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October 18, 2018

E-PORTAL FILING

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

Re: Docket No. 20180048 – EI - In re: Consideration of the tax impacts associated with Tax Cuts and Jobs Act of 2017 for Florida Public Utilities Company –Electric.

Attached for filing in the above-referenced docket, please find the Joint Motion of Florida Public Utilities Company and the Office of Public Counsel for Approval of 2018 Tax Settlement submitted in this docket on behalf of Florida Public Utilities Company and the Office of Public Counsel.

Thank you for your assistance with this filing. As always, please don't hesitate to let me know if you have any questions whatsoever.

Kind regards,

Beth Keating

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MEK

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Consideration of the tax impacts associated with Tax Cuts and Jobs Act of 2017 for Florida Public Utilities Company - Electric.	DOCKET NO. 20180048-EI Dated: October 18, 2018

JOINT MOTION OF FLORIDA PUBLIC UTILITIES COMPANY AND THE OFFICE OF PUBLIC COUNSEL FOR APPROVAL OF 2018 TAX SETTLEMENT

Florida Public Utilities Company ("FPUC" or "Company") and the Office of Public Counsel ("OPC"), (together, "Joint Movants") by and through their undersigned attorneys, respectfully move the Florida Public Service Commission ("Commission" or "FPSC") to approve a 2018 Tax Settlement addressing the issues associated with disposition of the tax savings to the Company arising from the Tax Cuts and Jobs Act of 2017 ("TCJA") ("2018 Tax Settlement"), which is attached hereto as Attachment A. The Joint Movants have entered this 2018 Tax Settlement in order to resolve matters at issue in this docket. In support hereof, the Joint Movants state as follows:

1. On December 26, 2017, the Commission approved a Stipulation and Settlement ("2017 Settlement") in Docket No. 20170150-EI, *Petition for limited proceeding to include reliability and modernization projects in rate base, by Florida Public Utilities Company,* between OPC and FPUC.[1] The 2017 Settlement outlined, among other things, the Joint Movants' agreement that any projected tax savings to the Company arising as a result of federal tax reform would be flowed through to customers by way of a base rate decrease and that excess accumulated deferred income taxes ("EADIT") would be flowed back to customers consistent with federal requirements.

[1] Commission Order No. PSC-2017-0488-PAA-EI.

2. On February 21, 2018, the Commission opened the instant docket to address the impact of the TCJA on FPUC. Thereafter, on April 25, 2018, the Order Establishing Procedure, Order No. PSC-2018-0211-PCO-EI, was issued establishing the schedule for this proceeding. In accordance with that Order, FPUC filed its Petition for Approval of Tax Benefits Adjustment Amounts and Flow-Through Mechanism on May 31, 2018, along with the testimony and exhibits of witnesses Cassel, Dewey and Reno.

3. The Joint Movants continued to negotiate in good faith to resolve the issues in this docket and thereby avoid the need for any further expensive and time-consuming litigation before the Commission. These efforts have been successful and the result is the 2018 Tax Settlement attached hereto as Attachment A.

4. The 2018 Tax Settlement is the result of good faith efforts to address the issues in this proceeding in a manner that will provide regulatory certainty with regard to FPUC's rates and avoid the unnecessary expense and uncertainty associated with further litigation. The 2018 Tax Settlement is a compromise based on the highly specific circumstances of this case and utility that results in a fair, just, and reasonable disposition of the tax benefits arising from the TCJA to the benefit of FPUC's customers. Therefore, the Joint Movants submit the 2018 Tax Settlement is in the public interest and respectfully request its approval as further described below.

5. In furtherance of this Joint Motion and approval of the 2018 Tax Settlement, the Joint Movants waive any right to seek reconsideration of, or otherwise appeal, any decision of the Commission approving, in its entirety, this 2018 Tax Settlement.

