

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application of INDIANTOWN)
 COMPANY, INC. for permission to)
 gross up contributions in aid of)
 construction in Martin County)
 _____)

DOCKET NO. 900835-WS

ORDER NO. 25366

ISSUED: 11/20/91

The following Commissioners participated in the disposition of this matter:

THOMAS M. BEARD, Chairman
 SUSAN F. CLARK
 J. TERRY DEASON
 BETTY EASLEY
 MICHAEL MCK. WILSON

NOTICE OF PROPOSED AGENCY ACTION
ORDER APPROVING CONTINUED GROSS-UP OF
CONTRIBUTIONS-IN-AID-OF CONSTRUCTION

BY THE COMMISSION:

NOTICE is hereby given by the Florida Public Service Commission that the action discussed herein is preliminary in nature and will become final unless a person whose interests are adversely affected files a petition for a formal proceeding, pursuant to Rule 25-22.029, Florida Administrative Code.

BACKGROUND

In Order No. 23541, issued October 1, 1990, we determined that any water and wastewater utility currently grossing-up contributions-in-aid-of-construction (CIAC) must file a petition for continued authority to gross-up. On October 16, 1990, Indiantown Company, Inc. (Indiantown or utility) timely filed a petition requesting approval to continue to collect the gross-up on its CIAC. On March 19, 1991, the utility was notified that additional, clarifying information was required. By Order No. 24303, issued March 29, 1991, the utility was granted interim authority to collect gross-up CIAC, pending further Commission investigation. On July 15, 1991, the utility filed the additional information. To date the utility has not collected any CIAC gross-up payments.

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APPROVAL TO CONTINUE GROSS-UP

In accordance with Order No. 23541, Indiantown has provided the Commission with a statement of interest coverage indicating a times interest earned (TIE) ratio of no more than 2x and a statement that it does not have an alternative source of financing available at a reasonable rate. Further, as justification for the gross-up, Indiantown states that the proposed transfer of approximately \$935,000 of existing water and wastewater facilities (CIAC) from Indianwood Development to the utility will create a tax liability of approximately \$352,000 in the year the property is transferred and that the company is not in a strong enough cash position to be able to pay the tax. Indiantown also indicated that it selected the full gross-up method because it does not believe that the net present value (NPV) method will provide sufficient relief for the utility due to its poor cash position and it believes that the full gross-up method is the most cost effective method of funding the tax liability. Finally, Indiantown submitted proposed tariffs for the gross-up. Based on the information filed by Indiantown, we find that the utility has demonstrated a continued need to collect the gross-up. Its request is therefore, approved. The proposed tariffs filed by the utility shall be effective upon the expiration of the protest period set forth in the Notice of Further Proceedings attached to this Order.

All gross-up CIAC collections are to be made in accordance with the accounting and regulatory treatments and record keeping prescribed in Orders Nos. 16971, issued December 18, 1986, and 23541, issued October 1, 1991, and all matters discussed in the body of those Orders are expressly incorporated herein by reference.

In consideration of the foregoing, it is

ORDERED by the Florida Public Service Commission that approval is granted for Indiantown Company, Inc. to continue collecting the gross-up on CIAC. It is further

ORDERED that all gross-up CIAC collections are to be made in accordance with the provisions of Orders Nos. 16971 and 23541, which are incorporated herein by reference. It is further

ORDERED that the tariffs for CIAC gross-up shall be effective upon the expiration date of the protest period set forth in the

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Notice of Further Proceedings attached to this Order. It is further

ORDERED that all provisions of this Order are issued as proposed agency action and shall become final, unless an appropriate petition in the form provided by Rule 25-22.029, Florida Administrative Code, is received by the Director of the Division of Records and Reporting at his office at 101 East Gaines Street, Tallahassee, Florida 32399-0870, by the date set forth in the Notice of Further Proceedings below. It is further

ORDERED that in the event no timely protest is received, this docket shall be closed.

By ORDER of the Florida Public Service Commission, this 20th day of NOVEMBER, 1991.



STEVE TRIBBLE Director
Division of Records and Reporting

(S E A L)

CB

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.59(4), 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.

The action proposed herein is preliminary in nature and will not become effective or final, except as provided by Rule 25-22.029, Florida Administrative Code. Any person whose substantial

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interests are affected by the action proposed by this order may file a petition for a formal proceeding, as provided by Rule 25-22.029(4), Florida Administrative Code, in the form provided by Rule 25-22.036(7)(a) and (f), Florida Administrative Code. This petition must be received by the Director, Division of Records and Reporting at his office at 101 East Gaines Street, Tallahassee, Florida 32399-0870, by the close of business on 12/11/91.

In the absence of such a petition, this order shall become effective on the day subsequent to the above date as provided by Rule 25-22.029(6), Florida Administrative Code.

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.

If this order becomes final and effective on the date described above, any party adversely affected may request judicial review by the Florida Supreme Court in the case of an electric, gas or telephone utility or by the First District Court of Appeal in the case of a water or wastewater utility by filing a notice of appeal with the Director, Division of Records and Reporting and filing a copy of the notice of appeal and the filing fee with the appropriate court. This filing must be completed within thirty (30) days of the effective date of this order, pursuant to Rule 9.110, Florida Rules of Appellate Procedure. The notice of appeal must be in the form specified in Rule 9.900(a), Florida Rules of Appellate Procedure.