

ORTEGA UTILITY COMPANY

905 North Street
Jacksonville, Florida 32211-5793
Phone 904 / 725-4616

ORIGINAL
FILE COPY

CERTIFIED MAIL NO. P 334 927 236
RETURN RECEIPT REQUESTED

October 9, 1996

Florida Public Service Commission
Division of Records & Reporting
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0850

RE: Refund of CIAC Gross-up
Docket #960965-WS
Order #PSC-96-1180-FOF-WS
Dated September 20, 1996

Dear Sir or Madam:

As per the referenced Order, please find enclosed information regarding two required refunds.

On July 12, 1996, E. J. Toney was given an invoice which was paid on August 6, 1996. We refunded the CIAC gross-up of \$84,765.96 (which included interest) on September 4, 1996. See the enclosed letter dated September 4, 1996 as well as a copy of the front and back of the returned check.

On August 6, 1996, Pizza Hut Inc. was given an invoice which was paid on August 14, 1996. On September 13, 1996, Pizza Hut requested a full refund of all monies paid since their proposed expansion was cancelled. On September 13, 1996, a full refund was given to Pizza Hut (which included the gross-up that was paid).

These are the only two refunds that Ortega Utility Company is required to make. If you have any questions regarding the refunds or need additional information, please contact me at 904-725-4616.

Sincerely,

Mary G. Hermany
Mary G. Hermany
Office Manager

/mgh

Enclosures

- ACK _____
- AFA _____
- APP _____
- CAF _____
- CMU _____
- CTR _____
- EAG _____
- LEG 1
- LIN _____
- OPC _____
- RCH _____
- SEC 1
- WAS 1
- OTH _____

DOCUMENT NUMBER-DATE

10950 OCT 14 1996

FPSC-RECORDS/REPORTING

agreements clauses providing for contingency collections of gross-up if section 118(b) was repealed. When the Tax Reform Act of 1986 was signed into law on October 22, 1986, making CIAC taxable, the Commission, in response to a request from the FWA, issued Order No. 16971 on December 12, 1986. This Order provided emergency relief and allowed for the filing of tariffs for gross-up.

Now, however, through passage of the Small Business Job Protection Act of 1996 (the Act) by Congress on August 1, 1996, and signed by President Clinton on August 20, 1996, CIAC collected by water and wastewater utilities again became non-taxable on a retroactive basis effective for amounts received after June 12, 1996.

REVOCACTION OF AUTHORITY TO COLLECT GROSS-UP ON CIAC

With the passage of the Act, CIAC was returned to its former, non-taxable status. Because CIAC ceased to be taxable after June 12, 1996, the authority of utilities to collect gross-up on CIAC shall be revoked within 30 days of the date of this order, unless the utilities file for a variance. The tariff cancellations will be handled individually for each utility named on Attachment "A", which is incorporated herein by reference.

REFUND OF COLLECTED GROSS-UP

Order No. 16971, issued December 18, 1986, and Order No. 23541, issued October 1, 1990, required utilities to deposit gross-up collected into a fully funded interest bearing escrow account. Order No. 16971 further provided that monies in the escrow account could be withdrawn periodically for the purpose of paying that portion of the estimated federal and state income tax which could be shown to be directly attributable to the repeal of Section 118(b) of the Internal Revenue Code and the inclusion of CIAC in taxable income.

Now, with the passage of the Act, with the effective date being made retroactive, the utilities will not need the gross-up they may have collected and retained after June 12, 1996. Thus, unless a utility files for a variance as set out above, all utilities shall refund, with interest, any gross-up which they collected after this date and still hold, to those who paid the gross-up. The utilities shall refund the gross-up to those who paid it within 60 days of the date the proposed agency action portion of this decision becomes final. Further, each utility shall provide copies of canceled checks, or other evidence, verifying that the refunds have been made, within 30 days from the date of the refund.

