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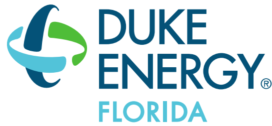

Dianne M. Triplett
Deputy General Counsel
Duke Energy Florida, LLC

May 31, 2018

VIA ELECTRONIC FILING

Ms. Carlotta Stauffer, Commission Clerk
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0850

Re: *Consideration of the tax impacts associated with Tax Cuts and Jobs Act of 2017 for Duke Energy Florida, LLC; Docket No. 20180047-EI*

Dear Ms. Stauffer:

On behalf of Duke Energy Florida, LLC ("DEF"), please find enclosed for electronic filing in the above referenced docket:

- DEF's Petition for Approval of Calculation of Tax Impacts;
- Direct Testimony of Matt Gordon with Exhibit No. _____(MG-1); and
- Direct Testimony of Marcia Olivier with Exhibit No. ______(MJO-1).

Thank you for your assistance in this matter. Please feel free to call me at (727) 820-4692 should you have any questions concerning this filing.

Respectfully,

s/Dianne M. Triplett

Dianne M. Triplett

DMT/mw
Enclosures

Duke Energy Florida, LLC
Docket No.: 20180047-EI
CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished via electronic mail to the following this 31st day of May, 2018.

s/Dianne M. Triplett
Attorney

Suzanne Brownless Office of General Counsel Florida Public Service Commission 2540 Shumard Oak Blvd. Tallahassee, FL 32399-0850 sbronwle@psc.state.fl.us Charles J. Rehwinkel / Erik L. Sayler / J.R. Kelly Office of Public Counsel c/o The Florida Legislature 111 West Madison Street, Room 812 Tallahassee, FL 32399 kelly.jr@leg.state.fl.us rehwinkel.charles@leg.state.fl.us sayler.erik@leg.state.fl.us	Jon C. Moyle, Jr. / Karen A. Putnal Moyle Law Firm, P.A. 118 North Gadsden Street Tallahassee, FL 32301 jmoyle@moylelaw.com kputnal@moylelaw.com Gardner Law Firm Robert Scheffel Wright/John T. LaVia 1300 Thomaswood Drive Tallahassee, FL 32308 Jlavia@gbwlegal.com schef@gbwlegal.com

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 Filed: May 31, 2018

DUKE ENERGY FLORIDA, LLC'S PETITION FOR APPROVAL OF CALCULATION OF TAX IMPACTS

Duke Energy Florida, LLC ("DEF") hereby petitions the Florida Public Service Commission ("FPSC" or the "Commission") for approval of its calculation of Tax Impacts, performed consistent with the 2017 Second Revised and Restated Settlement Agreement ("2017 Settlement") approved by this Commission in Order Number PSC-2017-0451-AS-EU.

In support of this Petition, DEF states:

1. DEF is a Florida limited liability company with headquarters at 299 1st Avenue North, St. Petersburg, Florida 33701. DEF is an investor-owned utility operating under the jurisdiction of this Commission pursuant to the provisions of Chapter 366, Florida Statutes, and is a wholly-owned subsidiary of Duke Energy Corporation. DEF provides generation, transmission, and distribution service to approximately 1.8 million retail customers in Florida.

2. Any pleading, motion, notice, order, or other document required to be served upon DEF or filed by any party to this proceeding should be served upon the following individuals:

Dianne M. Triplett
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St. Petersburg, FL 33701
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(850) 521-1428 / (850) 521-1437 (fax)

3. This Petition is being filed consistent with Rule 28-106.201, Florida Administrative Code. The agency affected is the Florida Public Service Commission, located at 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399. This case does not involve reversal or modification of an agency decision or an agency's proposed action. Therefore, subparagraph (c) and portions of subparagraphs (b), (e), (f), and (g) of subsection (2) of that rule are not applicable to this Petition. In compliance with subparagraph (d), DEF states that it is not known at this time which, if any, of the issues of material fact set forth in the body of this Petition may be disputed by any others who may plan to participate in this proceeding.

4. On December 22, 2017, President Donald Trump signed the Tax Cuts and Jobs Act ("Tax Act")[1] into Law. This legislation represents the most significant revision to the Federal Tax Code in the last thirty years. The voluminous Tax Act brings comprehensive change to the individual, corporate and international tax law.

5. Most changes to the corporate tax code apply to all U.S. corporations equally, while a limited set of others affect regulated utilities uniquely. For utilities in general, and DEF in particular, the key provisions of the Tax Act that will affect customer rates are as follows: (1) reduction of the corporate tax rate from 35 percent to 21 percent; (2) retention of net interest expense deductibility; (3) elimination of bonus depreciation; (4) elimination of the manufacturing deduction; and (5) normalization of excess accumulated deferred income taxes (ADITs) resulting from the Tax Act.

6. Paragraph 16 of the 2017 Settlement sets forth the methodology for calculating tax impacts and flow back associated with tax reform. On February 26, 2018, the Commission approved a 2017 Settlement Implementation Stipulation ("Implementation Stipulation") in Order No. PSC-2018-0103-PCO-EI, which authorized DEF to apply the impacts of the Tax Act toward

[1] Tax Cuts and Jobs Act, H.R. 1, Public Law 115-97, 131 Stat. 2054 (Dec. 22, 2017).

the storm reserve deficiency in lieu of increasing customer rates to recover storm costs and decreasing customer rates to flow back tax impacts.

7. DEF is filing the testimony and exhibits of Ms. Marcia J. Olivier and Mr. Matt Gordon contemporaneously with this Petition. Mr. Gordon summarizes the key components of the Tax Act, and describes its overall impact on the income tax expense and ADIT. Ms. Olivier explains and supports the Company's calculation of the Tax Savings in accordance with Exhibit 6 of the 2017 Settlement, and she provides the total amount of tax flow back associated with the Tax Savings as well as the flow back of Excess ADIT.

