

BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

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In the Matter of:

DOCKET NO. 20180013-PU

PETITION TO ESTABLISH A
GENERIC DOCKET TO
INVESTIGATE AND ADJUST
RATES FOR 2018 TAX
SAVINGS, BY OFFICE OF
PUBLIC COUNSEL.

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PROCEEDINGS: COMMISSION CONFERENCE AGENDA
ITEM NO. 7

COMMISSIONERS
PARTICIPATING: CHAIRMAN ART GRAHAM
COMMISSIONER JULIE I. BROWN
COMMISSIONER DONALD J. POLMANN
COMMISSIONER GARY F. CLARK

DATE: Tuesday, February 6, 2018

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

REPORTED BY: ANDREA KOMARIDIS
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the State of Florida at Large

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

2 CHAIRMAN GRAHAM: Let's go down to Item No. 7.

3 MR. CICCHETTI: Good morning, Mr. Chairman and
4 Commissioners.5 Item 7 addresses the effective date for
6 adjustments associated with the Tax Cut and Jobs
7 Act of 2017, signed into the law by the President
8 on December 22nd, 2017.9 I would like to emphasize that staff's
10 recommendation deals solely with the singular issue
11 of the effective date for issues associated with
12 the act. There are other issues that need to be
13 resolved. And by establishing jurisdiction, the
14 Commission gives the parties and staff and the
15 Commission time to resolve those issues and bring
16 them before you for determination at a later date.17 This recommendation recommends that unless a
18 utility agrees to a January 1, 2018, effective
19 date, the effective date for issues associated with
20 the act will be today, February 6th, 2018, for
21 utilities that have -- that do not have settlement
22 agreements that address taxes. For utilities that
23 do have settlement agreements that address taxes,
24 the terms of the agreement will control.

25 Staff has one oral modification subsequent to

1 filing the recommendation where we received the
2 letter from Forest Utilities indicating that they
3 agreed to a January 1, 2018, effective date. So,
4 Attachment A should reflect that Forest utilities'
5 effective date is January 1, 2018.

6 I understand there are other parties that
7 would like to address the Commission with regards
8 to this item. And staff is available for
9 questions.

10 CHAIRMAN GRAHAM: Okay. We'll start down here
11 with Mr. Butler.

12 MR. BUTLER: Thank you, Mr. Chairman. John
13 Butler on behalf of the Florida Power & Light
14 Company.

15 Good morning, Mr. Chairman and Commissioners.
16 FPL supports staff's recommendation. We have no
17 objection to the Commission asserting jurisdiction
18 over tax savings starting today, February 6th.

19 As you know, based on a filing we made in this
20 docket on January 22, FPL has found a way to
21 promptly benefit customers as a result of the
22 recently-enacted federal tax-reform legislation.

23 At the end of last year, FPL used all of the
24 depreciation reserves surplus available under its
25 current settlement agreement and wrote off nearly

1 \$1.3 billion of Hurricane Irma restoration costs,
2 rather than petitioning to recover those costs
3 under the settlement's storm-cost-recovery
4 mechanism.

5 This avoided what would have been a \$4
6 surcharge on a typical monthly residential bill
7 starting next month. And that surcharge would have
8 continued and escalated in 2019 and 2020. In
9 short, our settlement agreement has given us the
10 immediate opportunity to flow tax-reform savings
11 through to our customers.

12 As a result of tax reform, and through
13 continued aggressive control over operating
14 expenses, we expect to be able to maintain earnings
15 within the range contemplated by the settlement
16 agreement over the remaining three years of its
17 minimum term and, at the same time, at least
18 partially replenish the depreciation reserve that
19 we use to pay for the Hurricane Irma restoration
20 costs.

21 If we are successful in these efforts, and
22 barring any major unforeseen events, we expect to
23 be able to postpone for at least one more year the
24 need for a general base-rate increase; in other
25 words, at least through the end of 2021. This will

1 be another very positive result for customers, from
2 tax reform.

3 I should also note, as we did in our
4 January 22 filing, that FPL will cooperate fully
5 with the Commission, staff, OPC, and other parties
6 in facilitating a review of the Hurricane Irma
7 restoration costs.

8 Likewise, we will be meeting with staff and
9 parties to review in detail the approach we have
10 outlined in our filing and to provide additional
11 information as may be needed to facilitate their
12 review.

