

State of Florida



## Public Service Commission

CAPITAL CIRCLE OFFICE CENTER • 2540 SHUMARD OAK BOULEVARD  
TALLAHASSEE, FLORIDA 32399-0850

**-M-E-M-O-R-A-N-D-U-M-**

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**DATE:** March 24, 2022

**TO:** Office of Commission Clerk (Teitzman)

**FROM:** Division of Accounting and Finance (Cicchetti) *ALM*  
Office of the General Counsel (Brownless) *GCL*

**RE:** Docket No. 20220053-EI – Petition for limited proceeding to address base rates and charges to reflect the impact of the 2021 temporary state income tax rate reduction, by Tampa Electric Company.

**AGENDA:** 04/05/22 – Regular Agenda – Proposed Agency Action - Interested Persons May Participate

**COMMISSIONERS ASSIGNED:** All Commissioners

**PREHEARING OFFICER:** La Rosa

**CRITICAL DATES:** None

**SPECIAL INSTRUCTIONS:** None

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### Case Background

Commission Order No. PSC-2017-0456-S-EI approved Tampa Electric Company's (Tampa Electric or the Company) 2017 Amended and Restated Stipulation and Settlement Agreement (2017 Agreement).<sup>1</sup> The 2017 Agreement included provisions to address changes in federal or state corporate income taxes. In September 2019, the State of Florida temporarily reduced its corporate income tax rate from 5.5 percent to 4.458 percent retroactive to January 1, 2019. In September 2021, the State of Florida further lowered its corporate income tax rate from 4.458 percent to 3.535 percent for calendar year 2021 only. Florida's corporate income tax rate returned to 5.5 percent beginning January 1, 2022.

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<sup>1</sup>Order No. PSC-2017-0456-S-EI, issued November 27, 2017, in Docket No. 20170210-EI, *In re: Petition for limited proceeding to approve 2017 amended and restated stipulation and settlement agreement, by Tampa Electric Company.*

In 2019, to recognize the 2019 tax rate decrease, the Commission issued Order No. PSC-2019-0524-PAA-EI on December 17, 2019, approving a base rate decrease of \$4,959,442 that included a net annual state income tax expense reduction plus the amortization over five years of estimated excess accumulated deferred state income taxes (EADSIT).<sup>2</sup> The Company's 2019 petition stated its calculation of the EADSIT as of December 31, 2018 was based on estimates and would be trued-up after filing its 2018 state corporate income tax return.

On November 29, 2021, the Company filed a petition for a limited proceeding to reduce base rates and charges to address the 2021 temporary state income tax rate reduction and the true-up of the EADSIT. In that petition, the Company indicated it would need until the spring of 2022 to complete its calculations. On January 31, 2022, the Company filed the results of its completed calculations.

In its petition, the Company has requested that the Commission approve its calculations of the 2021 net annual income tax expense reduction and the true-up of the estimated EADSIT amount that was calculated as of December 31, 2018.

The Commission has jurisdiction over this matter pursuant to Sections 366.04 and 366.06, Florida Statutes.

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<sup>2</sup>Order No. PSC-2019-0456-S-EI, issued December 17, 2019, in Docket No. 20190203-EI, *In re: Petition for limited proceeding to reduce base rates and charges to reflect impact of the 2019 temporary state income tax reduction, by Tampa Electric Company.*

## Discussion of Issues

**Issue 1:** Should the Commission approve Tampa Electric Company's calculation of the total revenue requirement reduction of \$6,198,225 associated with the state corporate income tax rate of 3.535 percent for 2021 and the true-up of the estimated excess accumulated deferred state income taxes that were previously calculated as of December 31, 2018 and order the Company to include the revenue requirement reduction in its 2021 Energy Conservation Cost Recovery Clause true-up filing to be filed in the spring of 2022?

**Recommendation:** Yes. Staff recommends the Commission approve Tampa Electric Company's calculation of the total revenue requirement reduction of \$6,198,225 associated with the state corporate income tax rate of 3.535 percent for 2021 and the true-up of the estimated excess accumulated deferred state income taxes that were previously calculated as of December 31, 2018 and order the Company to include the revenue requirement reduction in its 2021 Energy Conservation Cost Recovery Clause true-up filing to be filed in the spring of 2022. (Cicchetti)

**Staff Analysis:** Paragraph 9 of the Company's 2017 Agreement included provisions for addressing changes to federal and state corporate income tax rates. According to the 2017 Agreement, the Company's forecasted earnings surveillance report for the calendar year that includes the period in which a tax change is effective is to be used to determine the impact of the tax change. The 2017 Agreement also provides that any effects of tax reform on retail revenue requirements shall be flowed back to customers through the Energy Conservation Cost Recovery Clause (ECCR).

In September 2021, the State of Florida temporarily reduced its corporate income tax rate from 4.455 percent to 3.535 percent retroactive to January 1, 2021. The Company has determined that the net annual income tax expense reduction associated with the tax rate reduction to 3.535 is \$2,725,826 for 2021 which increases to \$3,576,854 after being grossed-up for taxes.

The Company also has determined that the revenue requirement impact of the true-up of the EADSIT that was previously calculated through December 31, 2018 is \$1,997,678 which increases to \$2,621,371 after being grossed-up for taxes. The combined total of the net annual income tax expense reduction associated with the tax rate reduction of \$3,576,854 and the true-up of the EADSIT of \$2,621,371 results in a total revenue requirement reduction of \$6,198,225. Attachment 1 shows the Company's calculation. It should be noted, the original five year amortization of the EADSIT was for the period 2019-2023. The Company's current proposal accelerates the 2022 and 2023 annual amortization amounts into its proposed credit for the 2021 ECCR true-up to the benefit of the customers. The Company has presented the calculations and the proposal to the parties to the 2017 agreement (the Office of Public Counsel, the Florida Industrial Power Users Group, the Federal Executive Agencies, the Florida Retail Federation) and to Walmart and they have no objections. The WCF Hospital Utility Alliance has been contacted but has provided no response to date.

For the reasons discussed above, staff recommends the Commission approve the Company's calculation of the total revenue requirement reduction of \$6,198,225 associated with the state corporate income tax rate of 3.535 percent for 2021 and the true-up of the estimated excess accumulated deferred state income taxes that were previously calculated as of December 31,

2018 and order the Company to include the revenue requirement reduction in its 2021 ECCR true-up filing to be filed in the spring of 2022.

**Issue 2:** Should this docket be closed?

**Recommendation:** Yes. If no person whose substantial interests are affected by the proposed agency action files a protest within 21 days of the issuance of the order, this docket should be closed upon the issuance of a consummating order. (Brownless)

**Staff Analysis:** At the conclusion of the protest period, if no protest is filed this docket should be closed upon the issuance of a consummating order.

**Florida State Income Tax Rate Change  
Estimated Annual Revenue Requirement Difference  
2021 Budget**

Net Operating Income (Retail Jurisdictional) at Former Tax Rate	\$	377,664,782
Net Operating Income (Retail Jurisdictional) at New Tax Rate		<u>380,390,608</u>
Impact of New Rate	\$	2,725,826
Effective Tax Rate Gross-Up Factor		<u>0.76207350</u>
<b>Revenue Requirement Change</b>	<b>\$</b>	<b>3,576,854</b>
Excess State Tax True Up	\$	1,997,678
Effective Tax Rate Gross-Up Factor		<u>0.76207350</u>
Excess State Tax True Up Revenue Requirement	\$	2,621,371
<b>Total Revenue Requirement Change</b>	<b>\$</b>	<b>6,198,225</b>