

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Consideration of the tax impacts
associated with Tax Cuts and Jobs Act of 2017
for Duke Energy Florida, LLC.

DOCKET NO. 20180047-EI
ORDER NO. PSC-2018-0534-PCO-EI
ISSUED: November 14, 2018

ORDER SUSPENDING PROCEDURAL SCHEDULE

The Florida Public Service Commission (Commission) opened Docket No. 20180047-EI on February 21, 2018, to consider the tax impacts affecting Duke Energy Florida, LLC (DEF) as a result of the passage of the Tax Cuts and Jobs Act of 2017. The Order Establishing Procedure, Order No. PSC-2018-0210-PCO-EI, issued on April 25, 2018, established the hearing procedures and controlling dates in this docket. The First Order Revising Order Establishing Procedure, Order No. PSC-2018-0279-PCO-EI, issued on June 1, 2018, modified the discovery procedures and controlling dates. The Second Order Revising Order Establishing Procedure, Order No. PSC-2018-0447-PCO-EI, issued on September 4, 2018, further modified the discovery procedures and controlling dates.

On November 2, 2018, DEF and the Office of Public Counsel (OPC) (collectively, Joint Movants) filed a Joint Motion to Approve Stipulated Positions and Suspend Procedural Dates (Joint Motion). In their Joint Motion, DEF and OPC request that the Commission approve the stipulated positions (Stipulations), attached to the Joint Motion as Exhibit A. The Joint Movants provide that the other parties to this proceeding, the Florida Industrial Power Users Group (FIPUG), the Florida Retail Federation (FRF), and White Springs Agricultural Chemicals, Inc. d/b/a PCS Phosphate – White Springs (PCS Phosphate), take no position on the Stipulations, but do not object to the Commission's approval of those Stipulations.

The Joint Movants further assert that each of the parties to this proceeding waives their right to conduct cross-examination of any witness and agrees that the hearing and other procedural dates should be suspended, as they maintain that a full evidentiary hearing is unnecessary given the status of the Stipulations. Pursuant to Rule 28-106.204(3), Florida Administrative Code (F.A.C.), the Joint Movants conferred with the other parties in this docket and represent that FIPUG, FRF, and PCS Phosphate do not object to the Joint Motion.

Upon review and consideration of the Joint Motion, the procedural schedule in this docket is hereby suspended. Having reviewed the Stipulations, 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 Internal Affairs on Tuesday, January 8, 2019, pursuant to Section 120.57(2), Florida Statutes (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 Monday, December 31, 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 Stipulations.

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 the Joint Movant's request for approval of the Stipulations.

The hearing agenda for January 8, 2019, will include the following:

- Parties present Opening Statements of no more than 5 minutes per party

- Parties respond to questions from Commissioners regarding the Stipulations

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 January 22, 2019.


The Commission is vested with jurisdiction over this matter by the provisions of Chapter 366, F.S. This hearing will be governed by said Chapter, Chapter 120, F.S., and Chapters 25-6, 25-22, and 28-106, F.A.C., as well as any other applicable provisions of law.

Based on the foregoing, it is

ORDERED by Commissioner Julie I. Brown as Prehearing Officer, that the procedural schedule for Docket No. 20180047-EI shall be suspended. It is further

ORDERED 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 14th day of November, 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.

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.