

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-

DATE: July 25, 2019

TO: Office of Commission Clerk (Teitzman)

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

RE: Docket No. 20180013-PU – Petition to establish a generic docket to investigate and adjust rates for 2018 tax savings, by Office of Public Counsel

AGENDA: 08/06/19 – Proposed Agency Action – Interested Persons May Participate

COMMISSIONERS ASSIGNED: Clark, Brown, Graham

PREHEARING OFFICER: Clark

CRITICAL DATES: None

SPECIAL INSTRUCTIONS: None

Case Background

The Tax Cuts and Jobs Act of 2017 (TCJA) was signed into law on December 22, 2017 and became effective for the taxable year beginning January 1, 2018. On January 9, 2018, the Office of Public Counsel (OPC) filed a “Petition to Establish Generic Docket to Investigate and Adjust Rates for 2018 Tax Savings.” On February 6, 2018, in Order No. PSC-2018-0104-PCO-PU,¹ the Florida Public Service Commission (Commission) established jurisdiction over utilities’ tax savings if such a date was not contained in an applicable settlement agreement. Subsequently, the Commission opened separate dockets to address the tax savings for electric and natural gas utilities. At this time, all electric and natural gas utilities tax savings dockets have been resolved. The instant docket remains open to address tax savings associated with water and wastewater utilities (WAW).

¹Order No. PSC-2018-0104-PCO-PU, issued February 6, 2018 in Docket No. 20180013-PU, *In re: Petition to establish a generic docket to investigate and adjust rates for 2018 tax savings, by Office of Public Counsel.*

Docket No. 20180013-PU

Date: July 25, 2019

For WAW utilities that have income taxes included in their revenue requirement, the 2018 annual reports are necessary to determine each utility's earned return and if a utility earned in excess of its allowed return. As of July 25, 2019, 13 of 15 WAW utilities that have income taxes included in their revenue requirement have filed their 2018 annual reports. This recommendation addresses the tax savings for the 13 WAW utilities that have income taxes included in their revenue requirement and have filed 2018 annual reports.

The Commission has jurisdiction in this case pursuant to Sections 366.04, 366.041, 366.06, and 366.07, Florida Statutes.

Discussion of Issues

Issue 1: What is the appropriate disposition of the tax impacts resulting from the passage of the TCJA for WAW utilities that have income taxes included in their revenue requirement?

Recommendation: Of the 13 WAW utilities that have income taxes included in their revenue requirement and have filed their 2018 annual report, none are earning above their allowed rate of return range. No adjustments to base rates are necessary regarding the tax impacts resulting from the passage of the TCJA for these WAW utilities. (Cicchetti)

Staff Analysis:

The 15 WAW utilities that have income taxes included in their revenue requirement are:

- East Central Florida Services
- Forest Utilities
- Gold Coast Utility Corporation
- Indiantown Company
- Marion Utilities
- NHC Utilities
- Ni Florida
- North Beach Utilities
- Peoples Water Service Company
- Pine Island Cove HOA
- Placid Lakes
- Pluris Wedgefield
- St. James Island
- Utilities Inc. of Florida
- Wildwood Water Company

Of the 15, all have filed their 2018 annual report except Gold Coast Utility Corporation and St. James Island. All utilities that have filed their 2018 annual report have reported either negative returns or returns below their rate of return ceilings. Attachment A shows all the utilities' Net Operating Income, Rate Base, Achieved Rate of Return, and Approved Rate of Return Cap.