8. The Company has computed an estimate of the total excess ADIT balance to be $809 million. $560 million of that balance is protected and $249 million is unprotected. Because the amortization percentage for the first year of the protected amount is estimated to be 4.82 percent, the estimated amortization of the protected amount is $27 million. The unprotected amount will be amortized over ten years because the amount is greater than $200 million, making the estimated amortization $25 million. After wholesale and tax adjustments, the total estimated revenue requirement impact of the amortization of the Excess ADIT regulatory liability is $67 million. When added to the $84 million annual revenue requirement impact of the Tax Savings, which was calculated in accordance with Exhibit 6 to the 2017 Settlement, the total amount to be flowed back to customers is $151 million. These calculations are further explained in the testimonies and exhibits of Mr. Gordon and Ms. Olivier.

9. Pursuant to the Implementation Stipulation, DEF will offset this total amount by recording a monthly storm reserve accrual beginning in January 2018 for one-twelfth of $151 million, or $12.6 million, until DEF has fully recovered the final storm recovery amount to be approved by the Commission in Docket No. 20170272.

10. Given that the Excess ADIT amounts provided in this filing are estimates, DEF will true up these amounts after it files its 2017 tax return in September 2018. DEF will make a supplemental filing no later than December 2018 to adjust the amounts applied to storm costs retroactive to January 2018.

WHEREFORE, DEF requests that the Commission enter an order approving: (a) the calculation of Tax Savings; (2) the calculation of Excess ADIT amortization; and (3) the process for flowing the Tax Impacts to DEF's customers, as presented in the testimony and exhibits of Mr. Matt Gordon and Ms. Marcia J. Olivier.

Respectfully submitted,

s/Dianne M. Triplett

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IN RE: CONSIDERATION OF THE TAX IMPACTS ASSOCIATED WITH TAX CUTS AND JOBS ACT OF 2017 FOR DUKE ENERGY FLORIDA, LLC

FPSC DOCKET NO. 20180047-EI

DIRECT TESTIMONY OF MATT GORDON

MAY 31, 2018

1 **Q. Please state your name and business address.**

2 A. My name is Matt Gordon. My business address is 550 South Tryon Street, Charlotte,

3 North Carolina, 28202.

4

5 **Q. By whom are you employed and what is your position?**

6 A. I am employed by Duke Energy Business Services as Director of Tax Asset.

7

8 **Q. Please describe your duties and responsibilities in that position.**

9 A. I am responsible for advising the various jurisdictions, including Duke Energy

10 Florida, LLC ("DEF" or "the Company") with respect to tax treatment of assets. I

11 oversee all aspects of tax depreciation and deferred taxes associated with Property,

12 Plant, and Equipment (PP&E).

13

14 **Q. Please describe your educational background and professional experience.**

15 A. I have worked at Duke Energy for 33 years as an accountant in various departments

16 within Finance. I have been in Tax for 8 years and spent over 20 years in Asset

1 Accounting handling the book accounting for Property, Plant, and Equipment. I am a
2 Certified Public Accountant in the state of North Carolina.
3
4 **Q. What is the purpose of your testimony?**
5 A. My testimony is to summarize the key components of the recently enacted Tax Cuts
6 and Jobs Act (Tax Act)[1] and its overall impact on income tax expense and
7 accumulated deferred income tax (ADIT). I explain the requirements of the Tax Act
8 both in terms of the change in the federal corporate tax rate, changes in the treatment
9 of bonus depreciation, and other deductions, as well as the law's requirements for the
10 treatment of excess ADITs. Since the excess ADITs are based on estimates that will
11 be trued-up once DEF files its tax return in September, I also describe the process for
12 updating the excess ADITs and amortization percentages. DEF witness Marcia
13 Olivier will describe the process for flowing back the tax savings associated with the
14 Tax Act to customers.
15
16 **Q. Have you prepared, or caused to be prepared under your direction, supervision,**
17 **or control, exhibits in this proceeding?**
18 A. I am sponsoring the following exhibit:
19 Exhibit No. ___ (MG-1), "Protected and Unprotected Detail of Deferred Accounts."
20 This exhibit is true and accurate.
21
22 **Q. Please briefly describe the Tax Act.**

[1] Tax Cuts and Jobs Act, H.R. 1, Public Law 115-97, 131 Stat. 2054 (Dec. 22, 2017).

A. On December 22, 2017, President Donald Trump signed the Tax Act into Law. This legislation represents the most significant revision to the Federal Tax Code in the last thirty years. The voluminous Tax Act brings comprehensive change to the individual, corporate and international tax law. The headline change to the corporate tax code is a reduction of the statutory corporate tax rate from 35% to 21%, but this reduction in rate is accompanied by many other provisions that serve to broaden the tax base and to "pay for" the effect of the 21% tax rate. Most provisions of the Tax Act take effect beginning January 1, 2018.

Q. What are the key provisions of the Tax Act as it relates to DEF?

A. Most changes to the corporate tax code apply to all U.S. corporations equally; while a limited set of others affect regulated utilities uniquely. For utilities in general, and DEF in particular, the key provisions of the Tax Act that will affect customer rates are as follows: (1) reduction of the corporate tax rate from 35 percent to 21 percent; (2) retention of net interest expense deductibility; (3) elimination of bonus depreciation; (4) elimination of the manufacturing deduction; and (5) normalization of excess ADITs resulting from the Tax Act.

Q. Please summarize how these key provisions could impact DEF and customer rates.

A. REDUCTION IN CORPORATE TAX RATE: The new statutory income tax rate of 21% represents a 40% reduction from the previous rate of 35%. This will lower a key component of cost of service, i.e., income taxes. In combination with the elimination

of bonus depreciation (see below), a lower corporate tax rate will slow the accumulation of deferred income taxes, a cost free source of capital, which will have an increasing effect on the required rate of return on rate base, thereby causing an effect that is opposite to the lower cost of service effect.

