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December 5, 1997

VIA HAND DELIVERY

Blanca S. Bayo, Director
Division of Records and Reporting
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399

Re: Parkland Utilities, Inc.; Docket No. 931141-WS
Gross-up Matters
Our File No. 21206.06

Dear Ms. Bayo:

Attached are the original and 15 copies of a letter to the Commission Staff Analyst to be filed in the above-referenced case dealing with 1994 and 1995 gross-up refunds for Parkland Utilities, Inc. As promised, the Utility is filing this information to attempt to avoid the cost of a formal hearing, and to outline to the staff one of the major errors in the staff recommendation that we believe, once reviewed, the staff will agree requires significant adjustment.

In order to fully explore the staff's position with regard to the issues raised in the attached letter, we believe a meeting with the staff members involved and their supervisors is necessary prior to the reissuance of the staff recommendation in this case. We would like the opportunity to meet with the staff sometime in the next two weeks, if at all possible, so that we can discuss the issues raised herein and the need, if any, for raising the additional areas of concern to the Utility prior to them reissuing a recommendation on this matter.

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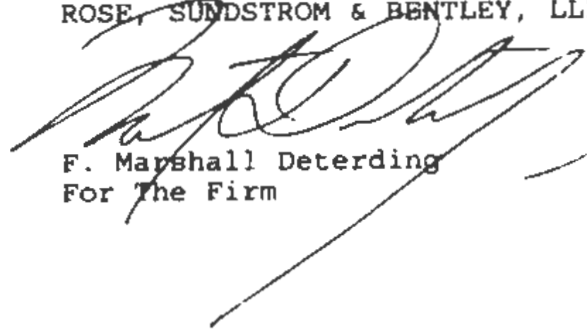
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Blanca S. Bayo, Director
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Should you or any members of the staff have any questions in this regard, please let me know.

Sincerely,

ROSE, SUNDSTROM & BENTLEY, LLP



F. Marshall Deterding
For The Firm

FMD/tms

Enclosures

cc: Jennifer Iwenjiora, Esquire
Ralph Jaeger, Esquire
Ms. Christine Romig
Mr. Ron Nunes
Robert C. Nixon, C.P.A.

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December 4, 1997

Ms. Jennifer Iwenjiora
Staff Analyst
Division of Water & Wastewater
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

Re: Parkland Utilities, Inc. - 1994 & 1995 Gross-up Refunds

Dear Jennifer:

Marty Deterding, Esq. requested that I write you concerning that portion of our analysis which has been completed since the deferral of the Staff Recommendation dated October 23, 1997.

There are several areas of disagreement over the calculations in the Staff Recommendation, as follows:

1. Staff grossly overstated Parkland's net operating loss (NOL) carryforward. Approximately \$628,000 of the \$1.6 million Staff calculated NOL simply does not exist.
2. Staff's decision to include all operating expenses, except depreciation and interest, as above the line expenses. Although the gross-up refund cases of Eagle Ridge and Forest Utilities were cited in the Recommendation as precedent, this is simply not the case. Those companies chose to settle their cases to avoid the costs and expense of trying this issue at a hearing. The Commission has never addressed above and below the line methodology for the allocation of expenses in a formal proceeding. Parkland continues to believe that its methodology based on expenses imbedded in the Company's rates, as adjusted for inflation and the small amount of customer growth, is reasonable and correct.

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Ms. Jennifer Iwenjiora
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3. The Staff Recommendation made no attempt to allocate the alleged \$1.6 million NOL between above the line and below the line activity.
4. The legal, accounting, and other expenses related to this proceeding were not considered.

My first step in responding to the Staff Recommendation was to apportion Staff's NOL between above and below the line activity. Instead of going back and doing the calculations based on Parkland's theory, I utilized the methodology Staff has consistently used in its approach to above and below the line allocations. In fact, the information enclosed with this letter is based on Staff's own calculations in workpapers provided to us by Staff and which are attached. Although we do not agree that this is the correct approach, I have nevertheless used it in an attempt to eliminate controversy without the added expense of extensive calculations and development of detailed responses to all areas of disagreement outlined above.

The enclosed schedule shows above and below the line allocation of the Staff calculation of NOLs from 1990 through 1994 and the impact on 1994 and 1995 gross-up refund computations using this information.

In the first section of the schedule, the above and below the line NOLs are based on Staff workpapers which were developed sometime in July, 1995. The only below the line allocated expense relates to depreciation in the years 1990 through 1994 and, in 1994, some interest. Staff's above the line depreciation numbers were not materially different than those previously calculated by the Utility. The same is true of interest for the year 1994. For your reference, I have attached copies of those Staff workpapers. Using this approach, the total NOL of \$1,653,279 is allocated \$976,973 to above the line activity and \$676,306 to below the line activity.

