

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application for Gross-Up of CIAC in
Martin County by Indiantown Company, Inc.

DOCKET NO. 2018-____-WS

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

Applicant, Indiantown Company, Inc. (“Indiantown” 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 Martin County, Florida.

Preliminary Matters

1. The following is the basic information:

Indiantown Company, Inc.
P.O. Box 397
Indiantown, Florida 34956

The name and address of the person authorized to receive notices and communications in respect to this application is:

F. Marshall Deterding
Sundstrom & Mindlin, LLP
2548 Blairstone Pines Drive
Tallahassee, FL 32301
(850) 877-6555
mdeterding@sfflaw.com

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 it receives.

3. As a result of this tax law change, Indiantown 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 previously became taxable, Indiantown should be authorized to collect from developers and others who transfer property and cash to it as CIAC (which transfers had previously 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.

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

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

pursuant to Section 118(b) of the Internal Revenue Code.

5. The tariff sheets necessary to incorporate the gross-up of CIAC into the water and wastewater tariffs are attached hereto as Exhibit "A".

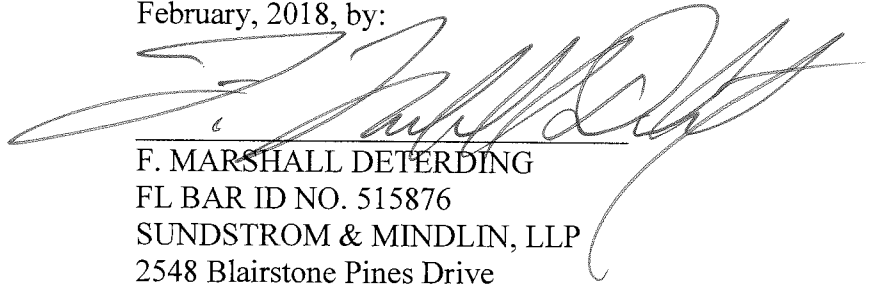
Request for Emergency Temporary Implementation of Tariffs

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

WHEREFORE, Indiantown requests that the Florida Public Service Commission:

1. Accept jurisdiction of this Application and not suspend the approval of the tariffs attached hereto as Exhibit "A".
2. Should the Commission decide to suspend the tariffs, then Indiantown requests that it be allowed to implement the tariffs 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 20th day of
February, 2018, by:



F. MARSHALL DETERDING
FL BAR ID NO. 515876
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EXHIBIT "A"

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 these contributions. The formula 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:

Jeffrey S. Leslie

ISSUING OFFICER

TYPE OF FILING: Tariff Filing

President

TITLE

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

- 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.
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