BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Request by FLORIDA WATERWORKS ASSOCIATION for investigation of proposed repeal of Section 118(b), Internal Revenue Code (Contributions-in-aid-of-construction)	)	DOCKET NO. 860184-PU ORDER NO. 24063 ISSUED: 2-4-91

ORDER GRANTING EXTENSIONS OF TIME TO FILE REQUESTS FOR GROSS-UP

Pursuant to the Tax Reform Act of 1986, on January 1, 1987, contributions-in-aid-of-construction (CIAC) became includible in gross income for federal income tax purposes. Accordingly, by Order No. 16971, issued December 18, 1986, this Commission authorized corporate utilities to elect to "gross-up" CIAC in order to meet the resulting tax effect.

By Order No. 21266, issued May 22, 1989, the Commission proposed to establish certain guidelines to control the collection of the gross-up. On June 12, 1989, the Florida Waterworks Association and fourteen individual water and/or wastewater utilities protested Order No. 21266.

By Order No. 21436, issued June 26, 1989, we proposed to require several utilities to refund certain amounts of the gross-up collected or to make one-time adjustments to their depreciation revenues. On July 17, 1989, six individual water and/or wastewater utilities protested Order No. 21436. Based upon the protests of Orders Nos. 21266 and 21436, we held a hearing on these matters on April 27 and 30, 1990.

By Order No. 23541, issued October 1, 1990, we authorized the continued use of the gross-up, prescribed regulatory and accounting treatments for the gross-up, and required refunds of certain gross-up amounts collected. Although we endorsed the gross-up, we determined that it should only be allowed upon our approval and required all utilities that wish to collect the gross-up, whether or not they are already doing so, to file a formal request for the gross-up with this Commission. As for those utilities that are currently collecting the gross-up, we allowed them to continue to do so pending their filing such a request on or before October 29, 1990. This deadline was extended up to and including January 2, 1991 by Order No. 23689.

By letter dated December 28, 1990, Rolling Oaks Utilities, Inc., originally requested a 30 day extension of time beyond that allowed under Order No. 23689 in which to file the information required by Order No. 23541 to demonstrate a continuing need for the gross-up authority. By letter dated January 24, 1991, Rolling Oaks has requested an additional 21 day extension of time to file that formal request, and the accompanying schedules. As

justification for this requested extension, Rolling Oaks Utilities, Inc., in each of their requests, notes that the financial statements and tax returns of the Utility for the fiscal year ended June 30, 1990, have not yet been completed, though they are in the final stages of completion. The Utility alleges that these will form the primary basis for the demonstration of continuing need for gross-up authority.

We agree that the most recent financial information of the Utility is needed in order to properly evaluate their request for continued gross-up authority, and that without the most recent financial data, currently in the final stages of preparation, the Commission would have to rely upon schedules from a fiscal year and tax year approximately one and one-half years old, as the basis for that determination. In addition, since there are not time limitations imposed by statue or rule, and since it does not appear that anyone will be prejudiced by the granting of Rolling Oaks Utilities, Inc.'s, request for extension of time, it is hereby granted.

It is, therefore,

ORDERED by Commissioner Michael McK. Wilson, as Prehearing Officer, that the request for extension of time up to and including February 22, 1991, filed by Rolling Oaks Utilities, Inc., is hereby granted. It is further

ORDERED that Rolling Oaks Utilities, Inc., shall retain interim gross-up authority uninterrupted pending final disposition of its request for permanent approval of that authority.

By ORDER of Commissioner Michael McK. Wilson, as Prehearing Officer, this 4th day of FEBRUARY, 1991.

Michael McK. Wilson

COMMISSIONER MICHAEL McK. WILSON,
as Prehearing Officer

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.

Any party adversely affected by this order, which is preliminary, procedural or intermediate in nature, may request: 1) reconsideration within 10 days pursuant to Rule 25-22.038(2), Florida Administrative Code, if issued by a Prehearing Officer; 2) reconsideration within 15 days pursuant to Rule 25-22.060, Florida Administrative Code, if issued by the Commission; or 3) 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 sewer utility. A motion for reconsideration shall be filed with the Director, Division of Records and Reporting, in the form prescribed by Rule 25-22.060, Florida Administrative Code. Judicial review of a preliminary, procedural or intermediate ruling or order is available if review of the final action will not provide an adequate remedy. Such review may be requested from the appropriate court, as described above, pursuant to Rule 9.100, Florida Rules of Appellate Procedure.