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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Consideration of the tax impacts associated with Tax Cuts and Jobs Act of 2017 for Tampa Electric Company.	DOCKET NO. 20180045-EI ORDER NO. PSC-2018-0457-FOF-EI ISSUED: September 10, 2018

The following Commissioners participated in the disposition of this matter:

ART GRAHAM, Chairman
JULIE I. BROWN
GARY F. CLARK

APPEARANCES:

JAMES D. BEASLEY and JEFFRY WAHLEN, ESQUIRES, Ausley, McMullen, P.O. Box 391, Tallahassee, Florida 32302
On behalf of Tampa Electric Company (TECO).

J.R. KELLY, Public Counsel, CHARLES J. REHWINKEL, Deputy Public Counsel, and VIRGINIA PONDER, ESQUIRES, Office of Public Counsel, c/o The Florida Legislature, 111 West Madison Street, Room 812, Tallahassee, Florida 32399-1400
On behalf of the Office of Public Counsel (OPC).

JON MOYLE and KAREN PUTNAL, ESQUIRES, Moyle Law Firm, PA, The Perkins House, 118 North Gadsden Street, Tallahassee, Florida 32301
On behalf of the Florida Industrial Power Users Group (FIPUG).

ROBERT SCHEFFEL WRIGHT and JOHN T. LAVIA, III, ESQUIRES, 1300 Thomaswood Drive, Tallahassee, Florida 32308
On behalf of Florida Retail Federation (FRF).

SUZANNE BROWNLESS and RACHAEL DZIECHCIARZ, ESQUIRES, Florida Public Service Commission, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850
On behalf of the Florida Public Service Commission (Staff).

MARY ANNE HELTON, ESQUIRE, Deputy General Counsel, Florida Public Service Commission, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850
Advisor to the Florida Public Service Commission.

KEITH HETRICK, ESQUIRE, General Counsel, Florida Public Service Commission, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850
Florida Public Service Commission General Counsel.

FINAL ORDER APPROVING STIPULATIONS

BY THE COMMISSION:

BACKGROUND

Docket No. 20180045-EI was opened by the Commission on February 21, 2018, to consider the tax impacts associated with the passage of the Tax Cuts and Jobs Act of 2017 on Tampa Electric Company. On March 13, 2018, Order No. PSC-2018-0136-PCO-EI was issued acknowledging the intervention of the Office of Public Counsel (OPC). The Order Establishing Procedure, Order No. PSC-2018-0208-PCO-EI, was issued on April 25, 2018, in which controlling dates were set for filing testimony, exhibits, and discovery. On April 30, 2018, the Office of Public Counsel (OPC) filed a Motion for Emergency Hearing Concerning Scheduling and Discovery Procedures which was granted by Order No. PSC-2018-0261-PCO-EI, issued on May 24, 2018. On June 8, 2018, the Florida Industrial Users Group (FIPUG) and the Florida Retail Federation (FRF) were granted intervention.[1] Prehearing statements were filed on July 25, 2018, by Commission staff, TECO, FIPUG, FRF and OPC.

The final hearing was held on August 20, 2018, at which time the parties agreed that all identified issues had been stipulated as set forth in Attachment A. Further, all parties agreed that the testimony of all witnesses, the Comprehensive Exhibit List, and all exhibits identified therein would be inserted into the record. Jurisdiction over these matters is vested in the Commission through several provisions of Chapter 366, Florida Statutes (F.S.), including Sections 366.04, 366.05, and 366.06, F.S.

DECISION

The stipulations entered into in this case have been crafted, in large part, to be consistent with two documents: TECO's 2017 Amended and Restated Stipulation and Settlement Agreement (RSA), approved by Order No. PSC-2017-0456-S-EI,[2] and the Amended Implementation Stipulation regarding Tax Cuts and Jobs Act of 2017 (AIS), approved by Order No. PSC-2018-0125-PCO-EI.[3] The basic procedure outlined in these two documents with regard to any decreases in revenue requirements associated with changes in the federal tax laws is that a one-time adjustment to base rates will be made via a uniform percentage decrease to customer, demand, and energy base rate charges for all retail customer classes.[4] Should the change in federal tax laws result in a revenue requirement increase, TECO is required to utilize deferral accounting to defer the revenue requirement impact to a regulatory asset to be considered in the company's next base rate case.[5] The parties have stipulated that the revenue requirement

