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BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

In the Matter of:

DOCKET NO. 20180039-EI
CONSIDERATION OF THE STIPULATION AND SETTLEMENT
AGREEMENT BETWEEN GULF POWER COMPANY, THE OFFICE OF
PUBLIC COUNSEL, FLORIDA INDUSTRIAL POWER USERS
GROUP, AND SOUTHERN ALLIANCE FOR CLEAN ENERGY
REGARDING THE TAX CUTS AND JOBS ACT OF 2017

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VOLUME 1
PAGES 1 through 40

PROCEEDINGS: HEARING
COMMISSIONERS
PARTICIPATING: CHAIRMAN ART GRAHAM
COMMISSIONER JULIE I. BROWN
COMMISSIONER DONALD J. POLMANN
COMMISSIONER GARY F. CLARK
COMMISSIONER ANDREW G. FAY

DATE: Monday, March 26, 2018

TIME: Commenced: 1:30 p.m.
Concluded: 2:05 p.m.

PLACE: Betty Easley Conference Center
Room 148
4075 Esplanade Way
Tallahassee, Florida

REPORTED BY: DEBRA R. KRICK
Court Reporter

PREMIER REPORTING
114 W. 5TH AVENUE
TALLAHASSEE, FLORIDA
(850) 894-0828

1 APPEARANCES:

2 J.R. KELLY, PUBLIC COUNSEL; CHARLES
3 REHWINKEL, DEPUTY PUBLIC COUNSEL; Office of Public
4 Counsel, c/o the Florida Legislature, 111 W. Madison
5 Street, Room 812, Tallahassee, Florida 32399-1400,
6 appearing on behalf of the Citizens of the State of
7 Florida.

8 JON C. MOYLE, JR., ESQUIRE, Moyle Law Firm,
9 P.A., 118 North Gadsden Street, Tallahassee, Florida
10 32301, appearing on behalf of Florida Industrial Power
11 Users Group.

12 RUSSELL A. BADDERS and STEVEN R. GRIFFIN,
13 ESQUIRES, Beggs & Lane, P.O. Box 12950, Pensacola,
14 Florida 32591-2950, appearing on behalf of Gulf Power
15 Company.

16 GEORGE CAVROS, ESQUIRE, 120 East Oakland Park
17 Boulevard, Suite 105, Fort Lauderdale, Florida 33334, on
18 behalf of Southern Alliance for Clean Energy.

19 SUZANNE BROWNLESS, ESQUIRES, FPSC General
20 Counsel's Office, 2540 Shumard Oak Boulevard,
21 Tallahassee, Florida 32399-0850, appearing on behalf of
22 the Florida Public Service Commission Staff.

23

24

25

1 APPEARANCES CONTINUED:

2 KEITH HETRICK, GENERAL COUNSEL; MARY ANNE
3 HELTON, DEPUTY GENERAL COUNSEL; JENNIFER CRAWFORD,
4 ESQUIRE, Florida Public Service Commission, 2540 Shumard
5 Oak Boulevard, Tallahassee, Florida 32399-0850, Advisor
6 to the Florida Public Service Commission.

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EXHIBITS

NUMBER:		ID	ADMITTED
1	Comprehensive exhibit list	8	8
2-4	As identified on the comprehensive exhibit list		35

1 P R O C E E D I N G S

2 CHAIRMAN GRAHAM: Good afternoon, everyone.

3 Let the record show it is Monday, March 26th.

4 It's 1:30, and this is our Gulf tax stipulation

5 20180039-EI.

6 And if I can -- we will convene this hearing.

7 And if I could get staff to read the notice, please

8 MS. BROWNLESS: Yes, sir.

9 By notice issued on March 5th, 2018, this time
10 and place has been set for hearing in docket number
11 20180039-EI. The purpose of the hearing is set
12 forth in the notice.

13 CHAIRMAN GRAHAM: Let's take appearances.

14 MR. STONE: Mr. Chairman, I am Jeff Stone,
15 General Counsel for Gulf Power Company. And
16 appearing with me is Russell Badders from Beggs &
17 Lane.

18 MR. REHWINKEL: Mr. Chairman, Charles
19 Rehwinkel, Stephanie Morse and J.R. Kelly with the
20 Office of Public Counsel on behalf of Gulf's
21 customers.

22 MR. MOYLE: Good afternoon. Jon Moyle on
23 behalf of the Florida Industrial Power Users Group,
24 FIPUG. And I would also like to enter an
25 appearance for Karen Putnal with our firm.

1 CHAIRMAN GRAHAM: We have -- George Cavros is
2 excused for today.

3 MS. BROWNLESS: Yes, sir. George --

4 CHAIRMAN GRAHAM: Staff.

5 MS. BROWNLESS: Yes, sir. George Cavros, who
6 is representing SASE, has been excused for today.
7 And the Office of Public Counsel, my understanding
8 is, will be entering his position.