6. As set forth in the attached 2018 Tax Settlement, the Joint Movants have reached agreement, as follows:

(a) The Joint Movants agree that the impact of the TCJA on FPUC's Net Operating Incoming ("NOI") is a savings of $638,158 annually;

(b) In lieu of applying these savings to base rates, the Joint Movants agree that, given FPUC's existing fuel under-recovery and its separate petition in Docket No. 20180061-EI to recover incremental storm costs, these tax savings should be flowed-through to FPUC's customers as follows:

i. For calendar year 2018, the NOI annual tax savings impact of $638,158 will be applied to the Company's existing fuel and purchased power cost recovery balance, which will serve to reduce FPUC's Fuel Cost Recovery factors for 2019. The 2018 Tax Settlement contemplates that FPUC will submit conforming, revised schedules in Docket No. 20180001-EI as soon as practicable following the submission of this 2018 Tax Settlement to the Commission.

ii. Effective January 1, 2019, FPUC will apply the NOI annual tax savings of $638,158 as a permanent base rate reduction.

(c) Protected - The Joint Movants agree that the grossed-up, "protected" Excess Accumulated Deferred Income Tax ("EADIT") balance is a deferred regulatory tax liability in the amount of $7,155,154, which must be flowed-through to FPUC's customers consistent with the appropriate IRS methodology. The estimated annual benefit is $288,230. Rather than apply these savings to base rates, as contemplated by the 2017 Settlement, the Parties hereby agree that, consistent with the underlying intent of the 2017 Settlement, and as a compromise based on the highly specific circumstances of this case and FPUC, these savings shall instead be flowed-through to FPUC's customers as follows:

i. For calendar year 2018, the "protected" EADIT amount of $288,230 will be applied to the Company's existing fuel and purchased power cost recovery balance, which will serve to reduce FPUC's Fuel Cost Recovery factors in

2019. The 2018 Tax Settlement contemplates that FPUC will submit conforming, revised schedules in Docket No. 20180001-EI as soon as practicable following the submission of this 2018 Tax Settlement to the Commission.

ii. Beginning January 1, 2019, the "protected" EADIT amount of $288,230 will, along with the existing $121,620 accrual, be applied to the storm reserve beginning January 1, 2019 and ending December 31, 2020.

iii. Effective January 1, 2021, FPUC will apply the "protected" EADIT amount of $288,230 will be applied as a permanent base rate reduction.

(d) Unprotected - The Parties agree that the grossed-up, "unprotected" EADIT balance for the Company is approximately $538,064 and that, as a compromise based on the highly specific circumstances of this case and FPUC, this amount shall be applied to reduce the Company's existing fuel and purchased power cost recovery balance, which will serve to further reduce FPUC's Fuel Cost Recovery factors in 2019. The 2018 Tax Settlement contemplates that FPUC will submit conforming, revised schedules in Docket No. 20180001-EI as soon as practicable following the submission of this 2018 Tax Settlement to the Commission.

7. The Joint Movants also agree that the tax savings identified in the 2018 Tax Settlement are based upon FPUC's best estimates at the time of this filing. FPUC shall calculate the actual amount of the tax benefit to be flowed-through to customers based on its 2017 tax return and submit this amount to the Commission for review and approval. The 2018 Tax Settlement contemplates that, if approved by the Commission, any prior period true-up will be made through the Fuel Clause, and base rates further adjusted for any ongoing impact.

8. In addition, the Joint Movants agree that, if the IRS issues guidance that cost of removal should be a protected asset, the Company's balances associated with the cost of removal

shall be accounted for using the IRS prescribed methodology for protected assets. If it becomes necessary to seek clarification from the IRS by way of a Private Letter Ruling, then the Joint Movants agree that FPUC shall be allowed to defer the costs associated with the procedural activity to be amortized over five years, or until the Company's next base rate proceeding.

9. The Joint Movants represent that the 2018 Tax Settlement provides an equitable and just balance of the positions of the Joint Movants on the issues in this proceeding. The Joint Movants submit approval of the 2018 Tax Settlement is in the best interests of both the Company and its customers, and therefore, respectfully request approval of same.

10. For the sake of efficiency and to allow the terms of the 2018 Tax Settlement to become fully effective on January 1, 2019, as contemplated, the Joint Movants request the Commission rule on this Joint Motion For Approval of 2018 Tax Settlement at or before the Commission's December 2018 Agenda Conference.

11. Commission approval of this Joint Motion is consistent with the Commission's long-standing policy to encourage settlements that provide benefits to the customers and avoid unnecessary additional litigation expense.