It is staff's opinion that it is reasonable for the Commission to consider the earnings position of the utility when deciding if base rates should be reduced for changes in tax rates. Reducing base rates would result in cash flow reductions for the utilities, put downward pressure on earnings, and would accelerate the need for a rate case sooner versus later. Consequently, staff recommends that no adjustments to base rates are necessary regarding the tax impacts resulting from the passage of the TCJA for WAW utilities that have income taxes included in their

revenue requirement. Such treatment is consistent with the Commission's decisions in Docket Nos. 20180051-GU, 20180052-GU, 20180053-GU, and 20180054-GU.²

²Order No. PSC-2019-0076-FOF-GU, issued February 25, 2019, in Docket No. 20180051-GU, *In re: Consideration of the tax impacts associated with the Tax Cuts and Jobs Act of 2017 for Florida Public Utilities Company – Gas*; Order No. PSC-2019-0077-FOF-GU, issued February 25, 2019, in Docket No. 20180052-GU, *In re: Consideration of the tax impacts associated with the Tax Cuts and Jobs Act of 2017 for Florida Public Utilities Company – Indiantown Division*; Order No. PSC-2019-0079-FOF-GU, issued February 25, 2019, in Docket No. 20180053-GU, *In re: Consideration of the tax impacts associated with the Tax Cuts and Jobs Act of 2017 for Florida Public Utilities Company – Fort Meade Division*; Order No. PSC-2019-0078-FOF-GU, issued February 25, 2019, in Docket No. 20180054-GU, *In re: Consideration of the tax impacts associated with the Tax Cuts and Jobs Act of 2017 for the Florida Division of Chesapeake Utilities Corporation*.

Issue 2: Should this docket be closed?

Recommendation: Yes. Upon expiration of the protest period, if a timely protest is not received from a substantially affected person, the decision should become final and effective upon issuance of the Consummating Order and this docket should be closed and separate dockets opened to address the tax impacts associated with the passage of the TCJA for Gold Coast Utility Corporation and St. James Island. (Brownless)

Staff Analysis: Upon expiration of the protest period, if a timely protest is not received from a substantially affected person, the decision should become final and effective upon issuance of the Consummating Order and this docket should be closed and separate dockets opened to address the tax impacts associated with the passage of the TCJA for Gold Coast Utility Corporation and St. James Island.

Gold Coast Utility Corporation and St. James Island have not yet filed their 2018 annual reports. Consequently, the tax impacts associated with the TCJA cannot be evaluated for these two utilities. Both of these utilities are facing unique circumstances that will be addressed in dockets of their own. Also, closing this docket will resolve this tax issue for financial reporting purposes for the 13 utilities identified in Issue 1 that have filed their 2018 annual reports. Staff recommends the instant docket be closed and individual dockets be opened to address this tax issue for Gold Coast Utility Corporation and St. James Island.

**Table 1-1
 Tax Cuts and Jobs Act WAW Analysis**

	Company	Net Operating Income	Rate Base	Achieved ROR	Approved ROR Cap
1	East Central Florida Services	\$ (114,909)	\$ 258,447	-44.46%	8.12%
2	Forest Utilities	\$ 49,819	\$ 2,523,171	1.97%	4.94%
3	Gold Coast Utility Corporation				5.91%
4	Indiantown Company	\$ (56,565)	\$ 486,821	-11.62%	4.21%
5	Marion Utilities	\$ (68,168)	\$ 1,232,286	-5.53%	8.19%
6	NHC Utilities	\$ (18,724)	\$ 71,054	-26.35%	8.74%
7	Ni Florida	\$ 258,149	\$ 4,254,955	6.07%	8.00%
8	North Beach Utilities	\$ 97,188	\$ 1,280,162	7.59%	7.69%
9	Peoples Water Service Company	\$ 259,716	\$ 3,599,525	7.22%	8.05%
10	Pine Island Cove HOA	\$ (70,504)	\$ 42,979	-164.04%	8.12%
11	Placid Lakes	\$ (12,020)	\$ 546,969	-2.20%	6.80%
12	Pluris Wedgefield	\$ 64,259	\$ 6,336,871	1.01%	9.85%
13	St. James Island				8.74%
14	Utilities, Inc. of Florida	\$ 6,555,469	\$ 114,572,234	5.72%	7.54%
15	Wildwood Water Company	\$ (33,893)	\$ 89,021	-38.07%	8.18%

Source: 2018 Annual Reports