9 MR. REHWINKEL: Yes. Mr. Cavros will not be
10 here, but he is in full support of the stipulation.

11 MS. BROWNLESS: Suzanne Brownless on behalf of
12 the Florida Public Service Commission.

13 MS. HELTON: And Mary Anne Helton, here as
14 your advisor today. I would also like to make an
15 appearance for your General Counsel, Keith Hetrick.

16 CHAIRMAN GRAHAM: Okay. Preliminary matters?

17 MS. BROWNLESS: Yes, sir. Robin Boren, Rhonda
18 Alexander and Lee Evans will be appearing as
19 witnesses on behalf of Gulf as a panel to answer
20 any questions that the Commission may have.

21 CHAIRMAN GRAHAM: Okay.

22 MS. BROWNLESS: At this time, we would like to
23 talk about our comprehensive exhibit list, which
24 includes the stipulation and settlement agreement
25 of Gulf Power Company, the Office Public Counsel,

1 the Florida Industrial Power Users Group and the
2 Southern Alliance for Clean Energy, dated
3 February 14th, 2018, with attachments, and staff
4 data requests.

5 This list has been provided to the parties, to
6 the Commissioners and the court reporter. Staff
7 requests that this list be itself marked as Exhibit
8 No. 1.

9 CHAIRMAN GRAHAM: We will mark it as Exhibit 1
10 mark and move it into the record.

11 (Whereupon, Exhibit No. 1 was marked for
12 identification and received into evidence.)

13 MS. BROWNLESS: Thank you.

14 There are no further preliminary matters, sir.

15 CHAIRMAN GRAHAM: What's the current status of
16 this proceeding?

17 MS. BROWNLESS: We are here today to discuss
18 the stipulation and settlement agreement between
19 Gulf and the Office of Public Counsel, the Florida
20 Industrial Power Users Group and the Southern
21 Alliance for Clean Energy regarding the Tax Cuts
22 and Jobs Act of 2017 originally filed in docket
23 numbers 20180013-PU, the generic tax docket, and
24 20160186-EI Gulf's last rate base proceeding.

25 The stipulation and settlement agreement

1 addresses the effects of the passage of the Tax
2 Cuts and Jobs Act of 2017 signed into law by
3 President Trump on December 22nd, 2017.

4 The signatories to the stipulation are OPC,
5 FIPUG and SACE, all of whom were signatories to
6 Gulf's last rate case stipulation.

7 The stipulation implements paragraph six of
8 Gulf's 2017 stipulation and settlement agreement
9 approved by Order Number PSC-17-0178-S-EI, which we
10 refer to as the 2017 rate case settlement
11 agreement.

12 CHAIRMAN GRAHAM: Okay. So time for opening
13 statements. Gulf, you are going to have eight
14 minutes, and I assume you are going to do most of
15 the explaining of the stipulation that's before us.

16 MR. STONE: I am prepared do so. Yes, sir,
17 Mr. Chairman.

18 CHAIRMAN GRAHAM: And OPC and FIPUG, you guys
19 have hopefully less.

20 Okay, Gulf.

21 MR. STONE: Thank you, Mr. Chairman.

22 The purpose of my opening remarks, as you
23 indicate, is to outline the agreement that's before
24 you today and to provide a proffer of the evidence
25 and testimony we are prepared to offer today in

1 support of your hopeful approval.

2 As Ms. Brownless has indicated, the
3 February 14th stipulation and settlement agreement
4 is the product of successful settlement
5 negotiations between all the parties to the
6 settlement agreement that resolved our 2017 rate
7 case, and that was approved by this commission less
8 than a year ago. And, in fact, the base rates that
9 resulted from that settlement had been in effect
10 for less than six months at the time that the Tax
11 Cut and Jobs Act was passed and enacted the into
12 law.

13 The 2018 agreement before you today is a
14 compromised settlement between and among the
15 parties that must be considered as a comprehensive
16 whole and not as individual parts. It's the
17 product, as all settlements are, of the give and
18 take among the parties on individual elements that
19 ultimately allow the parties to reach the filed
20 consensus result. And the foundation for these
21 negotiations was paragraph six of the 2017
22 agreement, which contemplated the possibility of
23 the type of tax reform that did, in fact,
24 ultimately occur.

25 An important element of both agreements is to

1 achieve a mutually satisfactory permanent base rate
2 reduction as soon as possible, and thereby avoid
3 both the uncertainty and the inherent delay
4 associated with litigating all of the ratemaking
5 issues arising from the Tax Cut and Jobs Act.

6 The 2018 agreement before you today is
7 structured to accomplish the incorporation of the
8 tax cut act into our rates as a continuation from
9 the 2017 base rate settlement as though it were a
10 known change when that agreement were -- was
11 reached and approved by this commission. The
12 compromised agreements between the parties in both
13 the '17 agreement, approved less than a year ago,
14 and in the '18 agreement are based on this central
15 foundation. And as you have heard already, all of
16 the parties are united in support of this
17 agreement.