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[1] Order Nos. PSC-2018-0300-PCO-EI and PSC-2018-0301-PCO-EI, respectively.
[2] Order No. PSC-2017-0456-S-EI, issued on November 27, 2017, in Docket No. 20170210-EI, In re: Petition for limited proceeding to approve 2017 amended and restated stipulation and settlement agreement, by Tampa Electric Company.
[3] Order No. PSC-2018-0125-PCO-EI, issued on March 7, 2018, in Docket No. 20170271-EI, In re: Petition for recovery of costs associated with named tropical systems during the 2015, 2016, and 2017 hurricane seasons and replenishment of storm reserve subject to final true-up, Tampa Electric Company.
[4] RSA at Section 9(b).
[5] Id.

decrease due to the change in federal tax laws for the tax year 2018 is $102.7 million. The parties have also agreed that new base rates reflecting this revenue reduction will become effective on the first billing cycle of January 2019. Finally, in the AIS, the parties agreed that any 2018 revenue requirement reduction attributed to the change in federal tax laws would be used to reduce storm damage costs for the 2015, 2016, and 2017 hurricane seasons currently estimated to be $102.5 million.[6] Storm costs will be litigated and set in Docket 20170271-EI and a final true-up of storm surcharges will be made in that docket in accord with paragraph 5(c) of the AIS. Crediting the tax savings against the storm costs allows customers to receive full credit for 100 percent of the 2018 tax savings during calendar year 2018 while avoiding the imposition of a surcharge to collect TECO's estimated storm damage costs.

While the parties have agreed that the revenue requirement impact for the tax year 2018 is $102.7 million, there is an outstanding question concerning the tax treatment of excess Accumulated Deferred Income Taxes (ADIT) related to the cost of removal/negative net salvage. The parties have stipulated that TECO will file a Private Letter Ruling (PLR) with the Internal Revenue Service asking if these costs should be treated as protected or unprotected. TECO has treated these costs as unprotected in calculating the $102.7 million tax decrease for 2018. Should the IRS rule that these costs should have been treated as protected, TECO has agreed to adjust base rates appropriately, make refunds through the conservation cost recovery clause, and make appropriate reclassifications on its books and records.

For the reasons stated above, we approve the stipulations as stated on Attachment A and find that they appropriately resolve all of the identified issues and result in rates that are fair, just and reasonable.

Therefore, it is

ORDERED by the Florida Public Service Commission that the stipulations stated on Attachment A resolving all issues in this case are hereby approved. It is further

ORDERED that the rates and charges as set forth in Exhibit No. 5 are hereby approved effective concurrent with the first billing cycle of January 2019. It is further

ORDERED that this docket shall remain open to consider the Private Letter Ruling from the Internal Revenue Service regarding whether the treatment of excess ADIT relating to the cost of removal/negative net salvage as unprotected is appropriate and until all true-ups and offsets are fully implemented pursuant to the 2017 Amended and Restated Stipulation and Settlement Agreement and the Amended Implementation Stipulation.

[6] AIS at Paragraph 3.

By ORDER of the Florida Public Service Commission this 10th day of September, 2018.

Carlotta S. Stauffer

CARLOTTA S. STAUFFER
Commission Clerk
Florida Public Service Commission
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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.

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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.

Any party adversely affected by the Commission's final action in this matter may request: 1) reconsideration of the decision by filing a motion for reconsideration with the Office of Commission Clerk, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, within fifteen (15) days of the issuance of this order in the form prescribed by Rule 25-22.060, 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 and/or wastewater utility by filing a notice of appeal with the Office of Commission Clerk, and filing a copy of the notice of appeal and the filing fee with the appropriate court. This filing must be completed within thirty (30) days after the issuance of this order, pursuant to Rule 9.110, Florida Rules of Appellate Procedure. The notice of appeal must be in the form specified in Rule 9.900(a), Florida Rules of Appellate Procedure.

ATTACHMENT A

TYPE 1

ISSUE 1: **Has TECO complied with the applicable provisions of its 2017 Amended and Restated Stipulation and Settlement Agreement and Amended Implementation Stipulation regarding Tax Cuts and Jobs Act of 2017 (TCJA)?**

STIPULATION: Yes, as detailed below.

ISSUE 1a: **Was TECO's "forecasted earnings surveillance report for the calendar year that includes the period in which Tax Reform is effective" used?**

STIPULATION: Yes. The company properly used the 2018 Forecasted Earnings Surveillance Report as filed on March 16, 2018 to compute the annual revenue requirement impact associated with the TCJA in accordance with the 2017 Agreement.

ISSUE 1b: **Were "protected excess deferred taxes" for 2018 using a 21 percent corporate tax rate appropriately calculated and flowed back?**

STIPULATION: Yes. The amount of protected excess ADIT as of December 31, 2017 was $347.8 million. Protected excess ADIT amounts were properly reflected in the calculation of 2018 income tax expense using the average rate assumption method in accordance with the Internal Revenue Code and the 2017 Agreement.

