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| State of Florida  pscSEAL | | 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: | February 20, 2020 | | |
| TO: | Office of Commission Clerk (Teitzman) | | |
| FROM: | Division of Accounting and Finance (Richards, D. Buys, Cicchetti)  Office of the General Counsel (Brownless) | | |
| RE: | Docket No. 20200033-EI – Joint motion for approval of Amendment No. 1 to stipulation and settlement, by Florida Public Utilities Company and Office of Public Counsel. | | |
| AGENDA: | 03/03/20 – Regular Agenda – Proposed Agency Action – Interested Persons May Participate | | |
| COMMISSIONERS ASSIGNED: | | | All Commissioners |
| PREHEARING OFFICER: | | | Graham |
| CRITICAL DATES: | | | None |
| SPECIAL INSTRUCTIONS: | | | None |

Case Background

On July 3, 2017, Florida Public Utilities Company (FPUC or Company) petitioned the Commission to include $15,241,515 in capital projects in its rate base and increase its rates and charges by the amount necessary to recover the revenue requirement of $1,823,869 on those projects. These projects fell into three categories: (1) grid modernization and safety; (2) storm hardening; and (3) an interconnection with Florida Power & Light Company (FPL). The Office of Public Counsel (OPC) intervened on September 21, 2017, and the parties entered into a Stipulation and Settlement (2017 Settlement) resolving all issues which was approved by Order No. PSC-2017-0488-PAA-EI.[[1]](#footnote-1)

Article VII of the 2017 Settlement addresses changes in the federal or state corporate income tax rates and requires that federal or state corporate tax savings be addressed through a base rate reduction within 120 days of the effective date of such change.

On September 12, 2019, the Florida Department of Revenue issued a Tax Information Publication (TIP) announcing that the Florida corporate income tax rate was reduced from 5.500 percent to 4.458 percent effective retroactively to January 1, 2019, and continuing through December 31, 2021. The TIP indicates that the Florida corporate income tax rate will return to 5.50 percent effective January 1, 2022.

On January 22, 2020, to address this Florida tax change, FPUC and OPC filed a Joint Motion for Approval of Amendment No. 1 to Stipulation and [2017] Settlement (Joint Motion). Amendment No. 1 is Attachment A hereto. Both OPC and FPUC agree that the impact of the State Tax Rate change on FPUC’s NOI associated with base rates is approximately $35,000 annually for years 2019 through 2021. Acknowledging the tax savings amounts are based upon FPUC’s best estimates, the Company calculated the actual amount of the tax benefit to be flowed-through to customers. For calendar year 2019, the NOI annual tax savings impact of $35,825 will be applied to the Company’s existing fuel and purchased power cost recovery balance with interest, which will serve to reduce FPUC’s Fuel Cost Recovery factors for 2021. The savings for calendar years 2020 and 2021 will be trued-up to actual and applied to the Company’s existing fuel and purchased power cost recovery balances in 2020 and 2021 with interest, thereby reducing FPUC’s Fuel Cost Recovery factors for 2022 and 2023.

If approved by the Commission, this State Tax Amendment will take effect upon Commission approval and expire on December 31, 2023, unless otherwise modified by Commission order.

The Commission should vote on whether or not to grant the Joint Motion and approve Amendment No. 1 to the 2017 Stipulation.

1. Order No. PSC-2017-0488-PAA-EI, issued December 26, 2017, in Docket No. 20170150-EI, *In re:* *Petition for limited proceeding to include reliability and modernization projects in rate base, by Florida Public Utilities Company.* [↑](#footnote-ref-1)