18 As noted in your procedural order governing
19 the proceedings today, the 2018 agreement
20 implements paragraph six of the '17 settlement.
21 And there are six basic parts to the current
22 agreement that, if approved today, will go into
23 effect for bills rendered on meter readings
24 starting the 1st of April.

25 The 2017 -- I'm sorry 2018 agreement seeks to,

1 one, immediately reduce Gulf's base rates by \$18.2
2 million on an annual basis.

3 Two, immediately reduce Gulf's ECRC rates by
4 \$15.6 million on an basis. Both of these in
5 response to the Tax Cut and Jobs Act.

6 Three, it will immediately reduce Gulf's fuel
7 cost recovery rates for the remainder of '18 by a
8 little over \$69.4 million, the first part of which
9 is the 69.4 to credit customers for the full
10 jurisdictional amount of the unprotected excess
11 deferred taxes resulting from the Tax Cut and Jobs
12 Act.

13 And then it will also, in the fuel cost
14 recovery rates, we will capture and credit to
15 customers the impact of the new tax cut between
16 January 1, 2018, and if approved today, the
17 effective date of the new base rates. So that for
18 those three months, we are capturing that and
19 incorporating that into the fuel cost rates that
20 will go into effect on meter readings starting next
21 week. This is done through an establishment of
22 regulatory reliability that will be liquidated
23 within the change in the fuel cost rates.

24 The fifth element is the establishment of a
25 53.5 percent equity ratio cap for all retail

1 regulatory purposes.

2 And the sixth and final element is we have set
3 the stage for a future limited scope proceeding to
4 be initiated by May 1, 2018, for the purpose of
5 determining the amount and flowback period for the
6 protected excess taxes.

7 The stipulated record that will be presented
8 to you today supports a finding by you that the
9 February 14 stipulation and settlement agreement
10 between and among the parties is in the public
11 interest and should be approved.

12 In addition to the stipulated items in the
13 comprehensive exhibit list, Gulf is prepared to
14 offer a panel of three witnesses who are available
15 to answer questions regarding the settlement. The
16 three panelists are led by Robin Boren, our Chief
17 Financial Officer. Ms. Boren is supported by Lee
18 Evans, Gulf's Pricing Supervisor, who will address
19 the application of the settlement to Gulf's base
20 rates, and by Rhonda Alexander, Gulf's Regulatory
21 Manager, who will deal with the application of the
22 settlement to the Gulf's fuel cost recovery and
23 ECRC rates.

24 I would like to conclude my opening remarks by
25 publicly thanking Mr. Kelly and Mr. Rehwinkel for

1 their leadership and professionalism, as the Office
2 of Public Counsel worked with Gulf Power Company on
3 the framework for both the 2017 agreement and the
4 2018 agreement. But I would also like to publicly
5 thank Mr. Moyle and Mr. Cavros for their
6 professionalism and participation in the settlement
7 discussions and the agreements that are before
8 you -- that bring us here today. Collectively the
9 parties have shown that much can be accomplished
10 collaboratively and cooperatively through the
11 settlement process.

12 And finally, I would like to thank your staff
13 for their efforts to make sure that this record was
14 fully developed, and that we had this opportunity
15 to present the stipulation to you today so that we
16 could still accomplish the goal of the parties,
17 which is to implement these rates, if approved,
18 effective on meter readings starting the first of
19 next week.

20 And with that, that concludes my opening
21 remarks.

22 CHAIRMAN GRAHAM: Thank you, Mr. Stone.
23 Mr. Rehwinkel.

24 MR. REHWINKEL: Thank you, Mr. Chairman.
25 Commissioners.

1 The Public Counsel supports this agreement
2 like we did the agreements that you have previously
3 approved this year to implement the Duke and Tampa
4 Electric stipulations to return the tax savings to
5 Florida's customers. We appreciate your approval
6 there, and we commend this agreement to your
7 approval.

8 30 years ago, this agency struggled for, it
9 seems like years, with returning tax savings to
10 customers. The agreements that the parties in the
11 Duke, Tampa Electric and Gulf Power case have
12 structured to return tax savings in a fair and
13 equitable way as soon as possible to customers
14 stands, in my mind, as a testament to this agency
15 and the parties that appear before you to get
16 things done for the benefit of customers, and we
17 commend your staff, and the company, and the
18 parties for working together to make this happen.

19 It is our view that the agreement that
20 implements the tax savings provisions of paragraph
21 six of the Gulf stipulation are fair and equitable,
22 and in the public interest, and benefit customers.

23 We will work with Gulf and the other parties,
24 and your staff, to implement the remaining
25 provision of paragraph six to identify and return

1 the benefits associated with the protected portion
2 of the excess accumulated deferred taxes to
3 customers in the most beneficial way. So we look
4 forward to that, but we commend this agreement to
5 you for your approval today as being in the public
6 interest.

7 Thank you.

8 CHAIRMAN GRAHAM: Thank you, sir.

9 Mr. Moyle.

10 MR. MOYLE: Thank you, Mr. Chairman.

11 On behalf of FIPUG, we, likewise, support the
12 stipulation, and think it is a good arrangement for
13 Gulf's customers.

