

## BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Request for continuation )	DOCKET NO. 901020-WS
of gross-up of contributions-in- )	ORDER NO. 25526
aid-of-construction (CIAC) in )	ISSUED: 12-24-91
Pasco County by ALOHA UTILITIES, )	
INC. )	
_____ )	

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 ACTION

ORDER APPROVING CONTINUED GROSS-UP OF  
CONTRIBUTIONS-IN-AID-OF-CONSTRUCTION AND  
REQUIRING REFUND

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 formal proceedings pursuant to Rule 25-22.029, Florida Administrative Code.

Case Background

In Order No. 23541, issued October 1, 1990, we determined that any water and wastewater utility currently collecting the gross-up on contributions-in-aid-of-construction (CIAC) must file a petition for continued authority to gross-up. In Order No. 23689, issued October 29, 1990, we extended the time to file petitions to continue to gross-up to January 2, 1991. On December 28, 1990, Aloha Utilities, Inc., (Aloha or utility) timely filed a petition requesting approval to continue to collect the gross-up on its CIAC.

Approval to Continue Gross-up

In accordance with Order No. 23541, Aloha has provided the Commission with a demonstration of actual tax liability, cash flow statements, a statement of interest coverage indicating its times interest earned (TIE) ratio, a statement as to whether it has an alternative source of financing payment of taxes associated with CIAC available at a reasonable rate, and justification for the

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gross-up. The utility did not file tariff sheets with the application, but filed them later.

The information submitted demonstrates that Aloha will have an above-the-line tax liability as a result of its collection of CIAC, that liquid funds are not adequate to pay taxes on CIAC, that Aloha's TIE ratios for the years 1987 through 1989 are below the 2x ratio threshold established in Order No. 23541, and that alternative sources for financing the utility's payment of taxes on CIAC are not available.

In its justification for the gross-up, Aloha emphasizes that it has a significant tax liability and no funds to pay the taxes on CIAC. Aloha has selected the full gross-up method because it is the least-cost alternative and will not result in a competitive disadvantage or a decrease in utility growth.

In consideration of the foregoing, we find that Aloha has demonstrated a continued need to collect the gross-up. Therefore, Aloha's request to continue collecting the gross-up is hereby approved. The proposed tariffs submitted by Aloha shall be approved as filed and shall be effective after the expiration of the protest period.

#### Refund

By Orders No. 16971 and 23541, we required that all gross-up amounts in excess of a utility's actual tax liability resulting from its collection of CIAC should be refunded, with interest, on a pro rata basis to those persons who contributed the taxes. As a part of its filing for authority to continue to gross-up, the utility has proposed refunds of \$4,373 for 1987 and \$15,931 for 1989, a total of \$20,304. No refund was proposed for 1988 collections because the utility undercollected the gross-up for that year.

The utility's proposed refund represents the excess of gross-up collected and interest earned on amounts escrowed over the actual amount of taxes paid on the CIAC collections. We have reviewed the base refund calculation and agree with the proposed amount. Interest on each year's refund amount, however, should be accrued from December 31 of that year through the date of the refund. The refund should be made on a pro rata basis to those who contributed the taxes. The refund should be completed within six months. Aloha must file with the Commission a report of the refund, including copies of cancelled refund checks, so that we may

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verify the amount of the refund. This filing must occur upon completion of the refund.

In consideration of the foregoing it is

ORDERED by the Florida Public Service Commission that the request of Aloha Utilities, Inc., to continue collecting the gross-up on contributions-in-aid-of-construction is hereby granted. It is further

ORDERED that Aloha Utilities, Inc., shall within six months of the date of the Order make a refund in the amount of \$20,304 with interest calculated to the date of the refund on a pro rata basis to those who contributed the gross-up taxes. It is further

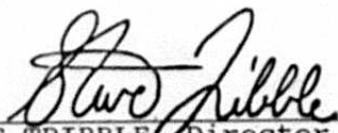
ORDERED that Aloha Utilities, Inc., must upon completion of the refund file with the Commission a report of the refund, including copies of cancelled refund checks.

ORDERED that the proposed tariffs filed by Aloha Utilities, Inc., will be approved as filed and shall be effective at the expiration of the protest period referenced below, if no protests are filed. 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 this docket will be closed if no protests are timely filed.

By ORDER of the Florida Public Service Commission, this  
24th day of December, 1991.

  
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STEVE TRIBBLE, Director  
Division of Records and Reporting

( S E A L )  
MJF

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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  
1-14-92.

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.