INTEREST EXPENSE DEDUCTIBILITY: The Tax Act generally provides that net interest expense is deductible only to the extent it does not exceed a stated percentage of an adjusted taxable income calculation, a calculation that becomes even more restrictive four years hence. However, regulated utilities are exempt from this limitation provision and may deduct their interest expense without limitation.

BONUS DEPRECIATION: The Tax Act generally provides that corporations may immediately expense capital as it is placed in service, akin to 100% bonus depreciation. However, the Tax Act specifically prohibits the immediate expensing of capital by regulated utilities. Instead, utilities are directed to use MACRS (modified accelerated cost recovery system) depreciation for capital investment placed in service. Though no longer accompanied by "bonus" depreciation, MACRS still represents a significantly accelerated rate of depreciation compared to book depreciation. As a result, deferred taxes will continue to accrue under MACRS, but will do so at a slower rate compared to bonus depreciation and at a much slower rate under the lower 21% corporate tax rate (see above) — this will cause a more rapid increase to the required rate of return on rate base relative to pre-Tax Act.

MANUFACTURING DEDUCTION: Prior to the Tax Act, domestic manufacturers were granted a tax deduction based on a certain percentage of qualifying manufacturing income, and the production of electricity qualified for this tax benefit.

1 In order to avail itself of this deduction, a corporation had to be in a taxable income
2 position—this was often not the case recently for most regulated utilities because of
3 the impact of bonus depreciation. Unfortunately, the elimination of bonus
4 depreciation for utilities in the Tax Act coincided with the elimination of this tax
5 deduction for all manufacturers, which is directionally detrimental to customer rates.
6 EXCESS ADIT: At the end of 2017, DEF has a significant net deferred tax liability,
7 booked at a 35% corporate tax rate and driven overwhelmingly by accelerated and
8 bonus depreciation of fixed assets for tax purposes. Because a deferred tax liability
9 represents taxes collected from customers but not yet paid to taxing authorities, and
10 because the ultimate payment of these taxes will now occur at a 21% corporate tax
11 rate (down from 35%), the balance of deferred tax liability must be remeasured. The
12 resulting "excess" ADIT balance becomes a regulatory liability. The Tax Act requires
13 that excess ADITs generally associated with property, and specifically connected to
14 the accelerated depreciation of property, must be normalized into customers' rates in
15 a highly-prescribed manner that mimics the remaining life of the underlying assets.
16 These are known as "protected" excess ADITs. All other excess ADITs may be
17 treated by the commission like any other regulatory liability in the rate-setting
18 process.
19
20 **Q. How does the Tax Act address the accounting treatment of Excess ADITs?**
21 A. Because of the passage of the Tax Act, the deferred tax assets and liabilities on the
22 Company's books as of December 31, 2017, which were established at a rate of 35
23 percent, will be revalued at a rate of 21 percent creating "excess" ADITs.

1 Under the Tax Act, the protected excess ADIT reserve may be reduced with a
2 corresponding reduction in the revenue that the utility collects from ratepayers no
3 more rapidly than the reserve would be reduced under the Average Rate
4 Assumption Method (ARAM).[2]
5
6 **Q. Does the Company have an estimate of the value of the Excess ADITs for DEF at**
7 **this time?**
8 A. The Company has computed an estimate of the total excess ADIT balance to be $809
9 million. $560 million of that balance is protected and $249 million is unprotected.
10 Exhibit No. __ (MG-1),"Protected and Unprotected Detail of Deferred Accounts"
11 provides a listing of the underlying book tax timing differences for each deferred tax
12 account.
13
14 **Q. How did DEF determine which deferred tax amounts were protected and which**
15 **were unprotected?**
16 A. DEF considered all deferred tax balances that are not related to property, plant and
17 equipment (PP&E) as unprotected with the exception of deferred taxes associated
18 with the net operating loss (NOL). PP&E deferred taxes can be broken into two
19 categories. The first category relates to the deferred taxes resulting from method and

[2] AVERAGE RATE ASSUMPTION METHOD.—The average rate assumption method is the method under which the excess in the reserve for deferred taxes is reduced over the remaining lives of the property as used in its regulated books of account which gave rise to the reserve for deferred taxes. Under such method, during the time period in which the timing differences for the property reverse, the amount of the adjustment to the reserve for the deferred taxes is calculated by multiplying—
(i) the ratio of the aggregate deferred taxes for the property to the aggregate timing differences for the property as of the beginning of the period in question, by (ii) the amount of the timing differences which reverse during such period.
(ii) the amount of the timing differences which reverse during such period.

1 life depreciation differences. Book accounting generally uses a straight line
2 depreciation method but tax generally uses an accelerated method such as MACRS or
3 bonus depreciation. Book accounting also may use a different depreciation life than
4 tax depreciation. Deferred taxes associated with all method or life differences are
5 considered protected by the IRS. The second category of PP&E related deferred
6 taxes includes those associated with book and tax basis differences. Examples of
7 basis differences include assets which are capitalized for book purposes but are
8 expensed for tax purposes, or taxable contributions in aid of construction which
9 reduce the cost of the asset for book purposes but are considered taxable income for
10 tax purposes. The NOL deferred taxes are considered to be protected because the
11 NOL was created as a result of having a significant amount of accelerated
12 depreciation (bonus and MACRS).
13
14 **Q. Please explain whether DEF treated the cost of removal (COR) component of**
15 **excess ADIT as protected or unprotected**
16 A. DEF treated the COR component of excess ADIT as both protected and unprotected
17 with the majority being treated as protected. This approach is an effort to avoid any
18 normalization violations. Some utilities are treating COR as a basis difference which
19 would result in COR being classified as unprotected. DEF has reviewed the IRS rules
20 extensively and believes the rules require utilities to use all of the book depreciation
21 amounts included in its utility operations in the normalization ARAM calculations.
22 The regulations require that "salvage" be taken into account when determining the
23 depreciation amount. DEF's book depreciation "salvage" amount is a "net salvage"