13 We feel that this can be best accomplished, at
14 least initially, through an informal process, but
15 we're obviously open to exploring with staff and
16 others the best way to proceed.

17 Thank you for the opportunity to make the
18 comments. I'm happy to answer your questions. And
19 I may feel the need to respond to Mr. Moyle. We'll
20 see. Thank you.

21 CHAIRMAN GRAHAM: Mr. Stone, Mr. Moyle, who is
22 next?

23 MR. STONE: Thank you, Commissioners. Jeff
24 Stone, general counsel for Gulf Power Company. And
25 I, too, want to applaud the circumstances under

1 which we're all here. We're all grateful for the
2 opportunity to have tax savings to share with our
3 customers.

4 And Gulf has the benefit of having been the
5 first utility to settle -- to negotiate a
6 settlement provision that provided for or provides
7 for a prompt resolution of the tax savings to its
8 customers. And we're working diligently to
9 implement that portion of our stipulation as soon
10 as possible and certainly by the March 1 deadline.

11 And those are my comments. I, too, reserve
12 the opportunity to respond to Mr. Moyle, in case
13 needed.

14 CHAIRMAN GRAHAM: Mr. Moyle.

15 MR. MOYLE: With that introduction, maybe I
16 should go last.

17 (Laughter.)

18 MR. MOYLE: OPC may want to say some things.
19 So, I do have a few comments. I guess maybe, at
20 the outset, I was not aware of the oral
21 modification that staff made. And I'm not sure --
22 I thought they said Forest Utilities. And I'm --
23 is that right?

24 MR. CICCHETTI: Forest Utilities, yes.

25 MR. MOYLE: So -- so, I'm not sure I'm that

1 familiar with Forest Utilities, but I want to
2 commend them for coming in and saying, we're going
3 to make this tax reform effective January 1, 2018.

4 I think that's -- you know, the law was
5 effective that day. So, it seems to logically flow
6 that that's good for -- for customers and
7 ratepayers. So, I would publicly commend them
8 for -- for doing that.

9 As Mr. Stone alluded, a number of utilities
10 have -- have settlement agreements that have
11 addressed the tax-reform issue. And -- and I think
12 one -- my friend Mr. Butler and his company do not
13 have an agreement.

14 And I think some of that may have been that --
15 that their settlement agreement was executed
16 prior -- prior to the election, but for whatever
17 reason, that settlement agreement does not have
18 anything specific as to how to address tax reform.

19 And tax reform, obviously, is a -- is a very
20 significant event, almost a generational event. I
21 think the last one was in -- in 1986 when Ronald
22 Reagan was president. And now, we have another --
23 another major tax reform. And we're looking
24 forward to the discussions about -- about tax
25 reform.

1 Really, the issue before you today is to
2 accept jurisdiction, which we support the staff
3 recommendation to accept jurisdiction. But when
4 you accept jurisdiction, then the question is,
5 okay, what -- what does that look like. What
6 are -- are you going to do, what are you going to
7 be charged with. And there are a couple of things
8 that FIPUG would -- would point out and recommend
9 and underscore be -- be undertaken.

10 First and foremost is the result of the tax
11 reform where the -- where the corporate tax rate is
12 being cut from 35 percent to 21 percent should
13 result in money coming back to ratepayers. And it
14 should result in money coming back to ratepayers
15 sooner rather than later.

16 I -- I was thinking of a -- of a -- of a way,
17 in talking to some people -- how do you -- how do
18 you really make that point. You know, we would
19 like to have the money come back sooner rather than
20 later. And somebody said, you know, you should use
21 the Jerry Maguire "show-me-the-money" quote as a
22 way of underscoring, you know, the ratepayers would
23 like to see the results of the tax reform coming
24 back sooner rather than later. And I think that is
25 something that is important.

1 What we would not like to see is this tax-
2 reform money be used for -- for this and for that,
3 and for -- and for other -- other things that
4 happen to come along where it's kind of one of
5 these things where it's like, oh, we can use the
6 tax-reform money.

7 I mean, we would like to have a day where it's
8 tax-reform-relief day; the ratepayers are going to
9 receive "X"-amount-percent reduction in their bills
10 as a result of the tax reform; it be clear, and it
11 be -- it be transparent.

