

BCC Mtg. Date: June 5, 2018

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application for approval of tariff for the gross-up of CIAC in Charlotte, Highlands, Lake, Lee, Marion, Orange, Pasco, Pinellas, Polk, and Seminole Counties, by Utilities, Inc. of Florida.

DOCKET NO. 20180025-WS
ORDER NO. PSC-2018-0246-PAA-WS
ISSUED: May 11, 2018

The following Commissioners participated in the disposition of this matter:

ART GRAHAM, Chairman
JULIE I. BROWN
DONALD J. POLMANN
GARY F. CLARK
ANDREW GILES FAY

NOTICE OF PROPOSED AGENCY ACTION
ORDER ACKNOWLEDGING TREATMENT OF TAXES
AND
ORDER APROVING CANCELLATION OF
CIAC GROSS-UP TARIFFS

BY THE COMMISSION:

NOTICE is hereby given by the Florida Public Service Commission that the action discussed herein, acknowledging Utilities, Inc. of Florida's (UIF) requested treatment of taxes it pays for contributions in aid of construction (CIAC), is preliminary in nature and will become final unless a person whose interests are substantially affected files a petition for a formal proceeding, pursuant to Rule 25-22.029, Florida Administrative Code (F.A.C.).

Background

Utilities, Inc. of Florida (UIF or utility) is a Class A utility providing water and wastewater services to 27 systems in the following counties: Charlotte, Highlands, Lake, Lee, Marion, Orange, Pasco, Pinellas, Polk, and Seminole. The utility reported in its 2016 annual report, water operating revenues in the amount of \$2,498,891 and \$1,440,710 for wastewater

Pursuant to Order No. PSC-2018-0162-TRF-WS, issued March 26, 2018, in the instant docket, the Commission approved UIF's tariffs for the gross-up of contributions in aid of construction (CIAC). The gross-up amounts to be collected were subject to refund pending resolution of Docket No. 20180013-PU, In re: Petition to establish a generic docket to investigate and adjust rates for 2018 tax savings by Office of Public Counsel, and guaranteed by a corporate undertaking. UIF was ordered to file with its Annual Report a calculation detailing: (1) the

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c: County Mayor
Commissioner Districts 1, 2, 3 & 6 only
County Administrator
Utilities Department Director Ray Hanson

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amounts of cash and property contributions received during the reporting year; (2) the calculation of the utility's tax liability for the reporting year; and (3) the amount of taxes actually collected on CIAC for the reporting year. The reporting requirement was to begin with the 2018 Annual Report and continue each year thereafter.

On April 2, 2018, UIF filed a request for termination of its CIAC gross-up tariffs. Upon further reflection, UIF is concerned that requiring the gross-up of CIAC will eliminate its opportunity to obtain government grants, since it would require the amount of the grant to be increased to cover the income tax liability. In addition, UIF believes the CIAC gross-up may put the utility at a competitive disadvantage because developers may choose other alternatives in lieu of the utility's services to avoid paying the higher grossed-up CIAC. As an alternative, the utility stated that a developer could construct its own facilities and create a non-regulated homeowner's association to own and operate the facilities. Also, the utility indicated that an adjacent government-owned utility could create an incentive for the developer to find a way to circumvent UIF's exclusive service territory. As a condition of the requested termination of its CIAC gross-up tariffs, UIF asked for acknowledgement of its preferred treatment of the taxes it pays on CIAC.

This order addresses the utility's request for termination of its CIAC gross-up tariffs and the acknowledgement of its preferred treatment of the taxes it pays on CIAC. We have jurisdiction pursuant to Sections 367.081 and 367.091, Florida Statutes.

Decision

Acknowledging UIF's Requested Treatment of Taxes Paid on CIAC

Netting debit deferred taxes against credit deferred taxes is standard Commission practice.¹ Debit deferred taxes arise when a utility pays taxes that have not yet been collected from customers. Credit deferred taxes arise when customers have paid taxes through rates but the taxes have not yet been paid by the Company to the IRS. Net credit deferred taxes are included as zero-cost capital in the capital structure and net debit deferred taxes are included in rate base. It is uncommon for a utility to have a net debit deferred tax balance.

If CIAC is not grossed-up for taxes, the utility will pay the tax itself and will remain whole by netting debit deferred taxes against credit deferred taxes or including the debit deferred taxes in rate base. Such treatment is beneficial because it will allow UIF to obtain government grants without having to charge the governmental entity an additional amount for taxes and will keep from putting UIF at a competitive disadvantage regarding growth by avoiding a gross-up charge for taxes associated with CIAC.

¹ Order Nos. PSC-00-2054-PAA-WS, pp. 25-27, issued October 27, 2000, in Docket No. 990939-WS, In re: Application for rate increase in Martin County by Indiantown Company, Inc. and PSC-01-0326-FOF-SU, p. 38, issued February 6, 2001, in Docket No. 991643-SU, In re: Application for increase in wastewater rates in Seven Springs System in Pasco County by Aloha Utilities, Inc.