1 amount which means that COR is a component of the depreciation rate. A portion of
2 book depreciation gets assigned to book tax basis differences (portions of a book
3 asset that is depreciated for book purposes but not for tax purposes). Examples of this
4 would be AFUDC debt, tax repair projects, taxable contributions in aid of
5 construction (taxable CIAC), etc. Therefore, some of the COR gets assigned to the
6 method/life protected deferred taxes and some gets assigned to the basis differences
7 unprotected amounts. DEF believes this method does not result in a normalization
8 violation as we are proposing that COR be normalized along with the other
9 components of book depreciation. COR results in a deferred tax asset and this
10 method is to the benefit of customers as it slows down the recovery of the regulatory
11 asset created from excess deferred taxes because the majority of the COR is showing
12 up in protected deferred taxes which is recovered over a longer period of time than if
13 deemed unprotected.
14
15 **Q. What will DEF do if the IRS rules that COR is unprotected?**
16 If a ruling or other guidance is issued by the IRS proclaiming that COR is not
17 protected, then DEF will reclassify all COR excess ADIT amounts to unprotected.
18 This will change the total amount of amortization of excess ADITs. Therefore, as
19 further explained in Marcia Olivier's testimony, DEF would file updated schedules
20 with the Commission and adjust the amortization of excess ADITs and the flow-back
21 amount charged to storm costs retroactive to January 2018.
22

1 **Q. What is the amortization percentage for protected Excess ADITs and how was**
2 **that amount calculated?**
3 A. DEF estimates that 4.82% of the protected excess deferred taxes will be amortized in
4 2018. This amount was calculated using our PowerTax system. PowerTax starts
5 amortizing the excess deferred taxes on a specific asset when deferred taxes start to
6 reverse (when book depreciation exceeds tax depreciation). In the first year of the
7 reversal PowerTax computes an average deferred tax rate using the current balance of
8 the deferred taxes. This average rate will then be used to amortize the excess deferred
9 taxes over the remaining life of the specific asset. The 4.82% is an estimate because
10 the actual amount of excess deferred taxes will not be known until the 2017 tax
11 return is complete. Therefore, DEF will adjust the ARAM percentage retroactive to
12 January 2018 upon completion of the 2017 tax return in September, and DEF will
13 adjust the amount flowed back to customers as further explained in Marcia Olivier's
14 testimony.
15
16 **Q. How does DEF propose to flow back these benefits from the Tax Act to**
17 **customers?**
18 A. DEF witness Ms. Marcia Olivier explains the relevant provisions of the 2017
19 Settlement and how those provisions will be implemented.
20
21 **Q. Does this conclude your direct testimony?**
22 A. Yes.
23

DEF Summary of Excess Deferred Income Taxes (EDIT)

Line					
1		**12/31/2017**	**12/31/2017**	**12/31/2017**	
2		**EDIT**	**EDIT**	**EDIT**	
3		**Protected**	**Not Protected**	**Total**	
4	Total Non PP&E (0190,0283) **1	57,270,048	(134,283,877)	(77,013,829)	See Page 2 of 2
5	Total PP&E (0282)	(617,752,799)	(114,256,248)	(732,009,047)	See below
6	Total	(560,482,751)	(248,540,126)	(809,022,877)	
7	**1 The protected component of the Non PP&E EDIT is from the NOL				
8					
9					
10	**1. PP&E Protected EDIT from Method / Life Differences:**				
11	**Book Tax Difference**	**EDIT**	**Protected/Unprotected**		
12	PP&E Method/Life Differences	(617,752,799)	Protected		
13					
14	**2. PP&E Unprotected Deferred Taxes from Book Tax Basis Differences:**				
15	Below is a summary report from our PowerTax System of every book vs. tax basis difference for PPE on all existing assets.				
16	These differences have accumulated over many years and many assets.				
17					
18	**Book Tax Basis Difference**	**EDIT**	**Protected/Unprotected**		
19	AFUDC Debt	(16,279,121)	Unprotected		
20	AFUDC Debt Contra - WS	133,304	Unprotected		
21	ARO	2,115,252	Unprotected		
22	CAPITALIZED SPARES	19,474	Unprotected		
23	Casualty Loss	(9,241,742)	Unprotected		
24	Casualty Restoration Addback	35,491,017	Unprotected		
25	CIAC	75,080,713	Unprotected		
26	Depr Cap Trans Equip	(54,106)	Unprotected		
27	FL Bonus Basis Reduce Auto Calc	8,031,216	Unprotected		
28	FL Bonus Basis Reduction PY/481a	10,121,274	Unprotected		
29	FL Bonus To Amortize	(9,905,347)	Unprotected		
30	Hardware Capitalized	116,887	Unprotected		
31	Impairment Adjustment	6,390,241	Unprotected		
32	Load Mgmt Devices	(5,894)	Unprotected		
33	Method/Life/State Offset	56,257,785	Unprotected		
34	Misc Diffs	(878,339)	Unprotected		
35	NONTAX CIAC/HIWAY REIMB	558,273	Unprotected		
36	Other Adj	(729,482)	Unprotected		
37	PGN Benefits	12,155,232	Unprotected		
38	PGN Conversion Adjs	(66,936)	Unprotected		
39	PGN FL Adjustment	(18,563,658)	Unprotected		
40	PGN FL Adjustment FL Addback	(14,745)	Unprotected		
41	PGN FPC Basis	14,955,045	Unprotected		
42	PGN Tax Expense T&D	(67,866,960)	Unprotected		
43	RAR Adjustment	(144,172)	Unprotected		
44	Salvage Artificial Loss	8,806,421	Unprotected		
45	Salvaged Inventry Proceeds	(7,616,748)	Unprotected		
46	Sect. 174 Adjust	(2,593,486)	Unprotected		
47	Software Capitalized	260,145	Unprotected		
48	TAX ADJ FED	4,475,314	Unprotected		
49	Tax Expensing	(282,467,702)	Unprotected		
50	Tax Repair Retirements	2,735,033	Unprotected		
51	TIC	64,844,354	Unprotected		
52	TIC Tax Adj	(374,793)	Unprotected		
53	**Total PP&E Book/Tax Basis Diffs**	**(114,256,248)**	Unprotected		
54					
55	Total PP&E EDIT (Acct 0282)	**(732,009,047)**			