CLOSING OF DOCKET

The refunds ordered by this docket shall be verified. After verification, if no person whose interests are substantially affected by the proposed action files a protest within the 21 day protest period, this docket shall be closed.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that the authority of the utilities listed on Attachment "A" of this order to collect gross-up on contributions-in-aid-of-construction shall be revoked as set forth in the body of this Order. It is further

ORDERED that the utilities listed on Attachment "A" of this Order shall have 30 days to apply for a variance. It is further

ORDERED that the utilities listed on Attachment "A" of this Order shall make refunds, with interest, within 60 days of the proposed agency action portion of this Order becoming final, as set forth in the body of this Order. It is further

ORDERED that the provisions of this Order requiring refunds, issued as proposed agency action, shall become final and effective unless an appropriate petition, in the form provided by Rule 25-22.036, Florida Administrative Code, is received by the Director, Division of Records and Reporting, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on the date set forth in the "Notice of Further Proceedings or Judicial Review" attached hereto. It is further

ORDERED that the utilities listed on Attachment "A" of this Order shall provide copies of canceled checks, or other evidence, verifying that the refunds have been made, within 30 days of the date of the refund. It is further

ORDERED that this docket shall be closed if no timely protest is received from a substantially affected person, upon staff's verification that the utilities listed on Attachment "A" of this Order have made the required refunds as set forth in this Order.

July 12, 1996
 Mr. Edward L. Toney
 Page 2 of 2

F. FINAL VALUE OF TRANSFERRED ASSETS

- 1. Water System (taps, mains, services, & fire hydrants) \$48,425.00
- 2. Wastewater System (gravity mains & lift station) \$73,500.00

G. TAXES (Federal and State) on CIAC and Transferred Assets

Taxes on cash contributions (60.333%)

Taxes on transferred assets (58.079%)

Handwritten: 34,659.24 } \$13,846.42 + 307.78 + 9538.00
 \$70,812.82 + 28124.75 + 42683.00
\$107,609.24

TOTAL FUNDS DUE

ORTEGA UTILITY CO. 07-85
 PHONE 904-725-4618
 905 NORTH STREET
 JACKSONVILLE, FL 32211

**AMERICAN NATIONAL BANK
 OF FLORIDA**
 JACKSONVILLE, FLORIDA 32211
 63-544-830

15750

84,765.96

to the order of

DATE
 09/04/96

AMOUNT
 \$\$84765.96**

EDWARD L. TONEY
 OR E. J. TONEY
 P O BOX 1525
 ORANGE PARK FL 32067-1525

VOID AFTER 90 DAYS

ORTEGA UTILITY CO.

00015750

Voucher#	Invoice#	Date	Discount	Amount Paid	Description
00020149	REIMB	09/04/96	0.00	84765.96	REIMB-CIAC TXS-CLLNS LK II+INT

ORTEGA UTILITY COMPANY

905 NORTH STREET
JACKSONVILLE, FLORIDA 32211
(904) 725-4616

September 4, 1996

Edward L. Toney
P.O. Box 1525
Orange Park, Florida 32067-1525

Re: Collins Lake Estates, Unit 2

Dear Mr. Toney:

On August 20, 1996, the president signed into law the Small Business Job Protection Act of 1996 which in Title I reinstated the tax free transfer of assets known as Contributions in Aid of Construction (CIAC). The inclusion of this provision in the Act is the culmination of significant and persistent efforts by a large number of individuals and entities.

The result of this law is that the tax effect on CIAC was retroactively repealed as of June 12, 1996. Accordingly, the funds provided by your company to offset the tax on Ortega Utility Company for Collins Lake Estates, Unit 2 are now no longer necessary.

Attached is a check in the amount of \$84,765.96, principal and interest, refunding in full the moneys collected and attributable to the tax liabilities of CIAC.

Should you have any questions, please do not hesitate to contact me at (904) 725-4616.