ISSUE 1c: **Were "unprotected excess deferred taxes" for 2018 using a 21 percent corporate tax rate appropriately calculated and flowed back?**

STIPULATION: Yes. Book-tax differences not covered by protected normalization rules were properly considered to be unprotected. The amount of unprotected excess ADIT as of December 31, 2017 was $133.0 million. Excess unprotected ADIT were properly reflected in the calculation of 2018 income tax expense over a ten-year flowback period in accordance with the 2017 Agreement.

ISSUE 1d: **Were Accumulated Deferred Income Taxes (ADIT) appropriately calculated?**

STIPULATION: Yes. Tampa Electric identified the book-tax differences that would be impacted by the TCJA, then calculated income tax expense to re-measure ADIT balances at the new applicable corporate rate of 21 percent. In accordance with the 2017 Agreement, these excess ADIT were deferred to a regulatory asset or liability which will be included in FPSC-adjusted capital structure and flowed back to customers consistent with the Internal Revenue Code and the 2017 Agreement.

<u>ISSUE 1e</u>: Are TECO's classifications of the excess ADIT between "protected" and "unprotected" appropriate?

STIPULATION: Yes. Tampa Electric engaged PowerPlan to assist in identifying and remeasuring excess deferred taxes, and PriceWaterhouseCoopers has tested and verified the company's calculation of the impact of the TCJA.

<u>ISSUE 1f</u>: Should TECO seek a private letter ruling from the IRS regarding its classification of the excess ADIT relating to cost of removal/negative net salvage as "unprotected"?

STIPULATION: Yes. Tampa Electric does not object to seeking a PLR from the IRS regarding its classification of the excess ADIT relating to cost of removal/negative net salvage as unprotected.

<u>ISSUE1g</u>: If TECO seeks a private letter ruling and the IRS rules therein (or in another private letter ruling) that the excess ADIT relating to cost of removal/negative net salvage is to be treated as "protected", what process should be followed for the reclassification?

STIPULATION: If Tampa Electric receives a private letter ruling ("PLR") from the IRS ruling that the excess ADIT relating to cost of removal/negative net salvage is to be treated as protected, then a reclassification should be made in the company's books and records and flow-back amounts should be trued up based on the ruling. In addition, the company should further adjust base rates to reflect the 2018 revenue requirement impact either (a) in conjunction with a future solar base rate adjustment or (b) by filing a petition for a limited scope proceeding (or stipulated among all parties in lieu thereof) to adjust base rates within 60 days of the determination in the PLR, whichever will result in a rate change earlier; and shall refund the associated 2018 revenue requirement, difference from January 1, 2018 to the effective date of the further rate change through the conservation cost recovery clause.

<u>ISSUE 1h</u>: Were appropriate adjustments made to the First SoBRA project for the impact of the TCJA for the tax year 2018?

STIPULATION: Yes. In accordance with the 2017 Agreement, for 2018 the company adjusted its cost recovery request for the First SoBRA in Docket No. 20170260-EI to reflect lower revenue requirements as a result of the TCJA.

ISSUE 2: What is the forecasted tax expense for TECO for the tax year 2018 at a 21 percent corporate tax rate?

STIPULATION: The forecasted tax expense under the TCJA, for the tax year 2018 at a corporate tax rate of 21 percent for Tampa Electric is $85.9 million, a reduction in forecasted tax expense of $82.1 million when compared to tax expense without tax reform.

ISSUE 3: What is the forecasted tax expense for TECO for the tax year 2018 at a 35 percent corporate tax rate?

STIPULATION: The forecasted tax expense without tax reform for the tax year 2018 at a corporate tax rate of 35 percent for Tampa Electric is approximately $168.1 million.

ISSUE 4: What is the forecasted NOI for the tax year 2018 at a 21 percent corporate tax rate?

STIPULATION: The forecasted FPSC-adjusted 13-month average NOI adjusted for the effects of the TCJA at a 21 percent tax rate is $438.3 million.

ISSUE 5: What is the forecasted NOI for the tax year 2018 at a 35 percent corporate tax rate?

STIPULATION: The forecasted FPSC-adjusted 13-month average NOI at a 35 percent tax rate is $360.1 million.

ISSUE 6: What is the forecasted capital structure for the tax year 2018 at a 21 percent corporate tax rate?

