

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application for Gross-Up of CIAC  
for water rates in Lee County and wastewater rates  
in Pasco County by Ni Florida, LLC

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DOCKET NO. 2018-\_\_\_\_-WS

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

Applicant, Ni Florida, LLC (“Ni Florida” 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 for water rates in Lee County and wastewater rates in Pasco County, Florida.

Preliminary Matters

1. The following is the basic information:

Ni Florida, LLC  
10913 Metronome Drive  
Houston, TX 77043-7772

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  
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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 it receives.

3. As a result of this tax law change, Ni Florida 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, Ni Florida 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 approved<sup>1</sup>:

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):  $(CL * CTR) * (CTR / (1-CTR))$

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.  $ST+FT (1-ST)$

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<sup>1</sup> PSC Order No. 16971 issued December 18, 1986, Order No. 23541 issued October 1, 1990, Order No. PSC-94-0156 issued February 9, 1994 and Order No. PSC-94-0156A issued April 11, 1994.

CL = Contributed Land (and Contributed Cash)

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

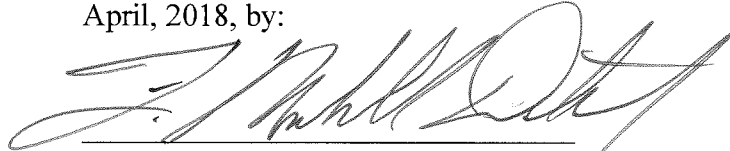
**Request for Emergency Temporary Implementation of Tariffs**

Should this Commission withhold consent to the operation of the proposed tariffs, then Ni Florida 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 Ni Florida not earning its authorized rate of return, or of the general body of ratepayers subsidizing future development.

WHEREFORE, Ni Florida 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 Ni Florida 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 17th day of  
April, 2018, by:



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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:

TAX IMPACT= Full Gross Up:

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EFFECTIVE DATE:

Michael J. Ashford  
ISSUING OFFICER

TYPE OF FILING: Tariff Filing

Regulatory Director  
TITLE

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