In the second section of the schedule, I have utilized the above the line NOL to offset above the line income per Staff, as shown in the Recommendation of October 23, 1997. As you will note, an immaterial gross-up undercollection of \$75 results for 1994 and a \$12 overcollection results for 1995.

I believe the enclosed schedule and attachments form a reasonable basis to come to a satisfactory resolution of this matter, since we have used Staff's own numbers in the calculations. If this Docket cannot be concluded based on the enclosed information, we will need to do additional analysis to prove to the Staff that the NOL of \$1.6 million simply does not exist by operation of the Tax Code. Further, we will need to accumulate all of the legal, accounting, and out-of-pocket expenses that have been incurred in this Docket, which are substantial.

Ms. Jennifer Iwenjiora
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Should you have questions or comments, I would appreciate your faxing me any of your questions in writing so that we may accurately respond. Of course, I would be available to answer any simple questions over the phone, as necessary.

Very truly yours,

CRONIN, JACKSON, NIXON & WILSON



Robert C. Nixon

RCN/apf

Enclosure

cc: F. M. Dsterding, Esq. (w/encl.)
R. Nunes (w/encl.)

Parkland Utilities, Inc.
 Staff Above & Below the Line Losses and
 1994 & 1995 Gross-up Refund Calculations

I.	NOLs	ATL NOL per Staff (1)	BTL NOL per Staff	Total NOL
	1990	\$ (204,771)	\$ (90,026)	\$ (294,797)
	1991	(217,942)	(168,592)	(386,534)
	1992	(246,464)	(109,063)	(355,527)
	1993	(143,962)	(108,236)	(252,198)
	1994	(163,834)	(200,389)	(364,223)
	Balance 02/28/94	<u>\$ (976,973)</u>	<u>\$ (676,306)</u>	<u>\$ (1,653,279)</u>

II. Estimated Gross-up Refunds Using Staff's NOLs & ATL Income

	12/31/94	12/31/95
ATL Income before CIAC	\$ 1,205,637	\$ 11,412
Less: NOL carryforward	<u>(976,973)</u>	<u>-</u>
Remaining ATL Income before CIAC	<u>\$ 228,664</u>	<u>\$ 11,412</u>
Taxable CIAC	\$ 133,240	\$ 457,588
First year depreciation	(1,160)	(11,787)
	132,080	445,801
	0.3763	0.3763
	49,702	167,755
	1.6033	1.6033
Tax required	79,687	268,962
Gross-up collected	<u>(79,612)</u>	<u>268,974</u>
(Refund) deficiency	<u>\$ 75</u>	<u>\$ (12)</u>

Notes: (1) Per Staff workpaper, July, 1995 (attached)

(2) Per Staff Recommendation dated 10/23/97 (attached)

PARKLAND UTILITIES, INC.
 Taxable Income
 For tax year ended 2-28-90

	Per Util. Annual Report FYE 12-31-89	Per Util. Tax Return FYE 2-28-90	Difference	A-T-L Per Utility	Staff Adjustments	A-T-L Per Staff
Revenue						
Gross receipts/sales	210,572	259,212	(48,640)	259,212	0	259,212
Interest						
Other Income						
Amortization of CIAC		63,824		63,824	0	63,824
Total Revenue	210,572	323,036	(48,640)	323,036	0	323,036
Deductions:						
Salaries & Wages	81,164	94,552		31,226	63,326	94,552
Bad Debts	0	0	0	0	0	0
Rents	746	958	(212)	373	585	958
Interest		0				
Taxes	38,845	42,548	(3,703)	26,899	15,649	42,548
Depreciation	93,115	241,527	(148,412)	110,669	31,812	142,501
Other Deductions:					0	
Insurance	8,306	8,955	(649)	8,461	2,494	8,955
Miscellaneous	14,497	27,061	(12,564)	9,380	17,681	27,061
Utilities (note1)	64,490	77,298	(12,808)	77,298	0	77,298
Chemicals	15,668	18,558	(2,890)	17,684	872	18,558
Materials & Supplies	14,711	18,398	(1,687)	10,431	5,967	18,398
Contract Services	78,704	90,127	(11,423)	90,127	0	90,127
Transportation	4,913	5,298	(385)	71	5,227	5,298
Sludge Removal	3,557	3,557			3,557	3,557
Adjustments					0	
Contribution			0		0	
Total Deductions	418,795	626,833	(194,650)	380,637	147,170	527,807
Taxable Income	(208,223)	(303,797)	146,010	(57,601)	(147,170)	(204,771)