WHEREFORE, the Joint Movants respectfully request that the Commission approve the 2018 Tax Settlement attached hereto as Attachment A.

Respectfully submitted this 18th day of October 2018 by:

/s/ Virginia Ponder
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Attorneys for Florida Public Utilities Company

CERTIFICATE OF SERVICE
Docket No. 20180048-EI

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by electronic mail on this 18th day of October 2018 to the following:

Johana Nieves Kurt Schrader Florida Public Service Commission 2540 Shumard Oak Boulevard Tallahassee, FL 32399-0850 jnieves@psc.state.fl.us kschrade@psc.state.fl.us	J.R. Kelly/Virginia Ponder Office of Public Counsel c/o The Florida Legislature 111 W. Madison Street, Room 812 Tallahassee, FL 32399-1400 kelly.jr@leg.state.fl.us Ponder.Virginia@leg.state.fl.us

By: Beth Keating

Beth Keating
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Attachment A

2018 Tax Settlement

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Consideration of the tax impacts associated with Tax Cuts and Jobs Act of 2017 for Florida Public Utilities Company - Electric.	DOCKET NO. 20180048-EI Dated: October 16, 2018

2018 TAX SETTLEMENT

WHEREAS, Florida Public Utilities Company ("FPUC" or "Company") and the Office of Public Counsel ("OPC") have signed this Settlement regarding the disposition of the Company's Excess Accumulated Deferred Income Taxes ("2018 Tax Settlement"); and

WHEREAS, unless the context clearly intends otherwise, the term "Party" or "Parties" shall mean a signatory or signatories to this 2018 Tax Settlement; and

WHEREAS, on July 3, 2017, FPUC petitioned the Florida Public Service Commission ("the Commission") for a limited proceeding to include $15,241,515 in capital projects in rate base and increase its rates and charges by the amount necessary to recover the revenue requirement of $1,823,869 on those projects with the effective day of such rate increase to be January 1, 2018 ("Limited Proceeding"); and

WHEREAS, the Parties entered into a Stipulation and Settlement to resolve the Limited Proceeding ("Limited Proceeding Settlement"), which was filed November 28, 2017, and approved by Commission Order No. PSC-2017-0488-PAA-EI, issued December 26, 2017; and

WHEREAS, the Limited Proceeding Settlement provided for an increase to FPUC's base rates sufficient to generate an additional $1,558,050 of annual revenues in revenues to be implemented January 1, 2018, for purposes of recovering the revenue requirement on certain specified projects;

WHEREAS, Article VII of the Limited Proceeding Settlement recognized that federal Tax Reform could impact the effective tax rate recognized by the Company in FPSC-adjusted reported net operating income and the measurement of existing and prospective deferred federal income tax assets and liabilities reflected in the FPSC adjusted capital structure; and

WHEREAS, the Tax Cuts and Jobs Act of 2017 (Pub. Law 115-97) ("TCJA") has since been enacted; and

WHEREAS, the Commission opened this proceeding to address the impact of the TCJA on the Company and OPC has intervened and is a party to this proceeding; and

WHEREAS, the Parties and Commission Staff have conducted extensive discovery in this proceeding and this proceeding is scheduled for a full, evidentiary hearing in February 2019; and

WHEREAS, FPUC has also filed a request to recover certain incremental storm costs, which is assigned Docket No. 20180061-EI; and

WHEREAS, the Parties have endeavored in good faith to resolve the issues in this docket in order to provide regulatory certainty with regard to FPUC's rates and to avoid the uncertainty associated with further litigation; and

WHEREAS, the legal system, as well as the Commission, favors settlement of disputes, for a variety of reasons, including that they are in the public interest; and

WHEREAS, the Parties to this 2018 Tax Settlement, individually and collectively, agree that this 2018 Tax Settlement, taken as a whole, is in the public interest; and

WHEREAS, the Parties have entered into this 2018 Tax Settlement in compromise of positions taken in accord with their rights and interests under Chapters 350, 366 and 120, Florida Statutes, as applicable, and as part of a negotiated exchange of consideration among the Parties to this 2018 Tax Settlement, each Party has agreed to concessions to the others with the expectation, intent, and understanding such that all provisions of this 2018 Tax Settlement, upon approval by the Commission, will be enforced by the Commission as to all matters addressed herein with respect to all Parties; and

