

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application of Kingsley Service Company in Clay County for approval to increase service availability charges, pay income taxes on CIAC rather than pass them on to developer, and approve inclusion of its investment in income taxes in rate base.	)	DOCKET NO. 891316-WS
	)	ORDER NO. 23114
	)	ISSUED: 6-25-90
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The following Commissioners participated in the disposition of this matter:

- MICHEAL McK. WILSON, Chairman
- THOMAS M. BEARD
- BETTY EASLEY
- GERALD L. GUNTER

NOTICE OF PROPOSED AGENCY ACTION

ORDER GRANTING A REDUCTION IN CONTRIBUTED TAXES AND AUTHORIZING PREPAID CONTRIBUTED TAXES TO BE INCLUDED IN RATE BASE

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.

BACKGROUND

On November 20, 1989, Kingsley Service Company (Kingsley or utility) filed a petition requesting an increase in service availability charges. It also requested authorization to pay the income taxes on contributions-in-aid-of-construction (CIAC) and to include its investment in income taxes in rate base. Kingsley filed an amended petition on March 5, 1990. In this amended petition, the utility only sought a reduction in its CIAC gross-up percentage and authorization to include prepaid CIAC taxes (debit deferred taxes) in rate base.

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Kingsley was authorized to collect the gross-up on CIAC by Commission Order No. 19938, issued September 7, 1988. The utility attributes a slowdown in its growth since that date to the adverse effect of the CIAC tax on the economic feasibility of projects proposed by its developer customers.

#### REDUCTION IN CIAC GROSS-UP

In order to lessen expenses incurred by its developer customers, Kingsley requested authorization to reduce the CIAC gross-up from 59.566 percent to 25.17 percent. Kingsley lacks adequate cash flow to eliminate the collection of all CIAC gross-up.

Kingsley's plant capacity charges are \$147 for water and \$300 for wastewater. Developers must also pay for all on-site facilities and off-site extensions. The 59.566 percent CIAC gross-up increases the charges an additional \$1,309, resulting in a total service availability charge of \$3,506. A decrease in the CIAC gross-up to 25.17 percent will result in reducing this charge by \$756. This reduction results in a total service availability charge of \$2,750.

We allow a utility to decide whether it will file for authority to gross-up. Here, Kingsley balanced its cash flow needs with competitive and economic realities within its service area. The result of this analysis was that although the utility has insufficient cash flow to pay the entire tax liability on CIAC, it will be to its economic benefit to pay a portion of the tax. Kingsley believes that the resulting reduction in the service availability charge will encourage development and lead to an increased customer base within its service area.

Kingsley has proposed a reasonable solution to its current economic needs. Therefore, we find it appropriate to approve the utility's request to file revised tariff sheets to reduce the CIAC gross-up percentage from 59.566 percent to 25.17 percent. This reduction shall become effective upon the revised tariff sheets being approved and this Order becoming effective and final.

#### INCLUSION OF PREPAID CIAC TAXES IN RATE BASE

Kingsley requested authorization to account for the amount of the tax liability that it incurs on CIAC by charging the tax gross-up to a deferred income tax account. Since the tax gross-up represents prepaid income taxes, the deferred tax account will be debited in the amount of the gross-up.

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The utility's debit deferred income taxes will be reduced by the credit deferred taxes that result because of the timing differences associated with accelerated tax depreciation on the contributed assets. The utility requested approval to include the balance remaining from time to time in the deferred income tax account as part of its rate base for ratemaking purposes. We find it appropriate to approve this treatment of the net deferred tax balance because it will not materially affect customers. We have previously approved this treatment of the net deferred tax balance by Jacksonville Suburban Utilities in Order No. 21265, issued May 22, 1989.

Based on the foregoing, it is therefore

ORDERED by the Florida Public Service Commission that the amended petition of Kingsley Service Company requesting a reduction in its CIAC gross-up percentage from 59.566 percent to 25.17 percent and authorization to include prepaid CIAC taxes in its rate base is hereby granted. It is further

ORDERED that those provisions of this Order, issued as proposed agency action, shall become final, unless an appropriate petition in the form provided by Rule 25-22, Florida Administrative Code, is received by the Director, 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 Kingsley Service Company shall file revised tariff sheets to be effective upon being approved and this Order becoming effective and final. It is further

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

By ORDER of the Florida Public Service Commission  
 this 25th day of June, 1990.

  
 STEVE TRIBBLE, Director  
 Division of Records and Reporting

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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 July 16, 1990.

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, and as reflected in a subsequent order.

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.