

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for ) DOCKET NO. 910109-WS  
continuation of gross-up of )  
Contributions-in-Aid-of- )  
Construction (CIAC) in Nassau ) ORDER NO. PSC-92-0130-FOF-WS  
County by SUNRAY UTILITIES, )  
INC. )  
\_\_\_\_\_ ) ISSUED: 3/31/92

The following Commissioners participated in the disposition of this matter:

THOMAS M. BEARD, Chairman  
SUSAN F. CLARK  
J. TERRY DEASON  
BETTY EASLEY  
LUIS J. LAUREDO

ORDER APPROVING TARIFF TO CONTINUE GROSS-UP OF  
CONTRIBUTIONS-IN-AID-OF-CONSTRUCTION

BY THE COMMISSION:

BACKGROUND

In Order No. 23541, issued October 1, 1990, we determined that any water and wastewater utility currently grossing-up contributions-in-aid-of-construction (CIAC) must file a petition for continued authority to gross-up. On February 1, 1991, Sunray Utilities, Inc. (Sunray or utility) timely filed a petition requesting approval to continue to collect the gross-up on its CIAC and to refund a certain amount of the gross-up collected. The information as filed did not meet the minimum filing requirements of Order No. 23541, and additional information was requested from the utility. The additional information including the proposed tariff was received from Sunray on January 21, 1992.

Sunray is a Class C water and wastewater utility providing service to the public in Nassau County. Currently, Sunray is negotiating with several major developers who plan to construct an industrial park and warehouse complex in conjunction with the Port of Fernandina. By park engineers' estimation, the park will require 900 equivalent residential connections (ERCs). In addition, Sunray is interested in a commercial/industrial planned

DOCUMENT NUMBER-DATE

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unit development and a 400 ERC combination single family/multi-family planned unit development.

APPROVAL OF TARIFF TO CONTINUE GROSS-UP

In accordance with Order No. 23541, Sunray has provided the Commission with a statement of interest coverage indicating a times interest earned (TIE) ratio of no more than 2x and a statement that it does not have an alternative source of financing available at a reasonable rate. The filing indicates that Sunray will incur an actual above-the-line tax liability in 1992 as a result of its projected collections of CIAC. Sunray is in the early phases of operation. Actual data filed for 1990 reflects an above-the-line loss of \$253,788.

Although Sunray had an above-the-line loss of \$253,788 for 1990 and continues to incur operating losses, the utility is part of a consolidated tax filing where those losses have been used. Because, on a stand alone basis, the losses would have had a future value to the utility and its ratepayers, their use should have been recognized through creation of a negative tax expense with offsetting deferred taxes which should be included in the utility's capital structure at a zero cost rate. Thus the net operating losses are not available to offset taxable income that may result because of the receipt of CIAC. For ratemaking purposes, recognition of the deferred taxes will occur in annual earnings review and future rate proceedings. Order No. 23541 does not require cash flow statements for Class C utilities.

Further, Sunray provided justification for the gross-up, that based on its total gross operating revenue generated in 1990 and projected revenues for 1991 and 1992. The utility states it will not be able to generate enough revenues to cover its operating expenses and taxes associated with CIAC, and service debt associated with the proposed development. Moreover, Sunray states that its weak financial position would make it difficult to obtain alternative financing. Sunray also indicated that it selected the full gross-up method because of its small size and the complicated record keeping associated with the net present value method. Finally, Sunray submitted proposed tariffs for the gross-up. Based on the information filed, we find that the utility has demonstrated a continued need to collect the gross-up. Its proposed tariff to continue collecting the gross-up is, therefore, approved. The proposed tariff filed by Sunray will be effective on the stamped

ORDER NO. PSC-92-0130-FOF-WS  
DOCKET NO. 910109-WS  
PAGE 3

approval date of the tariff if no timely protest is filed. If a timely protest is filed, the tariff shall remain in effect with gross-up collections held subject to refund pending resolution of the protest.

All gross-up CIAC collections are to be made in accordance with the accounting and regulatory treatments and record keeping prescribed in Orders Nos. 16971, issued December 18, 1986, and 23541, and all matters discussed in the body of those Orders are expressly incorporated herein by reference.

In consideration of the foregoing, it is,

ORDERED by the Florida Public Service Commission that the proposed tariff filed by Sunray Utilities, Inc., for authority to continue collecting the gross-up on CIAC is hereby approved. It is further

ORDERED that all gross-up of CIAC collections are to be made in accordance with the provisions of Orders Nos. 16971 and 23541, which are incorporated herein by reference. It is further

ORDERED that the tariff filed by Sunray shall be effective on the stamped approval date on the tariff if no timely protest is filed. In the event that a timely protest is filed, the tariff shall remain in effect with gross-up collections held subject to refund pending resolution of the protest. It is further

ORDERED that, if no timely protest is received, this docket may be closed.

By ORDER of the Florida Public Service Commission, this 31st day of March, 1992.



STEVE TRIBBLE, Director

Division of Records and Reporting

( S E A L )

MJF/NRF

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 Commission's decision on this tariff is interim in nature and will become final, unless a person whose substantial interests are affected by the action proposed files a petition for a formal proceeding, as provided by Rule 25-22.036(4), Florida Administrative Code, in the form provided by Rule 25-22.036(7)(a)(d) and (e), 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 April 21, 1992.

In the absence of such a petition, this Order shall become final 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 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 date this Order becomes final, 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.