Very truly yours,

Alan W. Potter, Jr.
Vice-president

Attachment

01/000/103 001 1740739044 D20_03 10630000476

Edward L. Toney
1740739044
EJ Toney
For Deposit Only

01.
BARNETT JAX
800-5239498 > 063000047<
07-168834-1627
09-05 JAX FL
07-168834 09-05

ORTEGA UTILITY CO. 07-85
PHONE 904-725-4618
905 NORTH STREET
JACKSONVILLE, FL 32211

AMERICAN NATIONAL BANK
OF FLORIDA
JACKSONVILLE, FLORIDA 32211
63-544-830

15750

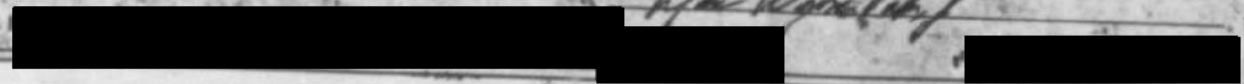
84,765.96

EDWARD L. TONEY
OR E. J. TONEY
P.O. BOX 1525
ORANGE PARK FL 32067-1525

DATE 09/04/96 AMOUNT 84,765.96

VOID AFTER 90 DAYS

[Handwritten Signature]



ORTEGA UTILITY COMPANY
905 NORTH STREET
JACKSONVILLE FL 32201-5793

ACCOUNT : 00000093
INVOICE NUMBER : 00000207
INVOICE DATE : 08/06/96
TERMS : NET 30 DAYS

TO: PIZZA HUT INC
P O BOX 2938
WICHITA KS 67201
ATTN: Created in trx entry 08/15/96

pd. 5/14/96

SOLD BY	DATE SHIPPED	SHIPPED VIA	F.O.B. POINT	ORDER NUMBER
ORTEGA	08/06/96	8201-25	BLANDING	

QUANTITY	DESCRIPTION	TAX	UNIT PRICE	TOTAL
	PIZZA HUT, 8102-25 BLANDING BOULEVARD--34 SEAT RESTAURANT EXPANSION -			
	WATER PLANT FEE (#27120-001)			546.00
	SEWER PLANT FEE (#27120-002)			819.00
	EFFLUENT DISPOSAL (#27120-002)			390.00
	TAXES ON CASH - W (#27130-001)			329.41
	TAXES ON CASH - S (#27130-002)			729.43

SALES TOTAL 2813.84
SALES TAX [0.000%] 0.00
AMOUNT DUE 2813.84

*LV
check
MVA*

ORTEGA UTILITY COMPANY

905 North Street
Jacksonville FL 32211
(904) 725-4616

September 17, 1996

Pizza Hut
P.O. Box 2938
Wichita Kansas 67201

RE: Pizza Hut Expansion
8102-25 Blanding Blvd.
Jacksonville Florida

To Whom It May Concern:

Enclosed please find check # 15796, dated September 13, 1996 for \$2813.84. This is a refund per a telephone conversation with Ms. Donna Brown on September 13, 1996. She explained that the expansion for the referenced Pizza Hut was not going to be done at this time and she requested a refund for the Contribution in Aid of Construction (CIAC) fees that had been paid in August 1996.

If you have any questions regarding this refund, please contact me at 904-725-4616. If you decide to continue the expansion in the future, please contact our office. Thank you for allowing us to provide service to your restaurant.

Sincerely,

Mary Leigh

Mary Leigh
Office Manager

/mgh

Enclosure

ORTEGA UTILITY CO. 07-85
PHONE 904-725-4616
905 NORTH STREET
JACKSONVILLE, FL 32211

AMERICAN NATIONAL BANK
OF FLORIDA
JACKSONVILLE, FLORIDA 32211
63-544-630

15796

to the
order of

*** TWO THOUSAND EIGHT HUNDRED THIRTEEN AND 84/100 DOLLARS ***

PIZZA HUT
P O BOX 2938
WICHITA KS 67201

DATE 09/13/96 AMOUNT \$662813.84**

VOID AFTER 90 DAYS

Alfonso Lopez

Security features included. Details on back.

ORTEGA UTILITY CO.

000157986

Voucher#	Invoice#	Date	Discount	Amount Paid	Description
00020205	REFUND	09/13/96	0.00	2813.84	RFUND-PIZZA HUT EXPANSN CNCLLD

00000479 PIZZA HUT

Total Amount Paid : 2813.84