

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: 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.

DOCKET NO. 20180039-EI
ORDER NO. PSC-2018-0462-PCO-EI
ISSUED: September 12, 2018

SECOND PROCEDURAL ORDER

On February 14, 2018, Gulf Power Company (Gulf) filed a Stipulation and Settlement Agreement (SSA) between Gulf and the Office of Public Counsel (OPC), the Florida Industrial Power Users Group (FIPUG), and the Southern Alliance for Clean Energy (SACE) regarding the Tax Cuts and Jobs Act of 2017 in Docket Nos. 20180013-PU,¹ the generic tax docket, and 20160186-EI,² Gulf's last base rate case proceeding. The SSA addresses the effects of the passage of the Tax Cuts and Jobs Act of 2017 (Act), signed into law by President Trump on December 22, 2017. The signatories to the SSA are OPC, FIPUG and SACE, all of whom were signatories to Gulf's last rate case stipulation.³

On February 19, 2018, pursuant to Section 366.076(1), Florida Statutes (F.S.), the Florida Public Service Commission (Commission) opened this docket to expedite consideration of the SSA as requested by the signatories so that the base rate reduction agreed to by the parties, if appropriate, could be implemented in April 2018. On March 26, 2018, an administrative hearing was held in which Gulf's customers were provided with an opportunity to present public testimony and voice any concerns. Gulf sponsored witnesses Robin Boren, Rhonda Alexander, and Lee Evans, who answered questions under oath about the SSA, and four exhibits were admitted into evidence.

The Commission approved the SSA by Order No. PSC-2018-0180-FOF-EI, issued April 12, 2018, and resolved all issues in the docket with the exception of the treatment of excess protected deferred income taxes, on which the parties were given until May 1, 2018, to reach agreement. No agreement having been reached, on April 30, 2018, Gulf filed a Petition for Limited Scope Proceeding to resolve the issue of the quantification and appropriate disposition of excess protected deferred income taxes.⁴ On August 29, 2018, Gulf filed a Stipulation and Settlement Agreement Regarding Remaining Issues (SSA-2), which resolves the outstanding excess protected deferred income taxes issue. The SSA-2 is signed by all parties to this docket: Gulf, OPC, FIPUG, FRF, and SACE.

¹ 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.

² Docket No. 20160186-EI, In re: Petition for rate increase by Gulf Power Company.

³ Order No. PSC-17-0178-S-EI, issued May 16, 2017, in Docket No. 160186-EI, In re: Petition for rate increase by Gulf Power Company.

⁴ Intervention was granted to the Florida Retail Federation (FRF) by Order No. PSC-2018-0414-PCO-EI, issued August 22, 2018.

Having reviewed the SSA-2, and in light of the fact that there appears to be no disputed issues of material fact, a Final Commission Hearing in this docket shall take place immediately following the Commission Agenda Conference on Tuesday, October 30, 2018, pursuant to Section 120.57(2), F.S.

Discovery

Commission staff and the parties shall be permitted a limited time to send no more than 50 data requests. Parties are directed to respond to the data requests in writing so the response is received within 5 days of receipt of the request. Affidavits must accompany all written data responses. All data responses must be received by Tuesday, October 23, 2018. Information obtained through data request responses may be used by the parties in their oral arguments, by staff in advising the Commission, and by the Commissioners in consideration of the SSA-2.

Use of Confidential Information at Hearing

While it is the Commission's policy to have all Commission hearings open to the public at all times, the Commission also recognizes its obligation pursuant to Section 366.093, F.S., to protect proprietary confidential business information from disclosure outside the proceeding. Therefore, any party wishing to use at the hearing any proprietary confidential business information, as that term is defined in Section 366.093, F.S., shall adhere to the following:

- (1) When confidential information is used in the hearing, parties must have copies for the Commissioners, necessary staff, and the court reporter, in red envelopes clearly marked with the nature of the contents. Any party wishing to examine the confidential material that is not subject to an order granting confidentiality shall be provided a copy in the same fashion as provided to the Commissioners, subject to execution of any appropriate protective agreement with the owner of the material.
- (2) Counsel and witnesses are cautioned to avoid verbalizing confidential information in such a way that would compromise confidentiality. Therefore, confidential information should be presented by written exhibit when reasonably possible.

At the conclusion of that portion of the hearing that involves confidential information, all copies of confidential exhibits shall be returned to the proffering party. If a confidential exhibit has been admitted into evidence, the copy provided to the court reporter shall be retained in the Office of Commission Clerk's confidential files. If such information is admitted into the evidentiary record at hearing and is not otherwise subject to a request for confidentiality filed with the Commission, the source of the information must file a request for confidential classification of the information within 21 days of the conclusion of the hearing, as set forth in Rule 25-22.006(8)(b), F.A.C., if continued confidentiality of the information is to be maintained.

Hearing Procedures

Section 120.57(4), F.S., permits the Commission to informally dispose of any proceeding by stipulation, agreed settlement, or consent order. Section 120.57(2), F.S., permits the Commission to proceed with hearings not involving disputed issues of material fact. Pursuant to Rule 28-106.302(2), F.A.C., the purpose of this hearing is for the Commission to take oral evidence or argument regarding Gulf's request for approval of the SSA-2.

The hearing agenda for October 30, 2018, will include the following:

- Parties present Opening Statements of no more than 5 minutes per party
- Public Testimony
- Parties present evidence and respond to questions from Commissioners regarding the SSA-2

Upon completion of the Commission's questions, the hearing record will be closed and the Commission may render a bench decision if no party wishes to provide a post-hearing brief. If a bench decision is not made, the Commission will render a decision during a Special Agenda Conference; date and time to be determined. Briefs, if any, will be due November 13, 2016.

The Commission has jurisdiction in this matter pursuant to Chapters 120, and 366, F.S., and is proceeding under its authority under Sections 366.04, 366.041, 366.05, 366.06, 366.07, 366.076, 366.8255, 366.93, and 120.57, F.S., and Rules 28-106.301 and 28-106.302, F.A.C.

Based on the foregoing, it is

ORDERED by Chairman Julie I. Brown, as Prehearing Officer, that the provisions of this Order shall govern this proceeding unless modified by the Commission.

By ORDER of Commissioner Julie I. Brown, as Prehearing Officer, this 12th day of September, 2018.



JULIE I. BROWN

Commissioner and Prehearing Officer
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Copies furnished: A copy of this document is provided to the parties of record at the time of issuance and, if applicable, interested persons.

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NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), Florida Statutes, to notify parties of any administrative hearing or judicial review of Commission orders that is available under Sections 120.57 or 120.68, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing or judicial review will be granted or result in the relief sought.

Mediation may be available on a case-by-case basis. If mediation is conducted, it does not affect a substantially interested person's right to a hearing.

Any party adversely affected by this order, which is preliminary, procedural or intermediate in nature, may request: (1) reconsideration within 10 days pursuant to Rule 25-22.0376, Florida Administrative Code; or (2) judicial review by the Florida Supreme Court, in the case of an electric, gas or telephone utility, or the First District Court of Appeal, in the case of a water or wastewater utility. A motion for reconsideration shall be filed with the Office of Commission Clerk, in the form prescribed by Rule 25-22.0376, Florida Administrative Code. Judicial review of a preliminary, procedural or intermediate ruling or order is available if review of the final action will not provide an adequate remedy. Such review may be requested from the appropriate court, as described above, pursuant to Rule 9.100, Florida Rules of Appellate Procedure.