

Miller

FLORIDA PUBLIC SERVICE COMMISSION

VOTE SHEET

DATE 10/30/89

RE: DOCKET NO. 861190-PU - Amendment of Rule 25-14.003, F.A.C., Corporate Income Tax Expense Adjustments. (Deferred from the 10/17/89 Commission Conference)

Issue: 1. Recommendation that if further revisions are proposed to Rule 25-14.003, F.A.C., Corporate Income Tax Expense Adjustments, the resulting proceeding should be transferred to a new docket for continuing action.

APPROVED

Issue: 2. Recommendation that, absent repeal of the rule, the revisions listed in staff's memorandum dated September 25, 1989 should be made.

APPROVED

Issue: 3. Recommendation that staff be directed to file this rule amendment with the Secretary of State if no hearing is requested and no comments are filed.

APPROVED

COMMISSIONERS ASSIGNED: Full Commission

COMMISSIONERS' VOTES

APPROVED	APPROVED WITH MODIFICATIONS	DISAPPROVED	DEFER
<i>Betty Caskey</i>			
<i>John P. Henderson</i>			
<i>Michael Wilson</i>			
<i>John P. Henderson</i>			

REMARKS/DISSENTING COMMENTS:

TO:

25-14.003 Corporate Income Tax Expense Adjustments.

(1) Definitions. For the purposes of this rule, the following definitions shall apply:

(a) "Tax Savings." The difference between the tax expenses for a utility or regulated company calculated under the previously effective corporate income tax rates and those calculated under newly effective, reduced corporate income tax rates.

(b) "Tax Deficiency." The difference between the tax expenses for a utility or regulated company calculated under newly effective, higher corporate income tax rates and those calculated under the previously effective corporate income tax rates.

(c) "Associated Revenues." Those revenues resulting from the application of a utility's or regulated company's revenue expansion factor to a tax savings or tax deficiency. The tax rate to be used in calculating the revenue expansion factor shall reflect the tax rate at which the utility or regulated company recognizes the effect of the refund, collection or other adjustment on its tax return.

(d) "Previously Effective." Refers to the corporate income tax rate used in a utility's or regulated company's last rate case or earnings review show-cause proceeding, or used in the last tax expense adjustment by the Commission, whichever occurred most recently.

(e) "Tax Rate." The statutory tax rates, both federal and state, applicable to utility or regulated company income, including any surcharges, minimum taxes, and other adjustments to the basic percentage tax rates.

(f) "Midpoint." The midpoint of the range of rate of return calculated as the weighted average cost of capital for the period of time covered by the tax adjustment report required in subsection (4). The weighted average cost of capital shall be

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1 calculated using the current embedded cost of fixed rate capital,
2 the actual cost of short term debt, zero cost for all investment
3 tax credits, the cost of common equity that is the most recent
4 Commission approved return equity, and the actual cost of other
5 sources of capital. The capital structure used shall be the
6 company's actual capital structure adjusted to reflect all
7 regulatory adjustments. ~~of return approved by the Commission in~~
8 ~~the utility's last rate case, adjusted for the cost of any debt~~
9 ~~issued subsequent to the rate case and prior to the commencement~~
10 ~~of a tax savings refund or tax deficiency collection.~~

11 (2) Tax Savings Refunds or Other Adjustments Approved by the
12 Commission. In accordance with subsection (5) of this rule and
13 using a calendar year as the basis of the calculation:

14 (a) When, during the reporting period described in paragraph
15 (5)(a) below, a utility or regulated company is earning a rate of
16 return which is at or above the midpoint of its authorized range
17 computed in accordance with subsection (1)(f) and without
18 consideration of a tax rate reduction, the utility or regulated
19 company shall make an adjustment approved by the Commission or
20 refund all associated revenues as described in paragraph 5(c).

21 (b) When, during the reporting period described in paragraph
22 5(a) below, a utility or regulated company is earning a rate of
23 return which is below the midpoint of its authorized range
24 computed in accordance with subsection (1)(f) and without
25 consideration of a tax rate reduction, the utility or regulated
26 company shall make an adjustment approved by the Commission or
27 refund only those associated revenues which cause the utility or
28 regulated company to earn in excess of that midpoint, as described
29 in paragraph 5(c).