PARKLAND UTILITIES, INC.
 Taxable Income
 For tax year ended 2-28-91

	Per Util. Annual Report FYE 12-31-90	Per Util. Tax Return FYE 2-28-91	Difference	A-T-L Income Per Utility	Staff Adjustments	A-T-L Income Per Staff
Revenue						
Gross receipts/sales	200,835	255,095	(54,260)	255,095	0	255,095
Interest						
Other Income						
Amortization of CIAC(A/R(84379))		64,380		64,380	0	64,380
Total Revenue	200,835	319,475	(54,260)	319,475	0	319,475
Deductions:						
Salaries & Wages	93,727	87,500	6,227	31,228	56,274	87,500
Bad Debts	155	0	155	0	0	0
Rents	1,196	1,408	(212)	373	1,035	1,408
Interest		0				
Taxes	44,128	42,992	1,134	27,811	15,381	42,992
Depreciation	107,687	200,988	(183,321)	123,388	46,859	172,047
Other Deductions:					0	
Insurance	12,071	9,688	2,383	8,461	3,227	9,688
Miscellaneous	15,404	13,249	2,155	9,380	3,869	13,249
Utilities (note1)	99,730	0	99,730	0	0	0
Chemicals	16,548	19,797	(3,249)	17,684	2,113	19,797
Materials & Supplies	7,322	124,648	(117,324)	102,534	22,112	124,648
Contract Services	94,420	111,717	(17,297)	100,847	10,870	111,717
Transportation	4,024	4,024	0	71	3,953	4,024
Sludge Removal	0	0			0	0
Adjustments(Indx--Pthr)					(49,851)	(49,851)
			0		0	
Total Deductions	496,390	706,009	(209,619)	421,575	115,842	537,417
Taxable Income	(295,555)	(386,534)	155,359	(102,100)	(115,842)	(217,942)

PARISLAND UTILITIES, INC.
 Taxable Income
 For tax year ended 2-28-82

	Per Util. Annual Report FYE 12-31-81	Per Util. Tax Return FYE 2-28-82	Difference	A-B-L Income Per Utility	Staff Adjustments	A-B-L Income Per Staff
Revenue						
Gross receipts/sales	290,995	348,953	(57,958)	348,953	0	348,953
Interest						
Other Income		34,450				
Amortization of CIAC						
Total Revenue	290,995	383,403	(57,958)	348,953	0	348,953
Deductions:						
Salaries & Wages	0	0		0	0	0
Bad Debts	0	0	0	0	0	0
Rents	892	962	(90)	373	609	962
Interest		0				
Taxes	23,493	24,962	(1,469)	20,998	3,964	24,962
Depreciation	133,785	267,311	(133,526)	77,793	79,940	157,733
Other Deductions:			0		0	
Insurance	3,668	3,670	(2)	3,670	0	3,670
Miscellaneous	16,324	62,010	(46,686)	9,380	52,630	62,010
Utilities (note 1)	100,789	114,034	(13,245)	0	114,034	114,034
Chemicals	21,883	28,328	(6,445)	17,684	10,642	28,328
Materials & Supplies	7,303	10,431	(3,128)	102,534	(92,103)	10,431
Contract Services	191,478	224,924	(33,446)	100,847	124,077	224,924
Transportation	2,280	2,280	0	71	2,209	2,280
Adjustments					0	
			0		0	
			0		0	
Total Deductions	501,895	738,930	(237,035)	333,360	296,002	629,362
Taxable Income	(210,900)	(355,527)	179,077	15,603	(296,002)	(280,399)
CIAC				33,935		33,935
Taxable Income w/CIAC				49,538		(246,464)

PARKLAND UTILITIES, INC.
 Taxable Income
 For tax year ended 2-28-93

Revenue	Per Util. Annual Report FYE 12-31-92	Per Util. Tax Return FYE 2-28-93	Difference	A-B-L Income Per Utility	Staff Adjustments	A-B-L Income Per Staff
Gross receipts/sales	395,119	410,855	(15,736)	410,855	0	410,855
Interest						
Other Income						
Amortization of CIAC(86933)						
Total Revenue	395,119	410,855	(15,736)	410,855	0	410,855
Deductions:						
Salaries & Wages	0	0			0	
Bad Debts	329	329	0	329	0	329
Rent	134	44	90	44	0	44
Interest	479	994		0	994	994
Taxes	29,925	29,830	95	29,010	3,820	29,830
Depreciation	142,891	263,990	(121,299)	79,744	76,010	155,754
Other Deductions:			0		0	
Insurance	3,180	3,180	0	3,180	0	3,180
Miscellaneous	8,832	7,332	1,300	7,332	0	7,332
Utilities (note 1)	99,430		99,430	0	0	0
Chemicals	28,098	24,531	3,567	17,984	6,847	24,531
Materials & Supplies	9,981	109,554	(99,593)	102,534	7,020	109,554
Contract Services	205,254	215,189	(9,835)	100,847	114,342	215,189
Transportation	8,890	8,080	(1,220)	71	8,009	8,080
Adjustments					0	0
			0		0	
					0	
Total Deductions	534,973	663,053	(127,985)	337,775	217,042	554,817
Taxable Income	(139,854)	(252,198)	111,829	73,080	(217,042)	(143,962)