DEF Tax Reform - Non PP&E Protected/Unprotected Details

Line	Code	Name	Excess ADIT	Protected/Unprotected
1	190001/2	ADIT: Prepaid: Taxes		
2	T11A02	Bad Debts - Tax over Book	638,463	Unprotected
3	T11B06	Surplus Materials Write-off Liab	1,369	Unprotected
4	T11B08	Surplus Materials Write-Off Asset	19,558	Unprotected
5	T13B08	ASSET RETIREMENT OBLIGATION	90,223,553	Unprotected
6	T13B28	LT Cap Lease Oblig-Tax Oper	(109,480)	Unprotected
7	T13B45	Asset Retirement Obligation - Coal Ash	2,434,680	Unprotected
8	T13B47	LTSA - O&M Cost	(3,420,059)	Unprotected
9	T15A22	Mark to Market - LT	1,196,165	Unprotected
10	T15A23	Mark to Market Reg - LT	(995,294)	Unprotected
11	T15A45	Amort Int Inc Tax Deficiency	137,418	Unprotected
12	T15A62	OCI Book Addback	(880,395)	Unprotected
13	T15B07	Cash Flow Hedge - Reg Asset/Liab	(577,224)	Unprotected
14	T15B58	Storm Cost Deferral- Liab	1,012,507	Unprotected
15	T17A02	Accrued Vacation	3,924,974	Unprotected
16	T17A40	SEVERANCE RESERVE - LT	214,263	Unprotected
17	T17A54	MGP Sites	1,168,614	Unprotected
18	T19A02	Deferred Compensation	155,981	Unprotected
19	T19A55	Workers Com Reserve	1,533,752	Unprotected
20	T19A94	UNBILLED REVENUE - FUEL	10,978,440	Unprotected
21	T19A95	Reserve for Claims	50,325	Unprotected
22	T19A96	Lawsuit Contingency	115,136	Unprotected
23	T19B01	FAS 5 Non-Income Tax Reserves	7,379,022	Unprotected
24	T20A41	Rate Refunds	4,835	Unprotected
25	T22A01	Emission Allowance Expense	(386,977)	Unprotected
26	T22A03	Gain on Emission Allowances	97	Unprotected
27	T22A28	Retirement Plan Expense - Underfunded	7,969,451	Unprotected
28	T22A29	Non-qualified Pension - Accrual	5,636,156	Unprotected
29	T22A30	Retirement Plan Funding - Underfunded	(2,500,117)	Unprotected
30	T22A39	Unbilled Revenue	613,357	Unprotected
31	T22A56	Environmental Reserve	19,900	Unprotected
32	T22B13	ANNUAL INCENTIVE PLAN COMP	3,631,773	Unprotected
33	T22B15	PAYABLE 401 (K) MATCH	208,298	Unprotected
34	T22B29	Tax Int Accrual - Non-cur Liab	308,882	Unprotected
35	T22B40	Generating Performance Incentive Factor	(32,785)	Unprotected
36	T22B42	Claim Reserve LT	5,001,264	Unprotected
37	T22E02	OPEB Expense Accrual	19,551,072	Unprotected
38	T22E06	FAS 112 Medical Expenses Accrual	1,204,982	Unprotected
39	T22H09	Decommissioning Liability	11,630,574	Unprotected
40	TFL050	FL Charitable Contribution Carryover	(47,670)	Unprotected
41	Total 190001/2		**168,014,863**	
42				
43	283100/1	ADIT: Other		
44	T11A23	Deferred Regulatory Cost - Non Current	(10,425,290)	Unprotected
45	T15A24	Loss on Reacquired Debt-Amort	(1,335,884)	Unprotected
46	T15A58	2004 Ivan Storm Cleanup	(212,294)	Unprotected
47	T15B04	Reg Asset - Accr Pension FAS158 - FAS87Qual	38	Unprotected
48	T15B17	Reg Liab RSLI & Other Misc Dfd Costs	(21,872)	Unprotected
49	T15B29	Reg Asset-Pension Post Retirement PAA-FAS87Qual and Oth	(49,790,402)	Unprotected
50	T15B37	Reg Asset-Pension Post Retirement PAA-FAS87NQ and Oth	(1,334,559)	Unprotected
51	T15B38	Reg Asset-Pension Post Retirement PAA-FAS 106 and Oth	(6,018,199)	Unprotected
52	T15B40	Reg Asset - Accr Pension FAS158 - FAS87NQ	(61,181)	Unprotected
53	T15B45	Reg Asset - Plant Related Retirements	(428,554)	Unprotected
54	T15B52	Storm Cost Deferral- Asset	(54,709,687)	Unprotected
55	T19A59	Dfd CR3 Dry Cask Storage Reg Asset	(13,739,431)	Unprotected
56	T19A86	Deferred Fuel Asset - LT	(26,997,901)	Unprotected
57	T20A38	Regulatory Asset - Deferred Plant Costs	(11,657,620)	Unprotected
58	T22A23	Retirement Plan Expense - Overfunded	(12,959,258)	Unprotected
59	T22H05	Non-Qualified Fund MTM Earnings	110,836	Unprotected
60	T22H07	Decommissioning Qualified Fund	(92,326,209)	Unprotected
61	T22H12	ARO Regulatory Asset	(12,964,821)	Unprotected
62	T22H46	ARO Regulatory Asset - Coal Ash	(1,099,821)	Unprotected
63	Reclass between protected/unprotected		(6,326,628)	Unprotected
64	Total 283100/1		**(302,298,740)**	
65				
66	190155	Deferred Tax - NOL		
67	AT_OTH_190_NC_Federal I	190155_Other NC Federal NOLs	50,943,420	Protected
68	Reclass between protected/unprotected		6,326,628	Protected
69	Total 190155		**57,270,048**	
70				
71	**Total ADIT**		**(77,013,829)**	
72				
73		Non PP&E Protected	57,270,048	
74		Non PP&E Unprotected	(134,283,877)	
75		Non PP&E Total	**(77,013,829)**	

