

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Cancellation by Florida Public)	DOCKET NO. 910571-SU
Service Commission of tariff gross-up)	ORDER NO. 25256
authority of SOUTH SEAS UTILITY COMPANY)	ISSUED: 10/28/91
in Lee County)	
_____)	

The following Commissioners participated in the disposition of this matter:

THOMAS M. BEARD, CHAIRMAN
 SUSAN F. CLARK
 J. TERRY DEASON
 BETTY EASLEY

NOTICE OF PROPOSED AGENCY ACTIONORDER CANCELING TARIFF GROSS-UP AUTHORITY

BY THE COMMISSION:

NOTICE IS HEREBY GIVEN by the Florida Public Service Commission that the action discussed herein is preliminary in nature and, as such, 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.

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. South Seas Utility Company (South Seas or Utility) requested and was granted authority to gross-up its CIAC in order to meet the tax impact resulting from the inclusion of CIAC as gross income.

In Order No. 23541, issued October 1, 1990, we determined that any water and wastewater utilities 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. When the utility did not file its petition for

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approval to continue gross-up of CIAC, proceedings were initiated to cancel the utility's tariff authority to gross-up. Prior to canceling the utility's authority to gross-up, we discovered that the utility never received notice of Order No. 23541. By letter dated June 13, 1991, the utility was instructed to file its petition to continue gross-up no later than September 12, 1991. On September 9, 1991, South Seas requested that its time to file the petition for approval be extended to September 30, 1991. By letter dated September 30, 1991, the utility informed the Commission that it had decided not to file for continued authority to gross-up.

As a result, the current tariff is in violation of Order No. 23541, and South Seas' existing tariff authority to gross-up as contained in Wastewater Original Sheets No. 26.0, 27.0 and 28.0 is hereby canceled. The cancellation will be effective at the close of the protest period. If a substantially affected person does not file a petition for a formal proceeding regarding the cancellation within twenty-one (21) days of the date of issuance of this Order, this docket shall be closed.

Based on the foregoing, it is, therefore,

ORDERED by the Florida Public Service Commission that South Seas Utility Company in Lee County is no longer authorized to collect the gross-up on CIAC. It is further

ORDERED that the South Seas Utility Company's existing tariff authority to gross-up as contained in Wastewater Original Sheets Nos. 26.0, 27.0, and 28.0 is hereby canceled. It is further

ORDERED that the provisions of this Order are issued as proposed agency action and shall become final, unless a person whose interests are substantially affected files an appropriate petition in the form provided by Rule 25-22, Florida Administrative Code, with the Director, Division of Records and Reporting, 101 East Gaines Street, Tallahassee, Florida 32399-0870, by the close of business on the date set forth in the "Notice of Further Proceeding or Judicial Review" attached hereto. It is further

ORDERED that this docket shall be closed if no timely protest is received from a substantially affected person.

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By ORDER of the Florida Public Service Commission, this
28th day of OCTOBER, 1991.

STEVE TRIBBLE, Director
Division of Records and Reporting

(S E A L)

LAJ

by: Kay Hagan
Chief, Bureau of Records

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.59(4), Florida Statutes, to notify parties of any administrative hearing or judicial review of Commission orders that is available under Sections 120.57 or 120.68, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing or judicial review will be granted or result in the relief sought.

The action proposed herein is preliminary in nature and will not become effective or final, except as provided by Rule 25-22.029, Florida Administrative Code. Any person whose substantial interests are affected by the action proposed by this order may file a petition for a formal proceeding, as provided by Rule 25-22.029(4), Florida Administrative Code, in the form provided by Rule 25-22.036(7)(a) and (f), Florida Administrative Code. This petition must be received by the Director, Division of Records and Reporting at his office at 101 East Gaines Street, Tallahassee, Florida 32399-0870, by the close of business' on 11/18/91.

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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 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 sewer utility by filing a notice of appeal with the Director, Division of Records and Reporting and filing a copy of the notice of appeal and the filing fee with the appropriate court. This filing must be completed within thirty (30) days 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.