EXHIBIT 10.7  
 EXECUTION VERSION  
  
 FIRST SUPPLEMENTAL INDENTURE  
  
 FIRST SUPPLEMENTAL INDENTURE (this "First Supplemental Indenture"),  
dated as of October 10, 2003, to the Amended and Restated Indenture of Trust,  
dated as of November 1, 1994 (as supplemented prior to the date hereof, the  
"Tax-Exempt Indenture"), by and between the Xxxxxx County Industrial Development  
Authority, a body corporate and politic of the State of Florida, as issuer (the  
"Authority") and The Bank of New York (as successor trustee to NationsBank of  
Florida, N.A.), as tax-exempt trustee (the "Tax-Exempt Trustee"), its Corporate  
Trust Division being at The Bank of New York Plaza, 00000 Xxxxxxxxx Xxxxxxx,  
Xxxxxxxxxxxx, Xxxxxxx 00000. Capitalized terms used herein without definition  
shall have the meanings assigned to them in the Tax-Exempt Indenture.  
  
 W I T N E S S E T H  
  
 WHEREAS, the Authority and the Tax-Exempt Trustee have heretofore  
executed and delivered to the Tax-Exempt Trustee the Tax-Exempt Indenture to  
provide for the issuance by the Authority of Bonds in order to make a loan to  
Indiantown Cogeneration, L.P., a Delaware limited partnership (the  
"Partnership"), pursuant to the Authority Loan Agreement in connection with the  
Partnership's cogeneration facility located near Indiantown, in Xxxxxx County,  
Florida;  
  
 WHEREAS, contemporaneously with the issuance of the Bonds, the  
Partnership entered into (a) that certain Debt Service Reserve Letter of Credit  
and Reimbursement Agreement among the Partnership, the banks named therein, and  
Banque Nationale de Paris, as agent, dated as of November 1, 1994, (b) that  
certain Letter of Credit and Reimbursement Agreement among the Partnership, the  
banks named therein, and Credit Suisse, as agent, dated as of November 1, 1994,  
and (c) that certain Revolving Credit Agreement among the Partnership, the banks  
named therein, and Credit Suisse, as agent, dated as of November 1, 1994 (all of  
the aforementioned credit facilities collectively, the "Original Credit  
Facilities");  
  
 WHEREAS, the Partnership and Indiantown Cogeneration Funding  
Corporation, a Delaware corporation (the "Company"), desire (a) to replace the  
Original Credit Facilities with credit facilities on substantially the same  
terms as those of the Original Credit Facilities (such replacement facilities,  
the "New Credit Facilities") and to make certain conforming and other changes to  
the Tax-Exempt Indenture and to certain of the Financing Documents, (b) to  
clarify in the Tax-Exempt Indenture and in certain of the Financing Documents  
the Company's and the Partnership's right to replace the New Credit Facilities  
from time to time, and (c) in connection with such replacement of the Original  
Credit Facilities and future replacements thereof, to provide for the repayment  
of amounts outstanding under such facilities and the payment of transaction  
expenses related to any such replacement on dates other than an Interest Payment  
Date;  
  
  
  
 WHEREAS, Section 13.01 of the Tax-Exempt Indenture provides that the  
Authority and the Tax-Exempt Trustee may at any time, without the consent of the  
Bondholders, enter into a supplemental indenture for the purpose of amending,  
modifying or altering the terms or provisions set forth in the Tax-Exempt  
Indenture for the reasons set forth in such Section 13.01;  
  
 WHEREAS, all acts and things necessary to constitute these presents a  
valid and binding supplemental indenture according to its terms have been done  
and performed and the execution of this First Supplemental Indenture has in all  
respects been duly authorized, and the Authority, in the exercise of the legal  
right and power vested in it, executes this First Supplemental Indenture; and  
  
 WHEREAS, pursuant to Section 13.01(a) of the Tax-Exempt Indenture, the  
Trustee is authorized to execute and deliver this First Supplemental Indenture.  
  
 NOW, THEREFORE, in consideration of the mutual agreements contained  
herein and for other good and valuable consideration, the receipt and  
sufficiency of which are hereby acknowledged, the parties to this First  
Supplemental Indenture hereby agree as follows:  
  
 ARTICLE I  
  
 AMENDMENTS  
  
 SECTION 1.1 AMENDMENTS  
  
 1. Section 1.01 of the Tax-Exempt Indenture is hereby amended as  
 follows:  
  
 a. The definition of "Debt Service Reserve Letter of  
Credit" is hereby deleted in its entirety and the following is inserted in lieu  
thereof:  
  
 ""Debt Service Reserve Letter of Credit" means one or more irrevocable,  
 direct pay letters of credit issued by any financial institution with a  
 rating of "A" or higher by S&P and "A2" or higher by Xxxxx'x in favor  
 of the Disbursement Agent, secured by the Collateral ratably with the  
 other senior secured indebtedness of the Partnership."  
  
 b. The definition of "Debt Service Reserve Letter of  
Credit Provider" is hereby deleted in its entirety and the following is inserted  
in lieu thereof:  
  
 ""Debt Service Reserve Letter of Credit Provider" means the banks and  
 financial institutions providing or otherwise participating in any Debt  
 Service Reserve  
  
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 Letter of Credit under or pursuant to any Debt Service Reserve LOC  
 Reimbursement Agreement."  
  
 c. The definition of "Debt Service Reserve LOC  
Reimbursement Agreement" is hereby deleted in its entirety and the following is  
inserted in lieu thereof:  
  