30 (3) Tax Deficiency Collections or Other Adjustments Approved
31 by the Commission. In accordance with subsection (5) of this rule

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1 and using a calendar year as the basis of the calculation:

2 (a) When, during the reporting period described in 5(a)
3 below, a utility or regulated company is earning a rate of return
4 which is at or below the midpoint of its authorized range computed
5 in accordance with subsection (1)(f) and without consideration of
6 a tax rate increase, the utility or regulated company shall make
7 other adjustments approved by the Commission of or collect all
8 associated revenues, as described in paragraph 5(c).

9 (b) When, during the reporting period described in 5(a)
10 below, a utility or regulated company is earning a rate of return
11 which is above the midpoint of its authorized range computed in
12 accordance with the provision of subsection (1)(f) and without
13 consideration of a tax rate increase, the utility or regulated
14 company shall make other adjustments approved by the Commission or
15 collect only those associated revenues which cause the utility or
16 regulated company to earn below that midpoint, as described in
17 paragraph 5(c).

18 (4) Reporting Requirements. Following a tax rate change,
19 each utility or regulated company shall furnish a report, on the
20 form prescribed by the Commission, Form PSC/AFA 1 (), which is
21 incorporated into this rule by reference. Form PSC/AFA 1 (),
22 entitled "Rule 25-14.003 Corporate Income Tax Expense Adjustments",
23 was effective () and may be obtained from the Commission's
24 Division of Auditing and Financial Analysis. A utility or
25 regulated company is not precluded from providing tax adjustment
26 information of its choice in addition to that prescribed by Form
27 PSC/AFA 1 (). The report shall be required each year until the
28 utility's or regulated company's rates and charges are adjusted to
29 reflect the newly effective tax rate. ~~On or before March 1st of~~
30 ~~every year following a tax rate change, each utility or regulated~~
31 ~~company shall furnish a final report, in the form prescribed by~~

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1 ~~the Commission.~~ The report shall cover only the prior calendar
2 year and shall be due on or before fifteen days after the due
3 date, including authorized extensions, of the Annual Report
4 required by Rules 25-4.018, 25-6.014, 25-7.014, and 25-30.110.
5 ~~during which the tax rate change was effective.~~

6 (5) Procedures.

7 (a) Refunds, ~~or~~ collections or other adjustments approved
8 by the Commission shall be calculated from the effective date of
9 any tax rate change through the end of the calendar year. If the
10 tax rate change is in effect for only part of a tax year, the
11 refund, ~~or~~ collection or other Commission adjustment shall be
12 calculated in accordance with the utility's or regulated company's
13 customary accounting treatment as authorized by the federal or
14 state taxing authority for tax rate changes which occur during a
15 tax year. For years subsequent to the year in which the tax
16 change became effective, tax savings or tax deficiencies shall be
17 calculated for the entire calendar year or for the portion of the
18 calendar year prior to the effective date of the next tax change.

19 (b) A further change in the tax rate shall end one period of
20 compliance and initiate a new period but shall not affect any
21 refund, ~~or~~ collection or other adjustment approved by the
22 Commission already in progress pursuant to this rule.

23 (c) Together with the ~~final~~ report described in subsection
24 (4) of this rule, each utility or regulated company shall file a
25 petition containing a calculation of and the method for
26 refunding, ~~or~~ collecting or otherwise disposing of any tax
27 savings or deficiency for the tax year of the report. The
28 Commission will review and evaluate the petition and supporting
29 data, and either approve it, approve it with modification, or deny
30 it; an opportunity for a hearing on the Commission's decision will
31 then be provided, if requested. ~~Thereafter, the~~ The utility or

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1 regulated company shall either make the refund to or collect the
2 deficiency from its existing customers in accordance with
3 paragraphs (e) and (f) of this subsection or make another
4 adjustment as directed by this Commission.

5 (d) Upon its own or other motion, the Commission may
6 determine that a refund, ~~or~~ collection or other adjustment for a
7 particular year is impractical because its amount will not warrant
8 the expense of making the refund, ~~or~~ collecting the deficiency or
9 making another adjustment. In such an event, no refund, ~~or~~
10 collection or other adjustment will be made for that year.