12 The other point -- and I'll also use a quote
13 to try to -- try to emphasize that -- is it would
14 be nice if this was as simple as simply saying,
15 well, this shouldn't be that hard; the -- the tax
16 cut was from 35 to 21 percent. Do the math and
17 have that money flow back. But in some of the
18 conversations we have had with the utilities,
19 there's a lot of tax talk and things that CPAs need
20 to focus on.

21 And so, we'll -- we'll have some discussions
22 on that in the implementation. And I think it's
23 incumbent on -- on not only the parties, but also
24 incumbent on you as the Commission to -- to dig
25 into it, to understand it, to have transparency,

1 and to make sure that the right dollar amounts from
2 the tax reform are flowing back to the consumers in
3 a timely -- in a timely way, but that, indeed, we
4 don't have it -- you know, I've used the phrase
5 "mushed" -- you know, have it all mushed together
6 with a bunch of other stuff and then somebody wakes
7 up a couple of years from now and says, hey, where
8 did -- where did that tax-reform savings ever show
9 up. And it's like, well, it was -- you know, it
10 was storm hardening over here and it was batteries
11 over here and all these things that eat up the
12 storm savings.

13 So, that's -- that's maybe a cautionary tale
14 that we would maybe appreciate it. And I think,
15 you know, Gulf -- Gulf Power may be on the way
16 to -- to moving forward in that direction. We
17 appreciate Mr. Stone's comments, but we would like
18 to see the dollars flowing back to ratepayers as
19 soon as practically possible, given the effects of
20 the tax reform.

21 So, those are my comments, Mr. Chairman.
22 Thank you for the -- the chance to make them. And
23 I hope -- I hope they haven't prompted rebuttal
24 testimony, but I guess we'll see. Thank you.

25 CHAIRMAN GRAHAM: Thank you, Mr. Moyle.

1 Mr. Rehwinkel.

2 MR. REHWINKEL: Thank you, Mr. Chairman.
3 Charles Rehwinkel with the Office of Public
4 Counsel.

5 And I want to start off by commending and
6 thanking staff for bringing this recommendation to
7 you in the timely fashion. We know that, despite
8 the fact that we filed a petition, your staff was
9 already in the process of working to -- to assess
10 the needs for exercising jurisdiction. And we
11 appreciate that.

12 We are in general agreement with the staff
13 recommendation. I would just like to make one
14 point. And I -- I think Mr. Cicchetti's remarks
15 were well-taken that you're only here to exercise
16 jurisdiction, but given the fact that sometimes a
17 recommendation turns into order, I would like to
18 raise a -- a kind of a technical point that -- that
19 we would just like to note for the record.

20 It's on Page 3. And it's -- it's the second
21 full paragraph under the deferred-taxes discussion.
22 And it's our understanding and our belief that
23 this -- this recitation is at a very high level.

24 And we do appreciate that all of these
25 technical issues or tax talk, as Mr. -- Mr. Moyle

1 put it, will really be kicked off beginning on --
2 on February 8th, when we -- when we first have our
3 scheduling discussions with staff.

4 But there are two types of deferred taxes that
5 are excess. There's one that's called protected.
6 And they're related to -- they're asset-related,
7 depreciation-related differences. And they're
8 governed very strictly by treasury regulations
9 that -- that require them to be flow-through over a
10 defined period of time.

11 And then there are other tax-timing
12 differences that are referred to in the industry as
13 unprotected. And they are not governed by those
14 regulations. And parties can agree to different
15 flow-back periods. It may be faster than an
16 average remaining life.

17 And you'll see that in the -- the Duke and the
18 TECO settlement agreements. There's a -- a recipe,
19 if you will, in the tax provisions there that have
20 differential periods assumed.

21 So, we just would like this language not to
22 appear in this general way in -- in any order you
23 issue because that's an issue to be litigated in
24 the future.

25 So, we're not saying that the staff is --

1 is -- has mischaracterized it. It's just at a
2 general level that -- that we wouldn't want to
3 preclude any -- any -- any potential solution that
4 we might seek with the utilities.

5 But having said that, we concur with the
6 remarks that have been said. I don't see any need
7 to rebut Mr. Moyle, but we -- we think that it is
8 important that the Commission make sure that they
9 keep track of the tax dollars.

10 We're going to be working with all the parties
11 and your staff, especially, to understand the
12 magnitude of the tax savings. And that is
13 something that we will work with you and with the
14 utilities to get an understanding of.