 ""Debt Service Reserve LOC Reimbursement Agreement" means the Debt  
 Service Reserve Letter of Credit and Reimbursement Agreement, dated as  
 of October 10, 2003, among the Partnership, Initial Bank and the Banks  
 (each as defined therein) party thereto from time to time, and Credit  
 Lyonnais New York Branch, as agent, and any replacement agreement under  
 or pursuant to which any Debt Service Reserve Letter of Credit is  
 provided, in each case as any such agreement may be amended, modified,  
 or supplemented from time to time."  
  
 d. The definition of "Disbursement Agreement" is hereby  
amended by inserting immediately prior to the period appearing at the end  
thereof the following:  
  
 ", as the same may be amended, modified or supplemented from time to  
 time".  
  
 e. The definition of "Security Agreement" is hereby  
amended by inserting immediately prior to the period appearing at the end  
thereof the following:  
  
 ", as the same may be amended, modified or supplemented from time to  
 time".  
  
 2. Section 17.01 of the Tax-Exempt Indenture is hereby amended by  
deleting the notice address for the Tax Exempt Trustee appearing therein and  
inserting in lieu thereof the following:  
  
 "The Bank of New York  
 00000 Xxxxxxxxx Xxxxxxx  
 Xxxxxxxxxxxx, Xxxxxxx 00000  
 Telefax Number: (000) 000-0000  
 Attention: Trust Division"  
  
 ARTICLE II  
  
 MISCELLANEOUS  
  
 SECTION 2.1 EFFECT OF THE FIRST SUPPLEMENTAL INDENTURE  
  
 This First Supplemental Indenture is executed and shall be construed as  
an indenture supplemental to the Tax-Exempt Indenture and, as provided in the  
Tax-Exempt Indenture, this First Supplemental Indenture forms a part thereof. On  
and after the effective date of this First  
  
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Supplemental Indenture, each reference in the Tax-Exempt Indenture to "this  
Tax-Exempt Indenture," "hereunder" or "herein" shall mean and be a reference to  
the Tax-Exempt Indenture as supplemented by this First Supplemental Indenture.  
Except as specifically amended above, the Tax-Exempt Indenture shall remain in  
full force and effect and is hereby ratified and confirmed.  
  
 SECTION 2.2 OPINION OF BOND COUNSEL AS TO CONDITIONS PRECEDENT  
  
 Set forth as Exhibit A hereto is a copy of the Opinions of Bond Counsel  
delivered to the Tax-Exempt Trustee in connection with this First Supplemental  
Indenture.  
  
 SECTION 2.3 CONCERNING THE TAX-EXEMPT TRUSTEE  
  
 The Tax-Exempt Trustee shall not be responsible in any manner for or  
with respect to the validity or sufficiency of this First Supplemental Indenture  
or the due execution hereof by the Authority.  
  
 SECTION 2.4 SEVERABILITY  
  
 Any term or provision of this First Supplemental Indenture that is  
invalid, illegal, prohibited or unenforceable in any jurisdiction shall, as to  
such jurisdiction, be ineffective to the extent of such invalidity, illegality,  
prohibition or unenforceability without invalidating the remaining terms and  
provisions hereof, and any such invalidity, illegality, prohibition or  
unenforceability in any jurisdiction shall not invalidate or render prohibited  
or unenforceable such term or provision in any other jurisdiction.  
  
 SECTION 2.5 COUNTERPARTS  
  
 This First Supplemental Indenture may be executed in any number of  
counterparts, each of which when so executed shall be deemed to be an original;  
but all such counterparts shall together constitute but one and the same  
instrument. Delivery by facsimile of a signed copy of this First Supplemental  
Indenture shall have the same effect as delivery of a manually executed  
counterpart.  
  
 SECTION 2. 6 EFFECT OF HEADINGS  
  
 The article and section headings herein are for convenience only and  
shall not affect the construction hereof.  
  
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 SECTION 2.7 GOVERNING LAW  
  
 THIS FIRST SUPPLEMENTAL INDENTURE SHALL BE GOVERNED BY AND CONSTRUED IN  
ACCORDANCE WITH THE LAWS OF THE STATE OF FLORIDA, AS APPLIED TO CONTRACTS MADE  
AND PERFORMED ENTIRELY WITHIN THE STATE OF FLORIDA, WITHOUT REGARD TO PRINCIPLES  
OF CONFLICT OF LAWS THAT MIGHT DIRECT THE APPLICATION OF THE LAW OF ANOTHER  
JURISDICTION.  
  
 [signature page follows]  
  
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 IN WITNESS WHEREOF, the Authority has caused this First Supplemental  
Indenture to be executed by its Chairman and the seal of the Authority to be  
impressed hereon and attested by the Secretary of said Authority, and the  
Tax-Exempt Trustee has caused this First Supplemental Indenture to be executed  
on its behalf and its seal to be impressed hereon and attested, all as of the  
day and year first above written.  
  
 XXXXXX COUNTY INDUSTRIAL  
 DEVELOPMENT AUTHORITY  
  
 By: /s/ XXXX X. XXXXXXX  
 ---------------------------------------  
 Name: Xxxx X. Xxxxxxx  
 Title: Chairman  
  
(SEAL)  
  
ATTEST:  
  
/s/ XXX XXXXXXX  
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Secretary  
  
 THE BANK OF NEW YORK,  
 as Tax-Exempt Trustee  
  
 By: /s/ XXXXXX XXXX  
 ---------------------------------------  
 Name: Xxxxxx Xxxx  
 Title: Agent  
  
(SEAL)  
  
ATTEST:  
  
 [First Supplemental Indenture]  
  
  
  
 Exhibit A  
  
 Opinion(s) of Bond Counsel