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

FPSC DOCKET NO. 20180047-EI

DIRECT TESTIMONY OF MARCIA J. OLIVIER

MAY 31, 2018

1 **I. INTRODUCTION AND QUALIFICATIONS.**

2 **Q. Please state your name and business address.**

3 A. My name is Marcia J. Olivier. My current business address is 299 First Avenue

4 North, Saint Petersburg, FL 33701.

5

6 **Q. By whom are you employed and what are your responsibilities?**

7 A. I am employed by Duke Energy Florida, LLC as Director of Rates and Regulatory

8 Planning. I am currently responsible for overseeing rate cases, reporting actual

9 and projected earnings surveillance results, overseeing storm cost recovery

10 filings, and ensuring compliance with the 2017 Second Revised and Restated

11 Settlement Agreement.

12

13 **Q. Please summarize your educational background and professional experience.**

14 A. I hold a Bachelor of Science degree in Accounting and a Bachelor of Science

15 degree in Finance from the University of South Florida and have over 20 years of

16 utility experience, primarily in the regulatory department.

II. PURPOSE AND SUMMARY OF TESTIMONY.

Q. What is the purpose of your direct testimony?

A. The purpose of my testimony is to present for Commission approval the amount of the tax impacts and explain the process for flowing back those tax impacts to customers. The tax impacts can be categorized into two components; 1) the effect of the lower income tax rate (aka "Tax Savings") on earnings, and 2) the effect of the amortization of excess accumulated deferred income taxes ("Excess ADIT") on earnings. Matt Gordon will present testimony on the calculation of the amount and amortization of Excess ADIT.

Q. Do you have any exhibits to your testimony?

A. Yes, I am sponsoring the following exhibit to my testimony:

- Exhibit No. __ (MJO-1), "Calculation of Tax Flow Back."

This exhibit was prepared under my direction and control, and is true and accurate to the best of my knowledge.

Q. Please summarize your testimony.

A. On November 20, 2017, the Commission approved DEF's 2017 Second Revised and Restated Settlement Agreement ("2017 Settlement") in Order No. PSC-2017-0451-AS-EU. Paragraph 16 of the 2017 Settlement sets forth the methodology for calculating tax impacts and flow back associated with tax reform. On December 22, 2017, the President signed into law the 2017 Tax Cuts and Jobs Act ("Tax Act"), which, among other things, reduced the federal corporate income tax

1 rate from 35% to 21%. Finally, on February 26, 2018, the Commission approved
2 a 2017 Settlement Implementation Stipulation ("Implementation Stipulation") in
3 Order No. PSC-2018-0103-PCO-EI, which authorized DEF to apply the impacts
4 of the Tax Act toward the storm reserve deficiency in lieu of increasing customer
5 rates to recover storm costs and decreasing customer rates to flow back tax
6 impacts. Exhibit MJO-1, Page 1 provides the calculation of the Tax Savings in
7 accordance with Exhibit 6 of the 2017 Settlement, Page 2 provides notes
8 associated with Page 1, and Page 3 provides the total amount of tax flow back
9 associated with the Tax Savings calculated on page 1 as well as the flow back of
10 Excess ADIT.
11
12 **Q. Please explain your calculation of the Tax Savings.**
13 A. Exhibit 6 to the 2017 Settlement provides a template for calculating the Tax
14 Savings. It is based on the 2018 forecasted earning surveillance report that DEF
15 filed with the Commission on March 15, 2018. When populating that template, as
16 shown in Exhibit MJO-1, the total revenue requirement impact of Tax Savings for
17 2018 is $134.1 million. Of that amount, $50 million is applied to the accelerated
18 depreciation of the Crystal River Coal Units 4 and 5 ("CR4&5") pursuant to
19 Paragraph 16b, which provides that "…each year throughout the term of the 2017
20 Second Revised and Restated Settlement Agreement 40% of such impacts, up to
21 $50 million pre-tax, would be recorded as an acceleration of depreciation expense
22 associated with Crystal River Units 4 and 5, thereby reducing the FPSC-adjusted
23 net operating impact of Tax Reform by up to the after-tax impact of this
24 accelerated depreciation." The remaining amount to flow back to customers, after