15 And we think it's important so that the
16 customers can understand that they are getting the
17 benefit of tax savings; that the Commission
18 understand the magnitude of those tax savings and
19 what are all the sources of it.

20 So, we look forward to the process. And
21 again, thank you for your action here today. Thank
22 you.

23 CHAIRMAN GRAHAM: Staff, any comments on
24 Mr. Reh- -- Mr. Rehwinkel's request?

25 MR. CICCHETTI: I agree with Mr. Rehwinkel

1 that the analysis in the recommendation is just at
2 a very high level. We have no problem -- his
3 comments are duly noted. I think it's a good
4 example of the type of issues that need to be
5 resolved. And we fully expect to work
6 collaboratively with the parties to address those.

7 CHAIRMAN GRAHAM: Okay. Mr. Butler,
8 Mr. Stone, you guys still good?

9 MR. BUTLER: Very brief response to Mr. Moyle.
10 Just note that FPL is not mushing. We are going to
11 use not only all of one year's tax savings, but
12 multiple years' tax savings to, you know, replenish
13 the reserve for the \$1.3 billion write-off that we
14 were able to take.

15 And by doing that, we were able to get tax
16 savings to customers in the form of foregoing what
17 otherwise would have been a storm-cost-recovery
18 surcharge as close to immediately as I think is
19 possible. I mean, it would have gone into effect
20 March 1. Now there's not going to be one. Thank
21 you.

22 CHAIRMAN GRAHAM: Mr. Stone, you good?

23 MR. STONE: Very briefly, I just want to
24 emphasize how important it is for this Commission
25 to continue to respect the settlements between the

1 parties in the past and make room for those
2 settlements to operate.

3 CHAIRMAN GRAHAM: All right. Commissioners.
4 Commissioner Polmann.

5 COMMISSIONER POLMANN: Thank you,
6 Mr. Chairman.

7 I -- I simply want to recognize and
8 acknowledge comments from the parties and -- in the
9 context of the -- of the staff analysis included in
10 the item, as was noted, all of this will come
11 together inclusive of the positions of the parties
12 as the item moves forward -- as the issue moves
13 forward.

14 What I did hear from the parties in -- in
15 essence, the key point, if -- if I understood it,
16 was agreement with the recommendation and comments
17 associated with -- with the process moving forward;
18 key points being I -- I believe there is a
19 consensus on the recommendations, which, as
20 Mr. Cicchetti identified, the issue number one
21 being the effective date, and the recommendation
22 which in- -- includes certain details on that with
23 regard to January 1, February 6th, and the
24 settlements, which are being acknowledged.

25 So, I would like to move the staff

1 recommendation as it's written, and -- and simply
2 leave it at that. I believe it's very concise.
3 And Mr. Chairman, I would move staff recommendation
4 on this item.

5 CHAIRMAN GRAHAM: It's been moved and
6 seconded, staff recommendation on Item No. 7.

7 COMMISSIONER BROWN: -- oral modification?

8 COMMISSIONER POLMANN: Inclusive of the -- of
9 the oral modification, yes.

10 CHAIRMAN GRAHAM: Any further discussion?
11 Commissioner Brown.

12 COMMISSIONER BROWN: Thank you. And I
13 appreciate -- I think -- I appreciate the posture
14 that we're in today with the tax law and the
15 utilities coming forward, a variety of the electric
16 and -- and now we have water and gas that we will
17 deal with.

18 I would like to talk just about the process
19 briefly, but these tax-law changes are very
20 complex. I envision that we will have a process or
21 proceedings, plural, to ensure the full
22 transparency and accuracy of all the savings that
23 will accrue to the customers, but -- but we are in
24 a really great posture here in the state of
25 Florida.

1 Staff, talk about process and how you envision
2 the Commission will handle both -- well, on the
3 electric side, the gas side, and the water side,
4 and how we're going to proceed throughout the year.

5 MS. BROWNLESS: What we plan to do is,
6 beginning this Thursday, we'll be meeting with the
7 electric investor-owned utilities to discuss the
8 posture that each of them find themselves in and
9 try to come to some agreement on the procedure to
10 be laid out for each of them.