14 We have addressed this commission a number of
15 times about the results and impact of the federal
16 tax reform, and we've established two polestars.
17 One is transparency, and the other is certainty and
18 prompt relief. We think that this proposal meets
19 those because, in our negotiations, we've been able
20 to have very constructive conversations with Gulf.

21 You know, you all are here today, but don't
22 get the benefit of hours upon hours of discussions
23 and meetings that take place. FIPUG has an expert,
24 Jeff Pollock, that you all hear from. He has the
25 chance to ask questions to understand it. So just

1 because we are here saying we support it, I just
2 wanted to emphasize there is a heck a lot of work
3 that goes on behind the scenes, and the two
4 polestars that I -- that I mention, the
5 transparency and the certainty have been met. So
6 we are supportive.

7 Particularly like to thank Gulf for the way in
8 which the monies are flowing back. It's over \$100
9 million in rate relief that the ratepayers are
10 going to receive. If you vote today, I am told
11 that will be received as of April -- April 1.

12 So I know you all have to be satisfied, you
13 will have some witnesses that you can ask questions
14 of. But hopefully a bench -- a bench vote will be
15 forthcoming, which would allow the rate relief to
16 be seen April 1.

17 So, again, we would urge your favorable
18 consideration. I know your staff has had a chance
19 to ask questions and look at it. We think it's a
20 fair deal. We think it's in the public interest,
21 and we think all the parties did a good job of
22 coming to an accord.

23 Thank you.

24 CHAIRMAN GRAHAM: Thank you, Mr. Moyle.

25 Through privilege of the Chair, I want to

1 thank all of you for coming together with this
2 agreement. I know it's not always easy. And I do
3 appreciate the heavy work that you guys do behind
4 the scenes.

5 I want to thank OPC for starting all this tax
6 talk. When this -- when this tax relief was done
7 in December, and you guys came forward with us, and
8 we are systematically moving forward with this
9 plan, and it's exciting. It's definitely exciting
10 to see the immediate impact of this kind of stuff.
11 So I do thank you guys for that.

12 And I want to thank staff for as quickly as
13 you have gone through this agreement and brought it
14 before us for approval, because I am sure there is
15 a lot of people out there that are going to
16 appreciate these rollbacks.

17 Okay. Is this the time we set aside to take
18 public testimony. Is there anybody here in the
19 audience that's here to speak -- give testimony for
20 this hearing?

21 Okay. Then I will skip over that part. And
22 we will go to swearing in our panel of witnesses.
23 If I can get those three to stand and raise your
24 right hand.

25 Whereupon,

1 LEE EVANS
2 ROBIN BOREN
3 RHONDA ALEXANDER

4 was called as a witness, having been first duly sworn to
5 speak the truth, the whole truth, and nothing but the
6 truth, was examined and testified as follows:

7 CHAIRMAN GRAHAM: Yes? Thank you.

8 Okay. So --

9 MR. STONE: Mr. Chairman, would you like them
10 to take the --

11 CHAIRMAN GRAHAM: Yes. Come up here, please.

12 All right. Staff, so tell me where are we
13 now? There is no public testimony.

14 MS. BROWNLESS: No, sir. And you have sworn
15 in the witnesses. So this is your opportunity to
16 question the witnesses under oath.

17 CHAIRMAN GRAHAM: Okay. Commissioners, let's
18 see the lights start flashing.

19 COMMISSIONER BROWN: One question.

20 CHAIRMAN GRAHAM: Okay. I don't see any
21 questions.

22 Commissioner Brown.

23 COMMISSIONER BROWN: I have a clarifying
24 question to appease the Chairman. Just joking.

25 Under paragraph 13, it talks about this
process about protected excess deferred taxes

1 requiring additional work, and then it also
2 mentions possibly a limited scope proceeding by
3 May 1st, 2018, to kind of investigate that a little
4 further. And then, just if you will, under
5 paragraph 18, then it talks about closing the
6 docket on any issues affecting Gulf Power, and
7 being excused from participation in Docket Number
8 20180013.

9 So does Gulf anticipate opening up a new
10 docket to address the protected excess deferred
11 taxes issue? Is that a legal question that you
12 want to defer to your counsel?

13 THE WITNESS: (MS. BOREN) Yes, I think that's
14 a legal question to defer to our counsel, thank
15 you.

16 MR. STONE: Commissioner Brown, we've thought
17 about that. And we were thinking that it may be
18 appropriate to just continue -- since this docket
19 has already been opened as an individual docket for
20 Gulf, that this docket could be the vehicle by
21 which we address the future limited scope
22 proceeding that's contemplated by the stipulation
23 and settlement agreement.

24 COMMISSIONER BROWN: Yes, I would agree.

25 And then with regard to closing the docket,

1 would you close the docket for all issues except
2 for that limited issue?