1 accelerating the depreciation of CR4&5, is $84.1 million as shown in Exhibit
2 MJO-1, Page 1, Line 55.
3
4 **Q. Did you make any changes to the format of Exhibit 6 to the 2017 Settlement?**
5 A. Yes, DEF makes a parent debt adjustment in its surveillance reports to reduce
6 income tax expense to reflect the interest expense deduction associated with debt
7 at its parent. This adjustment increases net operating income. As a result of the
8 decrease in the federal corporate income tax rate, the parent debt adjustment was
9 reduced from $15.7 million to $10.3 million. This change in the parent debt tax
10 adjustment needs to be reflected in the calculation of the Tax Savings associated
11 with the decrease in the federal corporate income tax rate. Therefore, rows 34a
12 and 35a were added in Exhibit MJO-1, Page 1 to capture this change.
13
14 **Q. Please explain the calculation of the flow back of Excess ADIT**
15 A. The amount of Excess ADIT that was recorded as a regulatory liability as of
16 December 2017 is presented and explained more fully in Matt Gordon's direct
17 testimony, including the component that is protected by tax normalization rules
18 ("Protected") and the component that is not protected by tax normalization rules
19 ("Unprotected). Paragraph 16c of the 2017 Settlement provides that the Protected
20 component must be flowed back over a term consistent with law. For the
21 Unprotected component, notwithstanding the remaining provisions of Paragraph
22 16c, the flow back period is ten years if the amount is greater than $200 million
23 and five years if the amount is less than $200 million. As shown in Exhibit MJO-
24 1, page 3, DEF has calculated the Protected amount to be $560.5 million and the

Unprotected amount to be $248.5 million as of December 31, 2017. As further explained in Matt Gordon's direct testimony, the amortization percentage for the first year of the Protected amount is estimated to be 4.82%. Therefore, the estimated amortization of the Protected amount is $27.0 million. The Unprotected amount of $248.5 million will be amortized over ten years since the amount is greater than $200 million. Therefore, the estimated amortization of the Unprotected amount is $24.9 million. The total amortization of the Excess ADIT regulatory liability for 2018 is, therefore, $51.9 million. After removing the portion associated with wholesale Open Access Transmission Tariff ("OATT") customers, the remaining retail portion to be amortized is $49.9 million. Grossing this amount up by the new combined federal and state statutory tax rate results in a revenue requirement impact of $66.9 million.

Q. What is the total amount of the tax impact that will be flowed-back to customers and how will that amount flow back?

A. Adding the pretax effect of $84.1 million annual Tax Savings to the pretax effect of $66.9 million estimated amortization of the Excess ADIT regulatory liability results in a total estimated flow back of $150.9 million. Pursuant to the Implementation Stipulation, DEF will offset this total amount by recording a monthly storm reserve accrual beginning in January 2018 for one-twelfth of $150.9 million, or $12.6 million, until DEF has fully recovered the final storm recovery amount to be approved by the Commission in Docket No. 20170272. Also pursuant to the Implementation Stipulation, in the month following full recovery of the Commission-approved final storm recovery amount, DEF will

1 cease recording the storm reserve accrual and will reduce base rates in the manner
2 set forth in the 2017 Settlement by the final amount of flow-back approved by the
3 commission in this proceeding. DEF will file tariff sheets for Staff's approval
4 sixty days prior to that date.
5
6
7 **Q. Since the Excess ADIT amounts reflected above are estimates, how will DEF**
8 **true these amounts up?**
9 A. While the annual Tax Savings calculated in Exhibit MJO-1, Page 1 are final
10 (paragraph 16b of the 2017 Settlement provides for a one-time calculation based
11 on the 2018 forecasted earnings surveillance report), the Excess ADIT
12 amortization is not final. As further explained in Matt Gordon's testimony, DEF
13 will not have the final December 2017 Excess ADIT balances and Average Rate
14 Assumption Method ("ARAM") percentage until after it files its 2017 tax return
15 in September. Since the Excess ADITs and amortization percentages are
16 preliminary and subject to change, DEF will make a supplemental filing in the
17 November/December timeframe based on DEF's 2017 tax return to adjust the
18 Protected and Unprotected Excess ADIT balances, amortization amounts and the
19 flow-back amounts applied to storm costs retroactive to January 2018. Although
20 the amortization percentage will change each year according to ARAM, the flow-
21 back of the Excess ADITs will be final, and not subject to any further adjustments
22 after DEF's supplemental filing in November/December, with the exception of
23 one potential adjustment related to cost of removal ("COR").
24

Q. Please explain the exception related to COR.

A. As further explained by Matt Gordon, the ADIT associated with COR is a deferred tax asset which DEF has recognized as Protected for the most part. Therefore, COR reduces the total Protected Excess ADIT balance. If the IRS rules that the COR Excess ADIT is Unprotected at any time during the period in which the storm costs are being recovered under the Implementation Stipulation, then DEF will make a filing to the Commission presenting the amount of COR Excess ADIT to be moved from Protected to Unprotected, and DEF will update the Excess ADIT amortization amount and flow-back amount applied to storm costs retroactive to January 2018.

Q. Does this conclude your testimony?

A. Yes, it does.

Calculation of Tax Act Savings based of DEF's Second Revised and Restated Settlement Exhibit 6 ($000s)

Methodology of Income Tax Change ($000's)

