

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application for Gross-Up of CIAC in
Charlotte, Highlands, Lake, Lee, Marion, Orange,
Pasco, Pinellas, Polk, and Seminole Counties
by Utilities, Inc. of Florida

Docket No. 2018____ - WS

APPLICATION FOR APPROVAL OF TARIFF FOR THE GROSS-UP OF CIAC

Applicant, UTILITIES, INC. OF FLORIDA (“UIF” or “Utility”), by and through its undersigned attorneys and pursuant to Section 367.091, Florida Statutes, and Commission Rule 25-30.135, files this Application for approval of a Tariff to allow the gross-up of CIAC in Charlotte, Highlands, Lake, Lee, Marion, Orange, Pasco, Pinellas, Polk, and Seminole Counties.

Preliminary Matters

1. The following is the basic information:

(a) (i) The name of the Utility and its mailing address is:

Utilities, Inc. of Florida
2335 Sanders Road
Northbrook, IL 60062

(ii) The address of the Florida office is:

Utilities, Inc. of Florida
200 Weathersfield Avenue
Altamonte Springs, FL 32714-4099

(iii) The names and address of the persons authorized to receive notices

and communications in respect to this application are:

Martin S. Friedman, Esquire
Friedman & Friedman, P.A.
766 N. Sun Drive, Suite 4030
Lake Mary, FL 32746
Telephone: (407) 830-6331
Fax: (407) 878-2178
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2. Congress has passed, and the President has signed, the Tax Cuts and Jobs Act (“Act”), effective January 1, 2018, which, among other things, removes the tax exemption for contributions-in-aid-of-construction (“CIAC”). Thus, effective January 1, 2018, utilities will have to begin paying income taxes on cash and property CIAC they receive.

3. As a result of this tax law change, UIF could risk loss of its opportunity to earn a reasonable return on its property used and useful in the public service if it is not allowed to collect the tax impact on receipt of CIAC.

4. As was done in 1986 when CIAC became taxable, UIF should be authorized to collect from developers and others who transfer property and cash to it as CIAC, which transfers had been excluded from taxable income an amount equal to the tax impact using the following formula which this Commission had previously approved¹:

$$\text{TAX IMPACT} = R / 1.0 - R \times (F + P)$$

1) R = Applicable marginal rate of Federal and State Corporate Income Tax if one is payable on the value of contributions which must be included in taxable income of the utility.

2) R shall be determined as follows:

$$R = ST + FT (1 - ST)$$

ST = Applicable marginal rate of State Corporate Income Tax

FT = Applicable marginal rate of Federal Income Tax, either corporate or individual.

3) F = Dollar Amount of charges paid to a utility as contributions in aid of construction which must be included in taxable income of the utility, and which had been excluded in taxable income pursuant to Section 118(b) of the Internal Revenue Code.

¹ PSC Order No. 16971 issued December 18, 1986.

4) P = Dollar amount of property conveyed to utility which must be included in taxable income of the utility, , and which had been excluded from taxable income pursuant to Section 118(b) of the Internal Revenue Code.

5. The tariff sheet necessary to incorporate the gross-up of CIAC into the tariff is attached hereto as Exhibit “A”.

Request for Emergency Temporary Implementation of Tariff

Should this Commission withhold consent to the operation of the proposed Tariff, then UIF requests that the Commission allow the application of the Tariff on an emergency temporary basis, subject to refund. Such action will help to mitigate against UIF not earning its authorized rate of return, or of the general body of ratepayers subsidizing future development.

WHEREFORE, UIF requests that the Florida Public Service Commission do the following:

1. Accept jurisdiction of this Application and not suspend the approval of the Tariff attached hereto as Exhibit “A”.
2. Should the Commission decide to suspend the Tariff, then UIF requests that it be allowing to implement the Tariff on an emergency temporary basis as set forth above.
3. Provide such other and further relief as is fair, just and equitable.

Respectfully submitted this 29th day of January, 2018, by:

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/s/ Martin S. Friedman

MARTIN S. FRIEDMAN
For the Firm

EXHIBIT “A”

Revised Tariff

Income Taxes Related to Cash and Property Contributions in Aid of Construction

The utility may gross-up cash service availability charges and property contributions in aid of construction in order to recover the federal and state corporate income taxes associated with those contributions. The formulae to be used to gross-up cash service availability charges and contributed property are as follows:

$$\text{TAX IMPACT} = R / 1.0 - R \times (F + P)$$

1) R = Applicable marginal rate of Federal and State Corporate Income Tax if one is payable on the value of contributions which must be included in taxable income of the utility.

2) R shall be determined as follows:

$$R = ST + FT (1 - ST)$$

ST = Applicable marginal rate of State Corporate Income Tax

FT = Applicable marginal rate of Federal Income Tax, either corporate or individual.

3) F = Dollar Amount of charges paid to a utility as contributions in aid of construction which must be included in taxable income of the utility, and which had been excluded in taxable income pursuant to Section 118(b) of the Internal Revenue Code.

4) P = Dollar amount of property conveyed to utility which must be included in taxable income of the utility, and, which had been excluded from taxable income pursuant to Section 118(b) of the Internal Revenue Code.

EFFECTIVE DATE – March 1, 2018

JOHN P. HOY
ISSUING OFFICER

TYPE OF FILING - Tariff Filing

PRESIDENT
TITLE