3 MR. STONE: Perhaps the clarification you seek
4 is the docket we were trying to close as to Gulf
5 Power Company was the generic docket that you
6 opened in January.

7 COMMISSIONER BROWN: Okay.

8 MR. STONE: Our concern was we didn't want to
9 be caught between two dockets. We wanted to focus
10 our attention on the individual docket.

11 COMMISSIONER BROWN: Thank you for that
12 clarification.

13 All right. So the only docket that would be
14 closed would be with regard to Gulf Power's role in
15 the generic proceeding?

16 MR. STONE: That's correct.

17 COMMISSIONER BROWN: Okay.

18 MR. STONE: This docket will remain open.

19 COMMISSIONER BROWN: All right. Great. Thank
20 you.

21 I appreciate Mr. Moyle's comments regarding
22 transparency and prompt relief. And I am also, as
23 the Chairman indicated, a little excited. I think
24 that term is different. I mean, I am thrilled that
25 we are in this posture. I have said this before,

1 when Gulf proposed this filing. I believe this is
2 incredible that customers can see immediate
3 savings.

4 So -- I mean, really, this is a very
5 straightforward agreement. I thank staff. I thank
6 the parties for coming forth. I thank Gulf and OPC
7 and all of the signatories for having the foresight
8 to even put this in the settlement agreement that
9 we approved. And it's -- it's a great relief for
10 all customers in Gulf Power's jurisdiction. So
11 thank you for proposing this for us, and I look
12 forward to supporting it.

13 CHAIRMAN GRAHAM: Thank you, Commissioner
14 Brown.

15 Commissioner Fay.

16 COMMISSIONER FAY: Thank you, Mr. Chairman.

17 I guess mine would also be a clarifying
18 question, too.

19 When I look at the recoveries that are placed
20 in this stipulation, the base, the ECRC and the
21 fuel, it looks like essentially that those
22 recoveries would start almost immediately, in other
23 words, April 1. In the response that Gulf had,
24 they mentioned the billing cycle was April 2nd, and
25 so I just wanted to make sure I was reading this

1 right.

2 There is probably a good reason on April
3 Fool's and Easter, you don't send out a notice
4 necessarily, but if you could maybe clarify that.

5 THE WITNESS: (MS. BOREN) Of course,
6 Commissioner Fay.

7 So we do have a dedicated first bill read for
8 each month, that's April 2nd, but it will be based
9 on bills beginning for meter readings based on
10 April 1st-meter. So for usage standpoint, it is a
11 April 1st.

12 COMMISSIONER FAY: Okay. Great.

13 And all -- the ECRC, the base and the fuel,
14 it's all included in that April 1st change?

15 THE WITNESS: (MS. BOREN) Correct.

16 CHAIRMAN GRAHAM: Okay. Great. Thank you.
17 Thank you, Commissioner Fay.

18 Commissioner Polmann.

19 COMMISSIONER POLMANN: Thank you, Mr.
20 Chairman. Follow-up to Commissioner Brown's
21 question on paragraph 13.

22 You indicate here either a later agreement or
23 initiating a proceeding by May 1. Is there any
24 expectation that will be a later agreement, meaning
25 an agreement in addition to this one? Or do you

1 anticipate just going to a proceeding?

2 THE WITNESS: (MS. BOREN) Commissioner
3 Polmann, at this point, we have not had any further
4 discussions with the intervenors, so I would be
5 reluctant to say there is a definitive one way or
6 another.

7 COMMISSIONER POLMANN: Okay.

8 THE WITNESS: (MS. BOREN) But certainly, our
9 intent is to have started something after this
10 proceeding, assuming that it's approved, and that
11 we can move forward to the one remaining subject.

12 COMMISSIONER POLMANN: Okay. With regard to
13 the May 1 that would initiate a proceeding, and
14 then I see later in that paragraph, the bottom of
15 page eight, reference to January, is implementation
16 of the rate reduction, I take that, but that is the
17 date that that next step, says no earlier than
18 January.

19 Is there any -- I know it's hard to say at
20 this point if you are only initiating a proceeding
21 in May, but is any expectation on an outside date?
22 Do we simply don't know? Can you comment on that?

23 THE WITNESS: (MS. BOREN) Again, I think at
24 this point we probably don't know. The intent no
25 earlier than January 19th was if we found ourselves

1 rolling into 2019 without a resolution, then those
2 dollars from 2018 would begin to flow back to
3 customers in 2019.

4 So it was to make sure that there is ample
5 time for us to come to a resolution, either with
6 the Commission or with the intervenors, but knowing
7 that at some point that money needs to start
8 flowing back to customers, and so beginning
9 January 19 it would if there was not another
10 resolution in place.

11 COMMISSIONER POLMANN: So it potentially could
12 be some preliminary number subject to a true-up is
13 that what you are saying?