WHEREAS, by entering into this 2018 Tax Settlement, the Parties waive all rights to protest the tariff filing(s) made in compliance with the terms and conditions of this 2018 Tax Settlement, and agree that tariffs reflecting rates consistent with this 2018 Tax Settlement shall be filed promptly following the Commission's vote on this 2018 Tax Settlement , but no later than one (1) day following such Commission vote; and

WHEREAS, the Parties agree that this 2018 Tax Settlement is intended to supplement, rather than supersede, the Limited Proceeding Settlement and shall not be construed as such unless expressly set forth herein;

NOW, THEREFORE, in consideration of the foregoing and the mutual covenants set forth herein, which the Parties agree constitute good and valuable consideration, the Parties hereby stipulate and agree as follows:

I. Term

a. This 2018 Tax Settlement will take effect upon Commission approval ("Effective Date") and shall be implemented on the date of the meter reading for the first billing cycle of January 2019 ("Implementation Date"). The additional changes to base rates, charges and related tariff term sheet terms and conditions established as a result of this 2018 Tax Settlement will continue in effect consistent with the Limited Proceeding Settlement, except as otherwise contemplated herein, unless and until changed by Commission Order.

b. The parties reserve all rights, unless such rights are expressly waived or released, under the terms of this 2018 Tax Settlement.

II. Federal Income Tax Reform

a. The Parties agree that the impact of the TCJA on FPUC's Net Operating Incoming ("NOI") is a savings of $638,158 annually. Rather than apply these savings to base rates, as contemplated by the Limited Proceeding Settlement, the Parties hereby agree that, for purposes of clarity and consistent with the underlying intent of the Limited Proceeding Settlement, these savings shall be flowed-through to FPUC's customers as follows:

i. For calendar year 2018, the NOI annual tax savings impact of $638,158 will be applied to the Company's existing fuel and purchased power cost recovery balance, which will serve to reduce FPUC's Fuel Cost Recovery factors for 2019. FPUC shall submit conforming, revised schedules in Docket No.

20180001-EI as soon as practicable following the submission of this 2018 Tax Settlement to the Commission.

ii. Effective January 1, 2019, the NOI annual tax savings of $638,158 will be applied as a permanent base rate reduction.

b. Protected - The Parties agree that the grossed-up, "protected" Excess Accumulated Deferred Income Tax ("EADIT") balance is a deferred regulatory tax liability in the amount of $7,155,154, which must be flowed-through to FPUC's customers consistent with the appropriate IRS methodology. The estimated annual benefit is $288,230. Rather than apply these savings to base rates, as contemplated by the Limited Proceeding Settlement, the Parties hereby agree that, for purposes of clarity and consistent with the underlying intent of the Limited Proceeding Settlement, these savings shall be flowed-through to FPUC's customers as follows:

i. For calendar year 2018, the "protected" EADIT amount of $288,230 will be applied to the Company's existing fuel and purchased power cost recovery balance, which will serve to reduce FPUC's Fuel Cost Recovery factors in 2019. FPUC shall submit conforming, revised schedules in Docket No. 20180001-EI as soon as practicable following the submission of this 2018 Tax Settlement to the Commission.

ii. Beginning January 1, 2019, the "protected" EADIT amount of $288,230 will, along with the existing $121,620 accrual, be applied to the storm reserve beginning January 1, 2019 and ending December 31, 2020.

iii. Effective January 1, 2021, the "protected" EADIT amount of $288,230 will be applied as a base rate reduction.

c. Unprotected - The Parties agree that the grossed-up, "unprotected" EADIT balance for the Company is approximately $538,064 and that this amount shall be applied to reduce the Company's existing fuel and purchased power cost recovery balance, which will serve to reduce FPUC's Fuel Cost Recovery factors in 2019. FPUC shall submit conforming, revised schedules in Docket No. 20180001-EI as soon as practicable following the submission of this 2018 Tax Settlement to the Commission.

d. Estimates – the Parties agree that the tax savings identified herein are based upon FPUC's best estimates at the time of the filing of this 2018 Tax Settlement. FPUC shall calculate the actual amount of the tax benefit to be flowed-through to customers based on its 2017 tax return and submit this amount for Commission approval. Any prior period true-up shall be made through the Fuel Clause, and base rates shall be adjusted for any ongoing impact.

