

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for disposition)	DOCKET NO. 910191-WS
of contributions-in-aid-of)	
construction (CIAC) gross-up)	ORDER NO. 25776
monies by SOUTHSIDE UTILITIES,)	
INC. in Duval County)	ISSUED: 2/24/92
_____)	

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

NOTICE OF PROPOSED AGENCY ACTIONORDER APPROVING 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 adversely affected files a petition for a formal proceeding, pursuant to Rule 25-22.029, Florida Administrative Code.

BACKGROUND

By Order No. 16971, issued December 18, 1986, the Commission granted approval for water and wastewater utilities to amend their service availability policies to meet the tax impact on contributions-in-aid-of-construction (CIAC) resulting from the amendment of Section 118(b) of the Internal Revenue Code. Order No. 23541, issued October 1, 1990, ordered utilities currently grossing-up CIAC to file a petition for continued authority to gross-up by October 29, 1990, and also ordered that no utility may gross-up CIAC without first obtaining the approval of this Commission. By Order No. 23689, issued October 29, 1990, Southside was granted an extension of time, and was ordered to file a petition for continued authority to gross-up CIAC by January 2, 1991. On December 28, 1990, Southside filed its petition for continued gross-up authority. By Order No. 25527, issued December 24, 1991, this Commission granted Southside continued authority to gross-up CIAC.

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Orders Nos. 16971 and 23541 also prescribed the accounting and regulatory treatments for the gross-up and required refunds of certain gross-up amounts collected. On January 14, 1991, pursuant to Commission Orders Nos. 16971, 23541 and 23689, Southside filed its request for disposition of CIAC tax gross-up monies collected. Upon review of the information filed, it was determined that additional information was needed before we could determine the amount of gross-up collected. The utility filed the additional information on October 25, 1991.

Southside submitted a schedule of tax on CIAC and proposed refund. The utility requested that no refund be made for the fiscal years ended June 30, 1987 through 1990. Our review of the information which was provided by the utility for the fiscal year ended June 30, 1987, indicates that the utility did not incur an above-the-line tax liability either before or after the collection of CIAC. Further, our calculation of the refund indicates that for the fiscal year ended June 30, 1987, the utility collected \$2,932 of gross-up in excess of the resulting tax liability. Our findings also indicate that for each of the years ended June 30, 1988 through June 30, 1990, the utility's actual above-the-line tax liability exceeded the amount of gross-up collected and thus, no excess gross-up monies were collected for those years.

Based on the information stated above and the facts represented to us, we find it appropriate to refund \$2,932 with interest, pro rata to those persons who contributed the taxes, for the fiscal year ended June 30, 1987. No refund will be made for the fiscal years ended June 30, 1988 through June 30, 1990. Interest must be calculated through the date of the refund. The refund must be completed within six (6) months from the date of this Order. The utility must submit copies of cancelled checks, credits applied to monthly bills, or other evidence which verifies that the refunds have been made.

Based on the foregoing, it is therefore,

ORDERED by the Florida Public Service Commission that Southside Utilities, Inc.'s request to refund \$2,932 pro rata to contributors, for the fiscal year ended June 30, 1987, is approved. It is further

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ORDERED that such refund shall include interest calculated through the date of the refund and shall be completed within six (6) months from the effective date of this Order. It is further

ORDERED that Southside Utilities, Inc. shall file copies of cancelled refund checks, credits applied to monthly bills, or other evidence for verification as set forth in the body of this Order. It is further

ORDERED that all 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 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 be closed, upon expiration of the protest period, if no timely protest is filed.

By ORDER of the Florida Public Service Commission, this 24th day of FEBRUARY, 1992.



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 3/16/92.

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.