PARKLAND UTILITIES, INC.
 Taxable Income
 For tax year ended 2-28-94
 Util. Pro Forma/Staff Actual

	Per Util. Annual Report FYE 12-31-93	Per Util. Tax Return FYE 2-28-94	Difference	Pro Forma A-T-L Income Per Utility	Staff Adjustments	A-T-L Income Per Staff
Revenue						
Gross receipts/sales	456,216	470,570	(14,354)	410,855	59,715	470,570
Interest						
Other Income						
Amortization of CIAC						
Total Revenue	456,216	470,570	(14,354)	410,855	59,715	470,570
Deductions:						
Salaries & Wages		0			0	
Bad Debts	576	576	0	329	247	576
Rents	0	200	(200)	44	156	200
Interest	206,367	206,367	0	0	98,233	98,233
Taxes	33,083	33,083	0	15,306	17,777	33,083
Depreciation	151,158	225,011	(73,853)	135,453	(2,697)	132,756
Other Deductions:		0			0	
Insurance	4,068	4,068	0	3,180	888	4,068
Miscellaneous	13,014	15,403	(2,389)	5,218	10,187	15,403
Utilities (note1)	105,622		105,622	0	0	
Chemicals	30,159	32,115	(1,956)	956	31,159	32,115
Materials & Supplies	10,650	119,481	(108,831)	87,385	32,096	119,481
Contract Services	203,138	190,056	13,082	60,074	139,982	190,056
Transportation	8,606	8,433	173	412	8,021	8,433
Adjustments					0	0
			0		0	
Total Deductions	768,439	834,793	(66,354)	298,355	336,049	634,404
Taxable Income	(310,223)	(364,223)	54,000	112,500	(278,334)	(163,834)

SCHEDULE NO. 1

PARLAND UTILITIES, INC.

STAFF CALCULATED GROSS-UP REFUND

	1994	1995
1 A-T-L TAXABLE INCOME PER UTILITY BEFORE CIAC	\$1,286,867	\$80,480
2 Plus taxable CIAC	133,400	487,888
3 A-T-L TAXABLE INCOME PER UTILITY	<u>\$1,420,267</u>	<u>\$1,288,368</u>
4		
5 STAFF ADJUSTMENTS		
6 (a) Remove initial provision fees		(4,140)
7 (b) First year's depreciation on contributed assets	(1,180)	(11,787)
8 (c) Adjust O&M expenses to amounts on PTT returns	(81,320)	(44,888)
9		
10		
11 TOTAL STAFF ADJUSTMENTS	<u>(82,680)</u>	<u>(60,815)</u>
12		
13 A-T-L TAXABLE INCOME PER STAFF	\$1,337,577	\$487,313
14 Less CIAC	(133,400)	(487,888)
15 Plus first year's depreciation on CIAC	1,180	11,787
16		
17 A-T-L TAXABLE INCOME PER STAFF BEFORE CIAC	<u>\$1,205,357</u>	<u>\$11,212</u>
18		
19 Less NOL carryforward	(81,882,278)	(3324,402)
20		
21 NOL remaining to offset against CIAC	<u>73,696,921</u>	<u>(3312,990)</u>
22		
23 Post 1986 CIAC	133,400	487,888
24 Less first year's depreciation on CIAC	(1,180)	(11,787)
25		
26 Post 1986 CIAC subject to gross-up	133,240	448,801
27		
28		
29 Adjusted income incl. CIAC & NOL	<u>(3324,402)</u>	<u>\$132,811</u>
30		
31		
32		
33 Net Post 1986 CIAC	\$132,240	\$448,801
34		
35 Taxable CIAC resulting in a tax liability	80	\$132,811
36 Less first year's depreciation	(78)	(78)
37		
38 Net taxable CIAC	80	\$132,811
39 Combined marginal state & federal tax rate	<u>37.83%</u>	<u>37.83%</u>
40		
41 Net income tax on CIAC	80	\$49,877
42 Less ITC realized	0	0
43		
44 Net income tax	80	\$49,877
45 Expense on form to gross up taxes	<u>1,80333</u>	<u>1,80333</u>
46		
47 Gross-up required to pay tax effect	80	\$80,129
48 Gross-up collected to pay tax effect	<u>78,812</u>	<u>788,874</u>
49		
50		
51 (OVER) OR UNDER COLLECTION	<u>(378,812)</u>	<u>(\$188,845)</u>
52		
53		
54 TOTAL YEARLY REFUND	<u>(378,812)</u>	<u>(\$188,848)</u>
55		
56		
57 PROPOSED REFUND (including interest)	<u>\$288,487</u>	
58		