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Therefore, we hereby acknowledge that UIF's requested treatment of the taxes it pays on CIAC appears reasonable and is consistent with the Commission's regulatory practices.

Approving Termination of UIF's CIAC Gross-Up Tariffs

As stated in the case background, UIF requested acknowledgement of its preferred method of treatment of taxes to be paid on CIAC, which is to offset deferred taxes against credit deferred taxes in the capital structure. If the net of the credit and debit deferred taxes is a debit, the amount is included in rate base. As discussed above, we acknowledge that the utility's requested treatment is standard Commission practice. As a result, we find it is appropriate to grant the utility's request to terminate its CIAC gross-up tariffs.

The utility's CIAC gross-up tariffs became effective March 15, 2018. Pursuant to Order No. PSC-2018-0162-TRF-WS, the utility was required to file with its Annual Report a calculation detailing: (1) the amounts of cash and property contributions received during the reporting year; (2) the calculation of the utility's tax liability for the reporting year; and (3) the amount of taxes actually collected on CIAC for the reporting year. Since the implementation of the tariffs, the utility did not collect any CIAC. Further, it is appropriate that the termination of the CIAC gross-up tariffs relieve the utility of the reporting requirements.

Based on the above, we approve UIF's request to terminate its CIAC gross-up tariffs. The tariffs shall be terminated effective the date of our vote, April 20, 2018. UIF shall provide notice to property owners who have requested service during the 12 months prior to the request to terminate the CIAC gross-up tariffs. The utility shall provide proof of noticing within 10 days of rendering its approved notice. The termination of the CIAC gross-up tariffs relieve the utility of the reporting requirements that were outlined in Order No. PSC-2018-0162-TRF-WS.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that Utilities, Inc. of Florida's requested treatment of the taxes it pays on CIAC is hereby acknowledged, as set forth herein. It is further

ORDERED that the provisions of this Order, issued as proposed agency action, shall become final and effective upon the issuance of a Consummating Order unless an appropriate petition, in the form provided by Rule 28-106.201, Florida Administrative Code, is received by the Commission Clerk, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on the date set forth in the "Notice of Further Proceedings" attached hereto. It is further

ORDERED that UIF's CIAC gross-up tariffs are hereby terminated, effective April 20, 2018. UIF shall provide notice to property owners who have requested service during the 12 months prior to the request to terminate the CIAC gross-up tariffs. The utility shall provide proof of noticing within 10 days of rendering its approved notice. The termination of the CIAC gross-

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up tariffs relieves the utility of the reporting requirements that were outlined in Order No. PSC-2018-0162-TRF-WS. It is further

ORDERED that with respect to our acknowledgement of UIF's requested treatment of taxes it pays on CIAC, if no person whose substantial interests are affected by the proposed agency action files a protest within 21 days of the issuance of the order, a consummating order shall be issued. It is further

ORDERED that with respect to the cancellation of UIF's CIAC gross-up tariffs, this order shall become final upon the issuance of a consummating order unless a person whose substantial interests are affected by our decision files a protest within 21 days of the issuance of the order. If a timely protest is filed, the tariffs shall remain in effect, pending resolution of the protest. It is further

ORDERED that if no protest is timely filed as to our acknowledgment of UIF's requested treatment of taxes it pays on CIAC or the cancellation of UIF's CIAC gross-up tariffs, the docket shall close upon the issuance of the consummating order. In the event of a protest, the docket shall remain open to address the protest.

By ORDER of the Florida Public Service Commission this 11th day of May, 2018.



CARLOTTA S. STAUFFER

Commission Clerk

Florida Public Service Commission

2540 Shumard Oak Boulevard

Tallahassee, Florida 32399

(850) 413-6770

www.floridapsc.com

Copies furnished: A copy of this document is provided to the parties of record at the time of issuance and, if applicable, interested persons.

JSC

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NOTICE OF FURTHER PROCEEDINGS

The Florida Public Service Commission is required by Section 120.569(1), 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.

Mediation may be available on a case-by-case basis. If mediation is conducted, it does not affect a substantially interested person's right to a hearing.

The Commission's decision cancelling UIF's CIAC gross-up tariffs is interim in nature and will become final, unless a person whose substantial interests are affected by the proposed action files a petition for a formal proceeding, in the form provided by Rule 28-106.201, Florida Administrative Code. This petition must be received by the Office of Commission Clerk, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on June 1, 2018.

In the absence of such a petition, this Order shall become final and effective upon the issuance of a Consummating 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.

The Commission's acknowledgement of UIF's requested treatment of taxes paid on CIAC is preliminary in nature. Any person whose substantial interests are affected by the action proposed by this order may file a petition for a formal proceeding, in the form provided by Rule 28-106.201, Florida Administrative Code. This petition must be received by the Office of Commission Clerk, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on June 1, 2018.

In the absence of such a petition, this order shall become final and effective upon the issuance of a Consummating Order.

Any objection or protest filed in this/these docket(s) before the issuance date of this order is considered abandoned unless it satisfies the foregoing conditions and is renewed within the specified protest period.