

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application for Gross-Up of CIAC
in Brevard County by Aquarina Utilities, Inc.

Docket No. 2018____ - WS

APPLICATION FOR GROSS-UP OF CIAC

Applicant, AQUARINA UTILITIES, INC (“AUI” or “Utility”), by and through its undersigned attorneys files this Application for the gross-up of CIAC in Brevard County.

Preliminary Matters

1. The following is the basic information:

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

Aquarina Utilities, Inc.
P.O. Box 1114
Fellsmere, FL 32948

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

and communications in respect to this application are:

Martin S. Friedman, Esquire
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600 Rinehart Road, Suite 3086
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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 incomes taxes on cash and property CIAC they receive.

3. As a result of this tax law change, AUI will lose its opportunity to earn a reasonable return on its property used and useful in the public service. Further, the revenues of AUI do not provide sufficient cash to pay the tax impact on contributed property.

4. As was done in 1986 when CIAC became taxable, AUI 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 approved (see Order No. PSC-2018-0331-TRF-WU):

TAX IMPACT = Full Gross Up:

Depreciable Plant:

For utilities using straight-line depreciation for tax purposes, the gross-up formula shall be:

$$((CP - (CP * (1/TL) * .5)) * (CTR / (1 - CTR)))$$

For utilities using an accelerated rate of depreciation for tax purposes, the gross-up formula shall be: $(CP - ((CP * AR) * .5)) * (CTR / (1 - CTR))$

Land (and Cash): $CL * (CTR / (1 - CTR))$

Where:

CP = Contributed Plant

TL = Tax Life of Contributed Plant

AR = First Year Accelerated Depreciation Rate for Tax Purposes

CTR = Combined Federal (FT) and State (ST) Income Tax Rate. $ST + FT (1 - ST)$

CL = Contributed land (and Contributed Cash)

5. The tariff sheets necessary to incorporate the gross-up of CIAC into the tariff are attached hereto as Exhibit "A". Since AUI is not authorized to collect cash CIAC for its wastewater system, that Tariff only reflects the gross-up of contributed property.

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

1. Accept jurisdiction of this Application and authorize the gross-up of CIAC consistent with the Tariffs attached hereto as Exhibit "A".
2. Provide such other and further relief as is fair, just and equitable.

Respectfully submitted this 15th day of November, 2018, by:

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For the Firm

EXHIBIT “A”

Revised Tariffs

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:

TAX IMPACT = Full Gross Up:

Depreciable Plant:

For utilities using straight-line depreciation for tax purposes, the gross-up formula shall be:

$$((CP - (CP * (1/TL) * .5)) * (CTR / (1 - CTR)))$$

For utilities using an accelerated rate of depreciation for tax purposes, the gross-up formula shall be: $(CP - ((CP * AR) * .5)) * (CTR / (1 - CTR))$

Land (and Cash): $CL * (CTR / (1 - CTR))$

Where:

CP = Contributed Plant

TL = Tax Life of Contributed Plant

AR = First Year Accelerated Depreciation Rate for Tax Purposes

CTR = Combined Federal (FT) and State (ST) Income Tax Rate. $ST + FT (1 - ST)$

CL = Contributed land (and Contributed Cash)

Income Taxes Related Property Contributions-in-Aid-of-Construction

The utility may gross-up 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 contributed property are as follows:

TAX IMPACT = Full Gross Up:

Depreciable Plant:

For utilities using straight-line depreciation for tax purposes, the gross-up formula shall be:

$$((CP - (CP * (1/TL) * .5)) * (CTR / (1 - CTR)))$$

For utilities using an accelerated rate of depreciation for tax purposes, the gross-up formula shall be: $(CP - ((CP * AR) * .5)) * (CTR / (1 - CTR))$

$$\text{Land: } CL * (CTR / (1 - CTR))$$

Where:

CP = Contributed Plant

TL = Tax Life of Contributed Plant

AR = First Year Accelerated Depreciation Rate for Tax Purposes

CTR = Combined Federal (FT) and State (ST) Income Tax Rate. $ST + FT (1 - ST)$

CL = Contributed land (and Contributed Cash)