11 (e) The utility or regulated company may make any refund or
12 collection either as a lump sum payment or billing or in monthly
13 installments not to exceed twelve (12) months. Such refunds shall
14 be made in accordance with Rules 25-4.114, 25-6.109, 25-7.091, and
15 25-30.360. or Such collections shall be made to or from current
16 customers of the utility or regulated company at the time that
17 such ~~refunds--or~~ collections are to be effected. ~~In--either~~
18 ~~event,--the~~ The utility or regulated company shall refund or
19 collect the amount with interest accruing on any outstanding
20 balance from the date of overcollection or underpayment.
21 ~~Interest--shall--be--set--by--the--Commission~~ The date of
22 overcollection or underpayment shall be the later of the date the
23 tax rate change was effective or the first of the year for which
24 the report is being filed. If a tax rate change was phased in
25 over a period of time, then the date of overcollection or
26 underpayment shall be the later of the date when tax rate change
27 was effective or the date the the effect of the tax rate change
28 was recognized as such by use of a blended tax rate. If the
29 utility or regulated company is unable to show when over-
30 collections or underpayments occurred, then the tax savings or tax
31 deficiency shall be assumed to have occurred evenly over the

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1 twelve (12) months covered by the tax adjustment report. Interest
2 on refunds, collections, or other Commission approved adjustments
3 shall be calculated in accordance with the interest calculation
4 provisions of Rules 25-4.114, 25-6.109, 25-7.091, and 25-30.076.
5 Interest shall not accrue on franchise fees, utility taxes, sales
6 taxes, or excise taxes.

7 (f) For an electric utility, other utility, or regulated
8 company, shall--determine each customer's share of refund or
9 collection shall be determined on a basis that fairly and
10 equitably reflects the--income taxes embodied in rates for the
11 utility's or regulated company's various customer classes, or on
12 any other fair and reasonable basis approved by the Commission on
13 a--kilowatt-hour-basis. A telephone company shall determine each
14 customer's share of refund or collection based on existing general
15 residence and business local rate relationships. Other utilities
16 shall determine each customer's share of refund or collection
17 based on consumption or any other reasonable basis specified in
18 the utility's or regulated company's petition and approved by the
19 Commission.

20 (6) Effect of Rate Case or Earnings Review proceeding show
21 cause. A tax savings refund, or tax deficiency collection,
22 or other Commission approved adjustment shall be consistent with
23 this rule except that:

24 (a) When a tax rate change occurs, its effects ~~The issue of~~
25 ~~a--tax--savings--refund--or--tax--deficiency--collection~~ shall be
26 addressed decided in the course of rate cases and earnings
27 review show--cause proceedings that are pending when a the
28 tax rate change becomes law. If a rate case or earnings
29 review proceeding is begun in or that commence prior to the close
30 of the tax year in which a tax rate change becomes
31 effective., the effects of the tax rate change shall be

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1 addressed in such proceedings.

2 ~~(b) Nothing in this subsection shall be construed as~~
3 ~~limiting the operation of the tax expense adjustment process~~
4 ~~under this rule either in completing a~~ A tax savings
5 refund, ~~or~~ tax deficiency collection or other Commission
6 approved adjustment already in progress for any tax years prior
7 to the year in which a rate case or earnings review proceeding
8 ~~show cause~~ is initiated, shall be completed. This
9 subsection ~~it~~ shall ~~also~~ not prohibit a tax savings refund,
10 ~~or~~ tax deficiency collection or other Commission approved
11 adjustment for any tax year or portion thereof ending prior to the
12 final order in a rate case or earnings review ~~show cause~~
13 proceeding.

14 (7) The provisions of this rule shall not supersede any
15 disposition of excess tax revenues or collections of tax
16 deficiencies approved by the Commission prior to the effective
17 date of this rule.

18 Specific Authority: 364.01, 366.05, 367.121, F.S.

19 Law Implemented: 364.01, 366.05, 367.121, F.S.

20 History: New 6/22/82, formerly 25-14.03, Amended

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