e. IRS Clarification - The Parties agree that Guidance provided in the 2017 Tax Cuts and Jobs Act and in previous IRS rulings presents some uncertainty as to the classification of the EADIT related to the cost of removal. The Parties acknowledge that FPUC initially classified these balances as a protected asset, but through work with its outside tax experts has subsequently moved these related EADIT balances to an unprotected classification. If the IRS issues guidance that cost of removal should be a protected asset, the Parties agree that the balances associated with the cost of removal shall be accounted for using the IRS prescribed methodology for protected assets. If it becomes necessary to seek clarification from the IRS by way of a Private Letter Ruling, then the Parties agree that the costs associated with the procedural activity may be deferred and amortized over five years, or until the next base rate proceeding.

III. Commission Approval

a. The provisions of this 2018 Tax Settlement are contingent upon Commission approval of this 2018 Tax Settlement in its entirety without modification. The Parties further agree that this 2018 Tax Settlement is in the public interest, that they will support this 2018 Tax Settlement and will not request or support any order, relief, outcome, or result in conflict with the terms of this 2018 Tax Settlement in any administrative or judicial proceeding relating to, reviewing, or challenging the establishment, approval, adoption, or implementation of this 2018 Tax Settlement or the subject matter hereof.

b. No Party will assert in any proceeding before the Commission that this 2018 Tax Settlement or any of the terms in this 2018 Tax Settlement shall have any precedential value. The Parties' agreement to the terms in this 2018 Tax Settlement shall be without prejudice to any Party's ability to advocate a different position in future proceedings not involving this 2018 Tax Settlement. The Parties further expressly agree that no individual provision, by itself, necessarily represents a position of any Party in any future proceeding, and the Parties further agree that no Party shall assert or represent in any future proceeding in any forum that another Party endorses any specific provision of this 2018 Tax Settlement by virtue of that Party's signature on, or participation in, this 2018 Tax Settlement. It is the intent of the Parties to this 2018 Tax Settlement that the Commission's approval of all the terms and provisions of this 2018 Tax Settlement is an express recognition that no individual term or provision, by itself, necessarily represents a position, in isolation, of any Party or that a Party to this 2018 Tax Settlement endorses a specific provision, in isolation, of this 2018 Tax Settlement by virtue of that Party's signature on, or participation in, this 2018 Tax Settlement.

IV. Resolution of Issues

a. Approval of this 2018 Tax Settlement resolves all issues in this proceeding. The Parties agree that approval of the 2018 Tax Settlement will avoid additional litigation costs for all Parties. The Parties agree to waive:

i. All notice requirements for a hearing as set forth in Section 120.569(2)(b), Florida Statutes, or other applicable law;

ii. Their right to require a hearing on the merits;

iii. Their respective rights to seek reconsideration of any Final Order that approves this Agreement in its entirety without change; and

iv. Their respective right to judicial review of any such final agency action approving this Agreement afforded by Section 120.68, Florida Statutes.

b. The Parties further agree they will support this 2018 Tax Settlement and affirmatively assert that this 2018 Tax Settlement is in the public interest and should be approved. The Parties likewise agree and acknowledge that the Commission's approval of this 2018 Tax Settlement promotes planning and regulatory certainty for both FPUC and its customers.

XIII. Execution

This 2018 Tax Settlement is dated as of October 16, 2018. It may be executed in one (1) or more counterparts, all of which will be considered one and the same Agreement and each of which will be deemed an original.

[SIGNATURE PAGES FOLLOW]

IN WITNESS WHEREOF, the Parties evidence their acceptance and agreement with the provisions of this 2018 Tax Settlement by their signature(s).

Dated this 16 day of October 2018.

Florida Public Utilities Company

By: ______________________

Jeffry M. Householder
President, Florida Public Utilities Company

Signature Page to Stipulation and Settlement Agreement in Docket No. 20180048-EI

IN WITNESS WHEREOF, the Parties evidence their acceptance and agreement with the provisions of this 2018 Tax Settlement by their signature(s).

Dated this 16 day of October 2018.

Office of Public Counsel

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