State of Florida

Public Service Commission

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COMMISSION CLERK

DATE: October 4, 2012

TO: Office of Commission Clerk (Cole)

FROM: Division of Accounting and Finance (Cicchetti, Buys, Prestwood, Slemkewicz)
Office of the General Counsel (Brown)

RE: Docket No. 120189-PU – Petition for approval of recognition of a regulatory liability and associated amortization schedule by Florida Public Utilities Company.

AGENDA: 10/16/12 – Regular Agenda – Proposed Agency Action – Interested Persons May Participate

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: Balbis

CRITICAL DATES: None

SPECIAL INSTRUCTIONS: None

FILE NAME AND LOCATION: S:\PSC\AFD\WP\120189.RCM.DOC

Case Background

Through its petition filed July 12, 2012, Florida Public Utilities Company (FPUC or the Company) seeks Commission approval, pursuant to Section 366.076, Florida Statutes (F.S.), and consistent with Rule 25-14.013, Florida Administrative Code (F.A.C.), to record a tax liability associated with vehicle depreciation as a regulatory liability and amortize that liability over a 34-month period beginning January 1, 2012, through October 30, 2014. FPUC's proposal is revenue neutral and the Company is not requesting any rate adjustment.

The Commission has jurisdiction pursuant to Sections 366.04, 366.06, and 366.07, F.S.

Discussion of Issues

Issue 1: Should the Commission approve Florida Public Utilities Company's proposal to record a tax liability associated with vehicle depreciation as a regulatory liability in Account 254, Other Regulatory Liabilities, and to amortize the liability over a 34-month period reflected in Account 407.3, Regulatory Debits?

Recommendation: Yes. The tax liability should be recorded as a regulatory liability in Account 254, Other Regulatory Liabilities, and amortized as a credit in Account 407.3, Regulatory Debits, over a 34-month period, beginning January 1, 2012, and ending October 31, 2014. The amounts should be $930,395 for the electric division and $1,007,928 for the natural gas division, respectively, for a total of $1,938,323. Further, the Commission should find that the approval to record the regulatory liability for accounting purposes does not limit the Commission's ability to review the amounts for reasonableness in future rate proceedings. (Buys)

Staff Analysis: According to FPUC's petition, after an internal audit of Company records in early 2012, FPUC determined that an income tax liability that had originated on the Company's books prior to its merger with Chesapeake Utilities Corporation is no longer collectable by the Internal Revenue Service (IRS). The Company reported that the amount in question is related to depreciation on Company vehicles. FPUC explained that the tax liability has outlived the applicable statute of limitations set forth in IRS Code 6501 (26 USC §6501) and is now not collectable by the IRS. As such, the related amount is no longer a tax related liability included in the deferred tax liability account. This tax impact applies to both FPUC's electric and natural gas divisions as illustrated in Table 1.

Table 1

Division	Allocated Amount	Tax Impact	Regulatory Liability
Electric	48%	$ 571,495	$ 930,395
Natural Gas	52%	619,120	1,007,928
Net		$ 1,190,615	$ 1,938,323

A regulatory liability is a cost that is capitalized and recovered over a future period, rather than charged to expense when incurred. Account 254, Other Regulatory Liabilities, includes amounts of regulatory liabilities, not includible in other accounts, imposed on the service company by the ratemaking actions of regulatory agencies. (18 CFR 367.2540) Staff agrees with the Company that Account 254, Other Regulatory Liabilities, is the correct account to record the regulatory liability, with amortization to be recorded in Account 407.3, Regulatory Debits.

FPUC is requesting that it be allowed to amortize the regulatory liability over a 34-month period beginning January 1, 2012, and ending October 31, 2014. The Company explained that the requested amortization period will synchronize with the remaining amortization period associated with the regulatory asset approved by the Commission in Order No. PSC-12-0010-

PAA-GU[1] (Acquisition Adjustment Order) as a result of the merger between FPUC and Chesapeake Utilities Corporation. The Commission approved the establishment of a regulatory asset to be amortized over a 5-year period, beginning November 2009, and ending October 2014. FPUC believes, and staff agrees, that the proposed 34-month amortization period for the regulatory liability in the instant docket will be appropriately revenue neutral and amortized in a manner that will not only have no impact on rates, but will also lessen the impact of the prior regulatory asset established in the Acquisition Adjustment Order.

Based on the aforementioned, staff recommends that the Commission approve FPUC's proposal. The tax liability should be recorded as a regulatory liability in Account 254, Other Regulatory Liabilities, and amortized as a credit in Account 407.3, Regulatory Debits, over a 34-month period, beginning January 1, 2012, and ending October 31, 2014. The amounts should be \$930,395 for the electric division and \$1,007,928 for the natural gas division, respectively, for a total of \$1,938,323. Further, the Commission should find that the approval to record the regulatory liability for accounting purposes does not limit the Commission's ability to review the amounts for reasonableness in future rate proceedings.

[1] See Order No. PSC-12-0010-PAA-GU, issued January 3, 2012, in Docket No. 110133-GU, In re: Petition for approval of acquisition adjustment and recovery of regulatory assets, and request for consolidation of regulatory filings and records of Florida Public Utilities Company and Florida Division of Chesapeake Utilities Corporation.

Issue 2: Should this docket be closed?

Recommendation: 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. (Brown)

Staff Analysis: 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.