11 On the 14th, we will have that same type of
12 meeting with the gas industries. And on
13 February 15th, we'll have the same type of meeting
14 with water and wastewater. Each set of utilities
15 has their own unique issues. So, we want to make
16 sure that we get feedback from each individual
17 company because they're all unique. They all have
18 a unique financial situation.

19 The basic idea that we have is that there will
20 be dockets established in which all parties and all
21 interested persons will have the ability to do full
22 discovery on the implications of the changes to the
23 tax acts for each utility.

24 COMMISSIONER BROWN: Thank you. I think
25 that's it.

1 CHAIRMAN GRAHAM: Okay. If no further
2 discussion, all in favor, say aye.

3 (Chorus of ayes.)

4 CHAIRMAN GRAHAM: Any opposed?

5 By your action, you have approved, with
6 modifications, Item No. 7.

7 Okay. Mr. Rehwinkel.

8 MR. REHWINKEL: Yes, thank you for the
9 reminder. Mr. Chairman and -- and Commissioners,
10 today marks the -- the last agenda of a legend.
11 Trish Merchant is -- is retiring at the end of this
12 month. And I just wanted to make note of that.
13 She worked on this docket -- this is one of the
14 last docketed matters she --

15 CHAIRMAN GRAHAM: Before -- before you
16 continue -- let's get Ms. Merchant up here to the
17 microphone. We're not going to let her just hide
18 back there.

19 (Applause from the audience.)

20 CHAIRMAN GRAHAM: Please continue, sir.

21 MR. REHWINKEL: Thank you.

22 Ms. Merchant is not only a legend in our
23 office, she worked here for the last 12 years, but
24 she spent 24 years at the Public Service Commission
25 as one of your valued and dedicated staffers. She

1 started as an auditor and ended up as a supervisor
2 for accounting rates and engineering before she
3 left the Commission.

4 And I do want to say she was trained by the
5 best. Dale Mailhot and Marsha Willis were her
6 supervisors in those years at the Commission.

7 She's been a witness. She's been an
8 invaluable source of institutional knowledge and
9 advocacy. And we're going to greatly miss her, but
10 we're going to be blessed with the fact that she's
11 left a legacy and a lot of -- of training,
12 education for all of us in the office. And we
13 just -- thank you for the opportunity to -- to make
14 these state- -- remarks.

15 CHAIRMAN GRAHAM: Ms. Merchant?

16 MS. MERCHANT: Gosh. It's going to be
17 different. That's the one thing I -- everybody
18 says what -- what am I going to do. The world is
19 my oyster. So, see the world and enjoy.

20 CHAIRMAN GRAHAM: Are you going to hang out in
21 your brother's beach house?

22 MS. MERCHANT: It's not finished yet. It's
23 close.

24 CHAIRMAN GRAHAM: I have to say, Ms. Merchant
25 is probably one of the first people -- one of the

1 first persons I met when I got here. Her brother
2 and I are actually friends for years and years.
3 And I did not know that his sister lived up here.

4 So, ever since then, from time to time, I'll
5 see her in the back of the room glare at me like
6 I'm doing something wrong, but it's -- you've --
7 you've been fantastic.

8 I did not know you back where you were on the
9 Public Service Commission, but I know, working for
10 OPC, it's always been a pleasure working for you.
11 You've always been very precise, you know, when you
12 come before us. And every time you say something,
13 I always refer back to staff -- because you make a
14 lot of great points. And I look at staff, like,
15 well come on; why did you let her go.

16 (Laughter.)

17 MS. MERCHANT: Thank you very much.

18 CHAIRMAN GRAHAM: But we're going to miss you.
19 And I hope you enjoy your -- whatever you do after
20 this.

21 MS. MERCHANT: All right. Thank you very
22 much.

23 COMMISSIONER BROWN: Congratulations.

24 CHAIRMAN GRAHAM: Thanks.

25 (Applause from the audience.)

1 MS. MERCHANT: It has truly been a pleasure
2 with -- working with everybody. And I just wanted
3 to say that -- I can't get away -- you know, from
4 staff, all the parties, and learning the new
5 Commissioners and everything. So, thank you very
6 much.

7 CHAIRMAN GRAHAM: Thanks.

8 (Agenda item concluded.)

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STATE OF FLORIDA)
COUNTY OF LEON)

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DATED THIS 15th day of February, 2018.



ANDREA KOMARIDIS
NOTARY PUBLIC
COMMISSION #GG060963
EXPIRES February 9, 2021