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FPSC - COMMISSION CLERK

**BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**

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| In Re: Petition for rate increase by Gulf Power Company | DOCKET NO. 160186-EI |
| In Re: Petition for approval of 2016 depreciation and dismantlement studies, approval of proposed depreciation rates and annual dismantlement accruals and Plant Smith Units 1 and 2 regulatory asset amortization, by Gulf Power Company. | DOCKET NO. 160170-EI<br>March 1, 2017 |

**OFFICE OF PUBLIC COUNSEL'S EXPLANATION IN SUPPORT OF NEW ISSUE 1A**

The Office of Public Counsel (OPC) has raised a new issue that only became material after the inauguration of President Trump and statements of his newly appointed Secretary of the Treasury Steven Mnuchin that he expects tax reform legislation to be enacted by August 2017, or less than 60 days after rates would become effective in this docket. The issue reads as follows:

> New Issue (OPC): **In the event federal legislation is passed and signed into law between now and a reasonable period after new base rates become effective that results in a change in the corporate income tax rate to which Gulf is subject, or changes in the depreciation allowance for tax purposes associated with plant additions incorporated in test year rate base, what adjustments or provisions, if any, should the Commission make to address such changes? Should the Order in this case require a limited reopening within a reasonable period after new base rates become effective to address income tax expense as well as the accumulated deferred income taxes in the capital structure in the event such legislation is passed that would impact Gulf's revenue requirements?**

Gulf has stated that it objects to the issue. Staff has asked that parties provide argument in favor or against the inclusion of any disputed issues. While adhering to the position that the proponent of an issue does not have the burden of demonstrating inclusion, OPC is happy to explain the reason for the issue being raised.

Southern Company (Gulf's sole common stock shareholders) executives are treating this as a serious possibility and provided an analysis to investors on February 22, 2017 providing two estimates of federal income tax rate reductions (from 35% to either 15% or 20%).
http://s2.q4cdn.com/471677839/files/doc_financials/q42016/4Q-2016-Slide-Deck-FINAL.pdf
(See Attachment A – excerpt: slides 1 and10). The next day, Secretary Mnuchin made comments in support of a reduction in the corporate tax rate and tax reform that must be taken seriously.
http://money.cnn.com/2017/02/23/news/economy/mnuchin-tax-reform/index.html

A central element of tax reform could involve the reduction of the existing statutory corporate income tax rate of 35% to a rate significantly less. Since the Commission sets rates based on the statutory tax rate in effect during the time when rates will be effective, any imminent changes in the rate should be considered or a provisional mechanism should be established to efficiently adjust for the change for the protection of the ratepayers.

The OPC raised this issue at the earliest reasonable time based on information provided and reasonably reliable public statements made by Federal officials and Gulf's shareholders. The impact of a 10 percentage point reduction in the federal income tax rate is approximately a $14 million reduction in revenue requirements for Gulf's ratepayers, and by extrapolation a 20 basis point reduction in the tax rate would approximate a $28 million drop in Gulf's revenue requirement. This is fully 25% of Gulf's overall ask.

The OPC has raised the issue so that the Commission can address the reasonableness of providing a contingency in the rate setting process and/or establishing a process for dealing with the possibility that Gulf's revenue requirements will be grossly overstated given the very real possibility of a significant reduction in Gulf's cost of service.

The OPC is of the strongly held belief that we have a right under Chapter 120, Florida Statutes, to raise this issue and that the burden is on anyone objecting to show why the issue is inappropriate for this proceeding. The OPC submits that it is self evident that this is not mere speculation and it is an issue that must be addressed at the hearing. Supplemental testimony – either prefiled in summary fashion – and or live – would not be inappropriate under these circumstances. Moreover, no party will be prejudiced by consideration of this issue.

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## CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by electronic mail to the following parties on this 1st day of March, 2017:

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# ATTACHMENT A

Southern Company

# Earnings Conference Call

Fourth Quarter and Full Year 2016
February 22, 2017

# Tax Policy Reform Analysis

| | Estimated impact to 2021 |
|---|---|
| Key element of<br>Trump Administration Plan<br>15% Tax Rate | • EPS: Slightly accretive<br>• Assumes interest remains deductible and no change in depreciation for capital additions |
| Key elements of<br>House Republican Plan<br>20% Tax Rate<br>No interest deduction<br>Expensing of capital additions | • EPS: Slightly accretive to ~5% dilutive<br>• Slightly accretive if interest on existing debt remains deductible and incremental capital expenditures offset reduced rate base<br>• ~5% dilutive with no interest deduction and no incremental capital expenditures |

**Our tax reform priorities are to preserve the interest deduction and the current treatment for capital additions, as well as to ensure fair and comprehensive transition rules**