STIPULATION: The average midpoint forecasted capital structure for the tax year 2018, under the TCJA at a 21 percent corporate tax rate on an FPSC-adjusted basis is as follows:

	Adjusted Retail ($000)	Adjusted Retail (%)	Cost Rate (%)	Weighted Cost (%)
Long Term Debt	$ 1,756,256	30.26	4.93	1.49
Short Term Debt	252,677	4.35	2.94	0.13
Customer Deposits	84,020	1.45	2.41	0.03
Common Equity	2,487,153	42.86	10.25	4.39
Deferred Income Taxes	1,188,342	20.48	-	-
Tax Credits-Weighted Cost	34,558	0.60	7.77	0.05
Total	$ 5,803,005	100.00		6.09

<u>ISSUE 7</u>: What is the forecasted capital structure for the tax year 2018 at a 35 percent corporate tax rate?

STIPULATION: The average midpoint forecasted capital structure for the tax year 2018, under the TCJA at a 35 percent corporate tax rate on an FPSC-adjusted basis is as follows:

		Adjusted Retail ($000)	Adjusted Retail (%)	Cost Rate (%)	Weighted Cost (%)
Long Term Debt	$	1,756,483	30.23	4.93	1.49
Short Term Debt		240,239	4.13	2.96	0.12
Customer Deposits		84,031	1.45	2.41	0.03
Common Equity		2,471,935	42.54	10.25	4.36
Deferred Income Taxes		1,223,272	21.05	-	-
Tax Credits-Weighted Cost		34,562	0.59	7.77	0.05
Total	$	5,810,522	100.00		6.05

<u>ISSUE 8</u>: What is the forecasted revenue requirement for TECO for the tax year 2018 using a 21 percent corporate tax rate?

STIPULATION: The forecasted 13-month average NOI for TECO for the tax year 2018 at a 21 percent tax rate is $438.3 million, and the application of the 0.74655 tax gross-up factor results in a revenue requirement of $587.1 million.

<u>ISSUE 9</u>: What is the forecasted revenue requirement for TECO for the tax year 2018 using a 35 percent corporate tax rate?

STIPULATION: The forecasted 13-month average NOI for TECO for the tax year 2018 at a 35 percent corporate tax rate is $360.1 million, and the application of the 0.74655 tax gross-up factor results in a revenue requirement of $482.3 million.

<u>ISSUE 10</u>: What is the amount of annual revenue requirement decrease/increase due to the enactment of the TCJA for the tax year 2018?

STIPULATION: The revenue requirement decrease due to the enactment of the TCJA for the tax year 2018 is $102.7 million. The 2018 revenue requirement decrease is the difference between the forecasted NOI pre- and post-TCJA with the 0.74655 tax gross-up factor applied, and then adjusted to reflect actual instead of budgeted First SoBRA revenue requirements included in the NOI and the First SoBRA tax reform revenue requirements reduction already performed in Docket No. 20170260-EI.

<u>ISSUE 12</u>: What are the appropriate base rate charges implementing the TCJA and when should the new base rate charges become effective?

STIPULATION: Pursuant to the 2017 Amended and Restated Stipulation and Settlement Agreement and the Amended Implementation Stipulation, a one-time rate reduction of $102.7 million should be accomplished via a uniform percentage decrease to customer, demand and energy base rate charges for all retail customer classes as shown in Witness Ashburn's Exhibit No. ___ (WRA-1), Document No. 5. These new base rate changes should become effective concurrent with the first billing cycle of January 2019.

ISSUE 13: What is the amount of the 2018 annual revenue requirement decrease attributable to the TCJA that should be used in Docket No. 20170271-EI to recover the storm cost as provided in paragraph 3 and to calculate the true up contemplated in paragraph 5(c) of the Amended Implementation Stipulation?

STIPULATION: The $102.7 million revenue requirement impact specified in Issue 10, above, should be used in Docket No. 20170271-EI to net against the storm costs as provided in paragraph 3 and to calculate the true-up contemplated in paragraph 5(c) of the Amended Implementation Stipulation.

ISSUE 14: Should this docket be closed?

STIPULATION: This docket should remain open to consider feedback from the IRS through the PLR regarding whether the treatment of excess ADIT relating to the cost of removal/negative net salvage as unprotected is appropriate and until all true-ups and offsets are fully implemented pursuant to the 2017 Amended and Restated Stipulation and Settlement Agreement and the Amended Implementation Stipulation.

TYPE 2

ISSUE 11: What is the annual percentage decrease for the base rate charges for the RS, GS, GSD and IS rate classes resulting from the TCJA?

STIPULATION: Consistent with the 2017 Agreement, the annual percentage decrease in the base rate charge for RS, GS, GSD, and IS rate classes resulting from the TCJA is 9.0 percent.