129,778
CIAC gross-up	563,410
Amortization of pre 1987 CIAC	58,481
	<u>1,751,669</u>
Miscellaneous	6,099
	<u>1,757,768</u>
Total (line 10)	<u>\$ 1,757,768</u>

All line references relate to page 1 of the Federal income tax return. Statement references relate to documents attached to and filed with the Federal tax return.

Schedule No. 2

*Exhibit I*  
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North Fort Myers Utility, Inc.  
Schedule of Above and Below the Line "Other Deductions"  
Year Ended May 31, 1993

Above the line "other deductions"

Insurance	\$ 33,737
Repairs & maintenance	8,177
Accounting	20,000
Telephone	2,400
Uniforms	4,317
Miscellaneous	15,250
Office expenses & bank charges	<u>8,935</u>
	<u>92,816</u>

Below the line "other deductions"

Accounting	41,433
Legal	97,294
Telephone	3,173
Travel & entertainment	20,894
Amortization (loan costs)	<u>8,694</u>
	<u>171,488</u>

Total "other deductions" \$ 264,304

*Cronin, Jackson, Nixon & Wilson*

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SUITE 200  
CLEARWATER, FLORIDA 34625-4419  
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TELECOPIER  
(813) 797-3602

April 7, 1995

F. Marshall Deterding, Esq.  
Rose, Sundstrom & Bentley  
2548 Blairstone Pines Drive  
Tallahassee, FL 32301

BY FEDERAL EXPRESS

Re: North Fort Myers Utility, Inc. - 1994 CIAC Gross-up  
Refund Report for Fiscal Year Ended May 31, 1994

Dear Marty:

As requested, I have enclosed seven copies of the PSC CIAC gross-up refund report of North Fort Myers Utility, Inc. for the fiscal year ended May 31, 1994.

Also, I have enclosed two copies of the state and federal income tax returns.

As you will note, no refund is proposed, since the Company under collected gross-up by approximately \$22,000.

Please contact me if you have any questions.

Very truly yours,

CRONIN, JACKSON, NIXON & WILSON



Robert C. Nixon

RCN/amp

Enclosures

cc: J. Boley (w/encl.)  
T. Reeves (w/encl.)  
J. Schenkman (w/encl.)

Exhibit I  
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North Ft. Myers Utility, Inc.  
 Schedule of Above and Below the Line Taxable Income (Loss)  
 Fiscal Year Ended May 31, 1994

Line  
No.

1	<u>Above the line taxable income</u>	
2	Gross receipts/sales (Line 1c)	\$ 1,026,290
3	Cost of goods sold (Line 2, Schedule A, Statement 3):	
4	Cost of labor	226,931
5	Utilities	70,904
6	Repairs and maintenance	20,250
7	Supplies	<u>25,634</u>
8		<u>343,719</u>
9	Gross profit	<u>682,571</u>
10	Deductions:	
11	Salaries and wages (Line 13a)	132,419
12	Repairs and maintenance (Line 14)	6,233
13	Rents (Line 16)	7,123
14	Taxes and licenses (Line 17) (Schedule No. 3)	90,291
15	Interest (Line 18) (Schedule No. 3)	167,745
16	Depreciation (Line 21b) (Schedule No. 3)	216,672
17	Other deductions (Line 26) (Schedule No. 4)	<u>118,277</u>
18		<u>738,760</u>
19	Above the line taxable income before CIAC	<u>(56,189)</u>
20	CIAC	409,690
21	Gross-up	<u>191,017</u>
22		<u>600,707</u>
23	Total above the line taxable income	<u>544,518</u>
24	<u>Below the line taxable income (loss)</u>	
25	Income:	
26	Interest (Line 5)	33,504
27	Miscellaneous (Line 10, Statement 1)	<u>5,226</u>
28		<u>38,730</u>
29	Deductions:	
30	Cost of goods sold (Line 2, Schedule A, Statement 3):	
31	Security	682 -
32	Engineering and testing	221,749 ✓
33	Officers compensation (Line 12)	179,888 ✓
34	Taxes (Line 17) (Schedule No. 3)	18,870
35	Interest (Line 18) (Schedule No. 3)	1,082,815
36	Depreciation (Line 21b) (Schedule No. 3)	256,954
37	Other deductions (Line 26) (Schedule No. 4)	<u>176,073</u>
38		<u>1,937,031</u>
39	Total below the line tax loss	<u>(1,898,301)</u>
40	Total taxable income (loss) (Line 28)	(1,353,783)
41	Below the line net operating loss deduction (Line 29c)	<u>(1,368,646)</u>
42	Total taxable income (loss) (Line 30)	<u>\$ (2,722,429)</u>

North Ft. Myers Utility, Inc.  
Schedule of Above and Below the Line "Other Deductions"  
Fiscal Year Ended May 31, 1994

Line  
No.

1	Above the line "Other deductions":	
2	Insurance	\$ 52,901
3	Accounting	30,000
4	Telephone	12,951
5	Office expense and bank charges	<u>22,425</u>
6	Total above the line "Other deductions"	<u>118,277</u>
7	Below the line "Other deductions":	
8	Accounting	18,317
9	Legal	122,553
10	Travel and entertainment	19,533
11	Amortization	<u>15,670</u>
12	Total below the line "Other deductions"	<u>176,073</u>
13	Total "Other deductions"	<u>\$294,350</u>