

agreements clauses providing for contingency collections of gross-up if section 118(b) was repealed. When the Tax Reform Act of 1986 was signed into law on October 22, 1986, making CIAC taxable, the Commission, in response to a request from the FWWA, issued Order No. 16971 on December 12, 1986. This Order provided emergency relief and allowed for the filing of tariffs for gross-up.

Now, however, through passage of the Small Business Job Protection Act of 1996 (the Act) by Congress on August 1, 1996, and signed by President Clinton on August 20, 1996, CIAC collected by water and wastewater utilities again became non-taxable on a retroactive basis effective for amounts received after June 12, 1996.

REVOCATION OF AUTHORITY TO COLLECT GROSS-UP ON CIAC

With the passage of the Act, CIAC was returned to its former, non-taxable status. Because CIAC ceased to be taxable after June 12, 1996, the authority of utilities to collect gross-up on CIAC shall be revoked within 30 days of the date of this order, unless the utilities file for a variance. The tariff cancellations will be handled individually for each utility named on Attachment "A", which is incorporated herein by reference.

REFUND OF COLLECTED GROSS-UP

Order No. 16971, issued December 18, 1986, and Order No. 23541, issued October 1, 1990, required utilities to deposit gross-up collected into a fully funded interest bearing escrow account. Order No. 16971 further provided that monies in the escrow account could be withdrawn periodically for the purpose of paying that portion of the estimated federal and state income tax which could be shown to be directly attributable to the repeal of Section 118(b) of the Internal Revenue Code and the inclusion of CIAC in taxable income.

Now, with the passage of the Act, with the effective date being made retroactive, the utilities will not need the gross-up they may have collected and retained after June 12, 1996. Thus, unless a utility files for a variance as set out above, all utilities shall refund, with interest, any gross-up which they collected after this date and still hold, to those who paid the gross-up. The utilities shall refund the gross-up to those who paid it within 60 days of the date the proposed agency action portion of this decision becomes final. Further, each utility shall provide copies of canceled checks, or other evidence, verifying that the refunds have been made, within 30 days from the date of the refund.

CLOSING OF DOCKET

The refunds ordered by this docket shall be verified. After verification, if no person whose interests are substantially affected by the proposed action files a protest within the 21 day protest period, this docket shall be closed.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that the authority of the utilities listed on Attachment "A" of this order to collect gross-up on contributions-in-aid-of-construction shall be revoked as set forth in the body of this Order. It is further

ORDERED that the utilities listed on Attachment "A" of this Order shall have 30 days to apply for a variance. It is further

ORDERED that the utilities listed on Attachment "A" of this Order shall make refunds, with interest, within 60 days of the proposed agency action portion of this Order becoming final, as set forth in the body of this Order. It is further

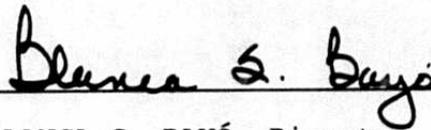
ORDERED that the provisions of this Order requiring refunds, issued as proposed agency action, shall become final and effective unless an appropriate petition, in the form provided by Rule 25-22.036, Florida Administrative Code, is received by the Director, Division of Records and Reporting, 2540 Shumard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

ORDERED that the utilities listed on Attachment "A" of this Order shall provide copies of canceled checks, or other evidence, verifying that the refunds have been made, within 30 days of the date of the refund. It is further

ORDERED that this docket shall be closed if no timely protest is received from a substantially affected person, upon staff's verification that the utilities listed on Attachment "A" of this Order have made the required refunds as set forth in this Order.

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By ORDER of the Florida Public Service Commission, this 20th
day of September, 1996.



BLANCA S. BAYÓ, Director
Division of Records and Reporting

(S E A L)

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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.

As identified in the body of this order, our action concerning refunds 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 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on October 11, 1996. In the absence of such a petition, this order shall become effective on the date 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.

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If the relevant portion of 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.

Any party adversely affected by the Commission's final action in this matter may request: (1) reconsideration of the decision by filing a motion for reconsideration with the Director, Division of Records and Reporting within fifteen (15) days of the issuance of this order in the form prescribed by Rule 25-22.060, Florida Administrative Code; or (2) judicial review by the Florida Supreme Court in the case of an electric, gas or telephone utility or 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 after the issuance 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.

Attachment A

UTILITIES WITH AUTHORITY TO GROSS-UP

Net present value gross-up: Palm Coast, Flagler County
Full gross-up:

Aloha Utilities, Inc.	Pasco County
Bocilla Utilities, Inc.	Charlotte County
Eagle Ridge Utilities, Inc.	Lee County
Forest Utilities, Inc.	Lee County
Fountain Lakes Sewer Corp.	Lee County
Gulf Aire Wastewater Treatment Plant	Gulf County
Gulf Utility Company	Gulf County
Hudson Bay Company	Pasco County
Hydratech Utilities, Inc.	Martin County
Indiantown Company, Inc.	Martin County
JJ's Mobile Homes, Inc.	Lake County
Lake Groves Utilities, Inc.	Lake County
Lake Hills Utility Company	Lake County
North Fort Myers Utilities, Inc.	Lee County
Orange-Osceola Utilities, Inc.	Osceola County
Ortega Utility Company	Duval County
Parkland Utilities, Inc.	Broward County
Poinciana Utilities, Inc.	Polk County
Rampart Utilities, Inc.	Charlotte County
Rolling Oaks Utilities, Inc.	Citrus County
Sandalhaven Utilities, Inc.	Charlotte County
Sanlando Utilities Corp.	Seminole County
Sunray Utilities, Inc.	Nassau County
Tradewinds Utilities, Inc.	Marion County