14 THE WITNESS: (MS. BOREN) So we will be
15 establishing a regulatory liability associated with
16 the protected deferred income taxes, with your
17 approval --

18 COMMISSIONER POLMANN: Sure.

19 THE WITNESS: (MS. BOREN) -- back to
20 January 1st. So we will be -- we will be holding
21 those in a regulatory liability for the remainder
22 of 2018. And if we do not have a new resolution
23 associated with the protected excess deferred
24 income taxes, it would begin to flow back to
25 customers beginning in January of '19.

1 COMMISSIONER POLMANN: Okay. Thank you.

2 Now, one follow-up, Mr. Chairman.

3 CHAIRMAN GRAHAM: Sure.

4 COMMISSIONER POLMANN: Back on page seven --
5 and again, this is just clarifying.

6 The relationship between paragraph 10 and 11,
7 if you could comment on that for me. And I guess
8 my simple question is, does paragraph 11 deal with
9 the issue in paragraph 10?

10 THE WITNESS: (MS. BOREN) It does in an
11 indirect way, I think.

12 So for our credit metrics is our funds from
13 operations to our debt ratio. As you know, we are
14 planning on sending \$69.4 million back to customers
15 in 2018 --

16 COMMISSIONER POLMANN: Right.

17 THE WITNESS: (MS. BOREN) -- with no cash flow
18 associated with that. So to the extent we were to
19 fund that at our equity debt ratio, it would -- it
20 would deteriorate our ratings. And so our plan is
21 to fund that with equity. Our intent is to fund
22 that 100 percent with equity.

23 And so in order to do that in an effective
24 manner, one of the negotiated items was that we
25 would be able to increase our equity ratio from

1 52-and-a-half to 53-and-a-half percent, which is
2 about \$70 million for us.

3 So one percentage point is \$70 million, which
4 is the equity amount that we plan to utilize and
5 fund for this credit to customers.

6 COMMISSIONER POLMANN: Okay. So that
7 allowance allows you to take care of the issue in
8 number 10?

9 THE WITNESS: (MS. BOREN) It does.

10 COMMISSIONER POLMANN: Okay.

11 THE WITNESS: (MS. BOREN) So it means that
12 by sending these dollars back to customers quickly,
13 we will not be changing the financial integrity --
14 or deteriorating the financial integrity of Gulf
15 Power.

16 COMMISSIONER POLMANN: Thank you very much.
17 That's all, Mr. Chairman.

18 MR. STONE: Commissioner Polmann, if I may
19 elaborate briefly.

20 All of the articles -- the paragraphs in this
21 document were negotiated articles, and not all of
22 the articles have the clarity that we would hope,
23 perhaps, but I want to be clear about one thing.
24 Paragraph 10 was a statement of Gulf's contention,
25 and not everyone agreed with that contention, but

1 they agreed to allow that into the document.

2 Everyone did agree with paragraph 11 and the
3 concession that was made there. Whether or not the
4 other parties agree with the relationship or not is
5 really not pertinent to the resolution of the
6 stipulation, but it is pertinent from Gulf's
7 perspective, that's why we felt it was important to
8 have information there.

9 So I just want to be clear, my -- my
10 cosignatories to the stipulation agreement -- this
11 was one of those hard fought battles where there
12 was concession made, but it was not something where
13 there was necessarily agreement on the -- on the
14 connection between the two.

15 COMMISSIONER POLMANN: I understand, sir. The
16 first three words in paragraph 10 and paragraph 11
17 are very strong.

18 MR. STONE: Thank you.

19 COMMISSIONER POLMANN: Thank you, sir.

20 CHAIRMAN GRAHAM: Mr. Rehwinkel.

21 MR. REHWINKEL: Yes. Mr. Chairman, if I might
22 provide some information in response to
23 Commissioner Polmann's first question.

24 CHAIRMAN GRAHAM: Sure.

25 MR. REHWINKEL: The Public Counsel does intend

1 to engage with Gulf Power to implement an effort to
2 reach a resolution of the protected. The dollars
3 that would be at issue there are subject to refund
4 and are protected. Regardless of when that gets
5 resolved, customers will not be out any money based
6 on the ultimate resolution. And that's a credit to
7 the company and your staff and the Commission
8 taking an affirmative position on that.

9 We have reached out to staff to participate if
10 they would like to. And even if we don't reach
11 resolution in our efforts before May 1st, even if a
12 proceeding is initiated, that still does not
13 preclude us from continuing to try to work this
14 out.

15 We think -- we think matters of interpretation
16 of the treasury regulations and tax law should be
17 resolvable, but I can't guarantee anything. But we
18 certainly will be working to bring that to a
19 resolution with your staff and the other parties.

20 COMMISSIONER POLMANN: Thank you, sir.

21 CHAIRMAN GRAHAM: Okay. Thank you,
22 Commissioner Polmann.

23 Commissioner Clark.

24 COMMISSIONER CLARK: Thank you, Mr. Chairman,
25 I want to echo the comments --

1 CHAIRMAN GRAHAM: Microphone. Microphone.

2 COMMISSIONER CLARK: I thought I hit it. I am
3 sorry.

4 I just want to echo the comments everyone has
5 made regarding the cooperation of the parties in
6 resolving this matter. I think that this is -- my
7 short-term, it's very unprecedented, and you guys
8 worked together very quickly, and I was very happy
9 to see this come together.