Line	Description	Source	Amount	Note
1	**INCOME TAX INPUTS AND ASSUMPTIONS**			**Note**
2	New federal statutory tax rate	Input	21.000%	
3	Current federal statutory tax rate	Given	35.000%	
4	Current State statutory tax rate	Given	5.500%	
5	New combined federal & state statutory tax rate	Line 2 + Line 4 - (Line 2 x Line 4)	25.345%	
6	Current combined federal & state statutory tax rate	Line 3 + Line 4 - (Line 3 x Line 4)	38.575%	
7	Disallowed Interest (or other) expense deduction	Input	n/a	
8				
9	**PARAGRAPH 12 - MULTIYEAR INCREASE**			
10	Base rate revenue increase	Given	n/a	
11	Income tax at current statutory tax rate	Line 6 x Line 10	n/a	
12	FPSC Adjusted NOI impact	Line 10 - Line 11	n/a	
13	Gross up factor at new statutory tax rate	1 - Line 5	74.655%	
14	Revenue requirement at new statutory tax rate	Line 12 / Line 13	n/a	
15				
16	**PARAGRAPH 16 - TAX REFORM SHARING**			
17	**Step 1 - Calculate income tax expense BEFORE tax reform**			
18	FPSC adjusted NOI before tax (per Forecasted Surveillance)	Input	$1,032,712	(a)
19	Less interest expense	Input	(222,966)	(b)
20	Permanent differences	Input	(1,300)	(c)
21	FPSC adjusted taxable income	Sum of Lines 18 through 20	808,447	
22	Current combined statutory tax rate	Line 6	38.575%	
23	Income tax expense	Line 21 x Line 22	$311,858	
24				
25	**Step 2 - Calculate income tax expense AFTER tax reform**			
26	FPSC adjusted NOI before tax (per Forecasted Surveillance)	Input	$1,032,712	
27	Less interest expense	Input	(222,966)	
28	Permanent differences	Input	(1,300)	
29	FPSC adjusted taxable income	Sum of Lines 26 through 28	808,447	
30	New combined statutory tax rate	Line 5	25.345%	
31	Income tax expense	Line 29 x Line 30	$204,901	
32				
33	**Step 3 - Calculate impact on FPSC Adjusted NOI**			
34	Income tax expense BEFORE tax reform - Step 1	Line 23	$311,858	
34a	Parent debt adjustment to income tax expense	Line 35a / Line 5 x Line 6	(15,742)	(d)
35	Income tax expense AFTER tax reform - Step 2	Line 31	204,901	
35a	Parent debt adjustment to income tax expense	Surveillance Sch. 2, pg. 2	(10,343)	(d)
36	Difference - FPSC Adusted NOI increase/(decrease) from tax reform	Line 34 - Line 35	$101,558	
37				
38	**Step 4 - Calculate adjustment for base rate increases implemented at new combined statutory tax rate**			
39	Multi-year increase	Line 14	n/a	
40	Solar base rate adjustment	Input	n/a	
41	GBRA	Input	11,157	(e)
42	Subtotal	Sum Lines 39 through 41	11,157	
43	Change in combined statutory tax rate	Line 5 - Line 6	-13.230%	
44	Adj. for base rate increases at new combined statutory tax rate	Line 42 x Line 43	($1,476)	
45				
46	**Step 5 - Calculate net favorable/(unfavorable) FPSC adjusted NOI impact**			
47	Impact on NOI - Step 3	Line 36	$101,558	
48	Impact on NOI - Step 4	Line 44	(1,476)	
49	Net favorable/(unfavorable) FPSC adjusted NOI impact - after tax	Line 47 + Line 48	100,082	
50	Divide by one minus new combined statutory tax rate	1 - Line 5	74.655%	
51	Net favorable/(unfavorable) FPSC adjusted NOI impact - pretax	Line 49 / Line 50	$134,060	
52				
53	**Step 6 - Calculate annual pretax impacts**			
54	Annual CR4&5 accelerated depreciation	If Line 51 > 0, then Line 51x40%, up to $50m	$50,000	
55	Annual flowback to customers	If Line 51 > 0, then Line 51 - Line 54	84,060	
56	Annual deferral to Regulatory Asset	If Line 51 < 0, then Line 51	-	
57	Total	Sum Lines 54 through 56, ties to Line 51	$134,060	

Calculation of Tax Act Savings based of DEF's Second Revised and Restated Settlement Exhibit 6 ($000s)

Notes:

(a) FPSC adjusted net operating income before tax from 2018 Forecasted Earnings Surveillance Report Sch. 2, pg. 2 of $822,729 plus add back of storm amortization of $159,984 and CR4&5 accelerated depreciation of $50,000.

(b) Interest Expense is FPSC adjusted rate base of $11,859,874 (Sch. 2, pg. 1) multiplied by weighted average cost of debt of 1.88% (Sch. 3).

(c) Permanent difference is made up of non-deductible portion of meals.

(d) The parent debt income tax adjustment on Sch. 2, pg. 2 decreased as a result of the reduction in the statutory tax rate; therefore, an adjustment must be included in order to reflect the correct impact of tax reform on FPSC adjusted net operating income.

(e) Citrus GBRA income tax rate was adjusted in revenue requirement calculation. Pretax earnings impact for 2018 is calculated as follows:

Revenue	$36,174
O&M	(7,120)
Depreciation	(7,248)
Property Tax	(4,354)
Interest Expense *	(6,296)
Net Oper. Income before Tax	$11,157

* Interest Expense Calculation:	
EPIS (13 mo avg retail)	$336,451
A/D (13 mo avg retail)	(1,557)
Net Plant (13 mo avg retail)	334,895
WACD (Sch. 3)	1.88%
Interest Expense	$6,296

Calculation of Annual Retail Flow Back
($000s)

Line	Description	Amount
1	Excess ADIT - Protected	$560,483
2	ARAM 2018 Amortization Percentage	4.82%
3	Excess ADIT - Protected Amortization 2018	27,015
4		
5	Excess ADIT - Unprotected	248,540
6	Amortization Years - per Settlement	10%
7	Excess ADIT - Unprotected Amortization 2018	24,854
8		
9	Total Excess ADIT 2018 Amortization (line 3 + line 7)	51,869
10	OATT Portion	3.73%
11	Less OATT Excess ADIT Amortization	1,935
12	Retail Excess ADIT Amortization (line 9 - line 11)	49,935
13		
14	Retail gross up to pretax amount (line 12 divided by 1 - 25.345%)	66,887
15	Add Annual Retail Impact per Exhibit B, Line 55	84,060
16	Retail Annual Projected Flow Back	$150,947