

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for approval of recognition of a  
regulatory liability and associated amortization  
schedule by Florida Public Utilities Company.

DOCKET NO. 120189-PU  
ORDER NO. PSC-12-0574-PAA-PU  
ISSUED: October 24, 2012

The following Commissioners participated in the disposition of this matter:

RONALD A. BRISÉ, Chairman  
LISA POLAK EDGAR  
ART GRAHAM  
EDUARDO E. BALBIS  
JULIE I. BROWN

NOTICE OF PROPOSED AGENCY ACTION  
ORDER APPROVING RECOGNITION OF A REGULATORY LIABILITY AND  
ASSOCIATED AMORTIZATION SCHEDULE

BY THE COMMISSION:

NOTICE is hereby given by the Florida Public Service Commission that the action discussed herein is preliminary in nature and will become final unless a person whose interests are substantially affected files a petition for a formal proceeding, pursuant to Rule 25-22.029, Florida Administrative Code.

BACKGROUND

Pursuant to Section 366.076, Florida Statutes (F.S.), and consistent with Rule 25-14.013, F.A.C., Florida Public Utilities Company (FPUC or the Company) seeks our approval 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.

We have jurisdiction over this matter pursuant to Sections 366.04, 366.06, and 366.07, and 366.076, F.S. As explained below, we approve FPUC's proposal.

DOCUMENT NUMBER-DATE

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FPSC-COMMISSION CLERK

DECISION

In its petition, FPUC states that 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). FPUC 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. As such, the related amount is no longer a tax related liability included in the deferred tax liability account. This tax effect applies to both FPUC's electric and natural gas divisions as illustrated in Table 1.

Table 1

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

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. We agree 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 has asked 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 would coincide with the remaining amortization period associated with the regulatory asset we approved in Order No. PSC-12-0010-PAA-GU<sup>1</sup> (Acquisition Adjustment Order) as a result of the merger between FPUC and Chesapeake Utilities Corporation. We 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 we agree, that the proposed 34-month amortization period for the regulatory liability proposed in this case 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.

For these reasons, we approve FPUC's proposal. The tax liability shall be recorded as a regulatory liability in Account 254, Other Regulatory Liabilities, and amortized as a credit in

<sup>1</sup> 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.

Account 407.3, Regulatory Debits, over a 34-month period, beginning January 1, 2012, and ending October 31, 2014. The amounts shall be \$930,395 for the electric division and \$1,007,928 for the natural gas division, for a total of \$1,938,323. Further, we find that the approval to record the regulatory liability for accounting purposes does not limit our ability to review the amounts for reasonableness in future rate proceedings.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that the Petition for approval of recognition of a regulatory liability and associated amortization schedule by Florida Public Utilities Company is approved as described in the body of this Order. It is further

ORDERED that the provisions of this Order, issued as proposed agency action, shall become final and effective upon the issuance of a Consummating Order unless an appropriate petition, in the form provided by Rule 28-106.201, Florida Administrative Code, is received by the Commission Clerk, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on the date set forth in the "Notice of Further Proceedings" attached hereto. It is further

ORDERED that in the event this Order becomes final, this docket shall be closed.

By ORDER of the Florida Public Service Commission this 24th day of October, 2012.



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ANN COLE

Commission Clerk

Florida Public Service Commission

2540 Shumard Oak Boulevard

Tallahassee, Florida 32399

(850) 413-6770

[www.floridapsc.com](http://www.floridapsc.com)

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

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 that is available under Section 120.57, 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 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.

The action proposed herein is preliminary in nature. Any person whose substantial interests are affected by the action proposed by this order may file a petition for a formal proceeding, in the form provided by Rule 28-106.201, Florida Administrative Code. This petition must be received by the Office of Commission Clerk, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on November 14, 2012.

In the absence of such a petition, this order shall become final and effective upon the issuance of a Consummating Order.

Any objection or protest filed in this/these docket(s) before the issuance date of this order is considered abandoned unless it satisfies the foregoing conditions and is renewed within the specified protest period.