10 I do have just a couple of questions regarding
11 the structure of the deal in terms of how you
12 allocated the cost of -- I am sorry, I need to turn
13 my question here -- how you allocated the refunds
14 back according to the different clauses, and to the
15 base.

16 It seems like the base got a small amount of
17 treatment, which trying to go through the documents
18 and understand, I think I see that, but the largest
19 portion of the refund is coming back through the
20 fuel cost recovery. You are also capturing January
21 through April's amount that was not -- that is not
22 going to be recaptured on a monthly basis, I
23 assume.

24 What happens at the end of the year? Do you
25 revisit that through the fuel cost recovery and

1 make a change to it?

2 THE WITNESS: (MS. BOREN) So let me make sure
3 I understand your questions. If I don't answer it
4 please, let me know.

5 So the \$18.2 million, the decrease in base
6 rate, is a permanent annual decrease in base rates,
7 associated with the fact that, going forward, Gulf
8 will only have to pay a 21 percent income tax rate,
9 and previously we paid a 35 percent tax rate. And
10 so that is -- you know, again, this is a
11 comprehensive negotiated settlement. But that
12 really represents the change in the tax rate on a
13 go-forward basis, so we no longer need to collect a
14 35 percent tax rate. We really need to collect a
15 21 percent tax rate. So the 18.2 is a final number
16 that is the negotiated amount of the change in base
17 rates.

18 Base rates are prospective. So base rates
19 would be from the time that we were -- had this
20 approved going forward. It's not our intent to
21 keep a timing difference associated with tax
22 reform.

23 Tax reform was effective January 1. And so
24 our -- our calculation to -- for March 31st back to
25 January 1 was to say the tax rate changed on

1 January 1, customers should have received the
2 benefit of that from January 1. And the mechanism
3 we are using to do that is a credit to the fuel
4 clause through the rest of 2018.

5 The other portion that's flowing through the
6 fuel clause is the \$69.4 million, which is a
7 regulatory liability we booked on our balance sheet
8 as of December 31st, 2017, related to the fact that
9 we had deferred certain income taxes, which we
10 expected to have to pay at a 35 percent tax rate.
11 We are now only going to need to pay those at a
12 21 percent tax rate.

13 So our customers, in essence, have -- deserve
14 to have a credit back related to those amounts.
15 And that \$69.4 million is the amount of the
16 unprotected, which means we have a little more
17 flexibility as to how those can flow through our
18 financial statements. They are not related to
19 specific property, plant and equipment.

20 The average life of those is 19.7 years, but
21 we feel there is an ability for us to return those
22 dollars to customers quickly. And so we are using
23 the fuel clause as a mechanism to return -- to
24 credit those dollars to customers, because that is
25 historically the clause from which we have credited

1 customers. There is a predetermined rate that
2 those will flow back to customers.

3 Again, historically, that's the one we've
4 used, so we are being very consistent with that.
5 But the 69.4, as well as the first three months of
6 base rates, that will go away at the end of 2018,
7 because it's a one-time item that we are return --
8 that we are crediting to customers.

9 The other longer term item is the 15.6. So it
10 is the ECRC clause. And, again, that is a change
11 because, going forward, we are paying a 21 percent
12 tax rate instead of a 35 percent tax rate. The
13 difference is an estimated annual of \$15.6 million.

14 So those rates will go in effect on April 1st.
15 And then through the -- through the true-up
16 mechanism, annual true-up mechanism that we have,
17 we will over/under -- we will correct that in
18 January '19 to the extent that it wasn't fully
19 realized in 2018.

20 So we are accelerating that. We believe,
21 again, that customers deserve to get these dollars
22 back quickly, so we are accelerating that \$15.6
23 million, instead of waiting for a filing in
24 November.

25 Did that answer your question?

1 COMMISSIONER CLARK: Yes.

2 THE WITNESS: (MS. BOREN) Okay.

3 COMMISSIONER CLARK: In great detail. Very
4 good.

5 Final question relates to customer concerns
6 and their notifications.

7 What have you guys done to notify the
8 customers about what's coming down, how this is
9 going to be implemented?

10 THE WITNESS: (MS. BOREN) Sure. Commissioner
11 Clark, we have -- we did have a press release that
12 we issued when we signed the agreement on
13 February 14th. There were numerous news articles,
14 social media opportunities, as well as radio and TV
15 that went through.

16 Should we get approval today, we will also be
17 issuing a press release today for our customers. I
18 know our corporate communications team is
19 well-prepared in order to get this out to media
20 outlets, including our social media, as well as
21 radio, TV and newspaper.

22 And then we will be putting a bill insert in
23 every customer's bills -- bill. So they will
24 probably be receiving a bill notification at the
25 time that they receive their first credit, just

1 because of the timing here, but we do have that
2 drafted as well.

3 COMMISSIONER CLARK: Thank you.

4 THE WITNESS: (MS. BOREN) Thank you.

5 CHAIRMAN GRAHAM: Thank you, Commissioner
6 Clark.

7 Okay. Staff, exhibits and concluding matters.

8 MS. BROWNLESS: We would now seek to enter
9 into the record the settlement agreement, revised
10 tariffs and data requests that have been identified
11 on the comprehensive exhibit list as Exhibits 2
12 through 4.

13 CHAIRMAN GRAHAM: We will enter those into the
14 record.

15 MS. BROWNLESS: Thank you, sir.

16 (Whereupon, Exhibit Nos. 2-4 were received
17 into evidence.)

18 CHAIRMAN GRAHAM: Any other concluding matters
19 from the parties?

20 MS. BROWNLESS: No, sir.

21 Since there are no other concluding matters,
22 if you so choose, the Commission may make a bench
23 decision at this time.

24 CHAIRMAN GRAHAM: Do you guys have anything to
25 add before we come back to the bench? I saw y'all

1 reaching for your microphone. Mr. Stone.

2 MR. STONE: The first thing I was going to ask
3 is could the witnesses be excused from the stand?

4 CHAIRMAN GRAHAM: Yes. Thank you for coming,
5 guys.

6 (Witnesses excused.)

7 MR. STONE: I have no concluding remarks.

8 CHAIRMAN GRAHAM: Mr. Rehwinkel?

9 MR. REHWINKEL: Yes, Mr. Chairman and
10 commissioners. I just wanted to -- I have rarely
11 heard a first time witness before the Commission do
12 such an excellent job as -- as Gulf's witness.

13 I wanted to supplement the information that
14 you received by saying that the \$18.2 million is
15 permanent. The -- the issue that's outstanding
16 could also be a permanent additional rate
17 reduction, depending on how that's resolved. So
18 the 18.2 isn't the be-all end-all of that. So
19 there is a potential for that, just to clarify
20 that.

21 And the \$15.6 million that's in the ECRC, it
22 is subject to true-up at least in two ways. One,
23 whether is an over/under recovery of it, and
24 whether the number is correct.

25 Your staff will have an opportunity to vet the

1 number and decide whether it was correct. We don't
2 have a reason to believe that it's incorrect, but
3 it is your prerogative to determine whether that
4 number is right or not, and whether it's
5 corrected -- it's collected correctly, and that
6 will all work itself out in the ECRC process. But
7 we totally agree with the information you received
8 from the witnesses.

9 Thank you.

10 CHAIRMAN GRAHAM: Okay. Thank you.

11 Commissioner Brown.

12 COMMISSIONER BROWN: Thank you.

13 Mr. Chairman, given the posture that we are
14 in, and given the overwhelming evidence supporting
15 the public interest here today, I would like to
16 move approval of the stipulation and settlement
17 agreement with the revised tariff sheets in Docket
18 Number 20180039.

19 Again, this is an excellent venture for
20 customers. They are getting immediate relief
21 starting next month, and I appreciate all the
22 parties' support here.

23 COMMISSIONER POLMANN: Mr. Chairman, I -- I
24 find many aspects of this settlement to be very
25 efficient and beneficial, and I would move -- I

1 would second Commissioner Brown's motion.

2 CHAIRMAN GRAHAM: It's been moved and seconded
3 to approve the Gulf tax stipulation 20180039-EI.
4 If there is no further discussion, all in favor,
5 say aye.

6 (Chorus of ayes.)

7 CHAIRMAN GRAHAM: Any opposed?

8 (No response.)

9 CHAIRMAN GRAHAM: By your action, you have
10 approved that stipulation.

11 I thank you guys very, very much for what you
12 have done, and for being first out the gate. This
13 is going to be exciting for everybody, and I can't
14 wait to read the news clips in the morning
15 tomorrow.

16 MR. STONE: Thank you, Mr. Chairman.

17 CHAIRMAN GRAHAM: If there is nothing else, we
18 are adjourned, and we will start the Florida Gas
19 hearing at 10 after 2:00, so about four, five
20 minutes.

21 (Whereupon, the proceedings concluded at 2:05
22 p.m.)

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CERTIFICATE OF REPORTER

STATE OF FLORIDA)
COUNTY OF LEON)

I, DEBRA KRICK, Court Reporter, do hereby certify that the foregoing proceeding was heard at the time and place herein stated.

IT IS FURTHER CERTIFIED that I stenographically reported the said proceedings; that the same has been transcribed under my direct supervision; and that this transcript constitutes a true transcription of my notes of said proceedings.

I FURTHER CERTIFY that I am not a relative, employee, attorney or counsel of any of the parties, nor am I a relative or employee of any of the parties' attorney or counsel connected with the action, nor am I financially interested in the action.

DATED this 2nd day of April, 2018.



DEBRA R. KRICK
NOTARY PUBLIC
COMMISSION #GG015952
EXPIRES JULY 27, 2020