

BEFORE THE  
FLORIDA PUBLIC SERVICE COMMISSION

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In the Matter of:

DOCKET NO. 20180039-EI

CONSIDERATION OF THE  
STIPULATION AND SETTLEMENT  
AGREEMENT BETWEEN GULF  
POWER COMPANY, THE OFFICE  
OF PUBLIC COUNSEL, FLORIDA  
INDUSTRIAL POWER USERS  
GROUP, AND SOUTHERN  
ALLIANCE FOR CLEAN ENERGY  
REGARDING THE TAX CUTS AND  
JOBS ACT OF 2017.

FILED 11/8/2018  
DOCUMENT NO. 07028-2018  
FPSC - COMMISSION CLERK

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VOLUME 1  
PAGES 1 through 22

PROCEEDINGS: HEARING  
COMMISSIONERS  
PARTICIPATING: CHAIRMAN ART GRAHAM  
COMMISSIONER JULIE I. BROWN  
COMMISSIONER DONALD J. POLMANN  
COMMISSIONER GARY F. CLARK  
COMMISSIONER ANDREW G. FAY

DATE: Tuesday, October 30, 2018

TIME: Commenced: 10:55 a.m.  
Concluded: 11:11 a.m.

PLACE: Betty Easley Conference Center  
Room 148  
4075 Esplanade Way  
Tallahassee, Florida

REPORTED BY: ANDREA KOMARIDIS  
Court Reporter

PREMIER REPORTING  
114 W. 5TH AVENUE  
TALLAHASSEE, FLORIDA  
(850) 894-0828

1 APPEARANCES:

2 RUSSELL A. BADDERS, ESQUIRE, Beggs & Lane,  
3 P.O. Box 12950, Pensacola, Florida 32591-2950; JEFFREY  
4 A. STONE, One Energy Place, Pensacola, Florida 2550,  
5 appearing on behalf of Gulf Power Company.

6 J.R. KELLY, PUBLIC COUNSEL; CHARLES J.  
7 REHWINKEL, DEPUTY PUBLIC COUNSEL; AND STEPHANIE A.  
8 MORSE, ESQUIRE, Office of Public Counsel, c/o the  
9 Florida Legislature, 111 W. Madison Street, Room 812,  
10 Tallahassee, Florida 32399-1400, appearing on behalf of  
11 the Citizens of the State of Florida.

12 JON C. MOYLE, JR., and KAREN PUTNAL, ESQUIRES,  
13 Moyle Law Firm, P.A., 118 North Gadsden Street,  
14 Tallahassee, Florida 32301, appearing on behalf of  
15 Florida Industrial Power Users Group.

16 ROBERT SCHEFFEL WRIGHT, ESQUIRE, Gardner Law  
17 Firm, 1300 Thomaswood Drive, Tallahassee, Florida 32308,  
18 appearing on behalf of the Florida Retail Federation.

19 SUZANNE BROWNLESS, ESQUIRE, FPSC General  
20 Counsel's Office, 2540 Shumard Oak Boulevard,  
21 Tallahassee, Florida 32399-0850, appearing on behalf of  
22 the Florida Public Service Commission Staff.

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1 APPEARANCES (Continued):

2 KEITH HETRICK, GENERAL COUNSEL; MARY ANNE  
3 HELTON, DEPUTY GENERAL COUNSEL; Florida Public Service  
4 Commission, 2540 Shumard Oak Boulevard, Tallahassee,  
5 Florida 32399-0850, advisor to the Florida Public  
6 Service Commission.

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I N D E X

PANEL WITNESSES SWORN

NAME :	PAGE NO.
SHANE BOYETT	17
JOANNE IVY	17

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EXHIBITS

NUMBER:	ID	ADMITTED
1 - Comprehensive exhibit list	8	9
2 through 13 - (as identified on the comprehensive exhibit list)	9	19

1 P R O C E E D I N G S

2 CHAIRMAN GRAHAM: Okay. Immediately following  
3 this Gulf tax stipulation, we're going to have IA  
4 in this room. So, no one has got to pack up and  
5 head over to the IA room.

6 We will convene this hearing,  
7 Docket 20180039-EI, Gulf Tax Stipulation. The date  
8 is October 30th. And it's roughly 10:55 a.m.

9 Staff, if I can get you to the read the  
10 notice, please.

11 MS. BROWNLESS: Commissioner, the microphones  
12 do not appear to be on, so perhaps we should --

13 MR. HETRICK: Hello.

14 CHAIRMAN GRAHAM: There you go.

15 MS. BROWNLESS: Thank you.

16 Yes, sir. Thank you.

17 By notice issued on September 25th, 2018, this  
18 time and place was set for hearing in Docket  
19 No. 20180039-EI. The purpose of the hearing is set  
20 out in the notice.

21 CHAIRMAN GRAHAM: Okay. Take appearances.

22 MR. STONE: Good morning, Commissioners. I'm  
23 Jeffrey A. Stone, general counsel for Gulf Power  
24 Company. And with me today is Russell A. Badders  
25 of the law firm Beggs & Lane. We're representing

1 Gulf Power.

2 MR. REHWINKEL: Hello, Commissioners. Charles  
3 J. Rehwinkel, Stephanie A. Morse, and J.R. Kelly,  
4 the Public Counsel, on behalf of Gulf's customers.

5 MR. WRIGHT: Robert Scheffel Wright, Gardner  
6 Law Firm, on behalf of the Florida Retail  
7 Federation. Thank you.

8 MR. MOYLE: Jon Moyle with the Moyle Law Firm  
9 on behalf of the Florida Industrial Power Users  
10 Group, FIPUG. Karen Putnal should also be shown as  
11 entering an appearance. Thank you.

12 MS. BROWNLESS: Yes, sir. And this is Suzanne  
13 Brownless on behalf of Commission staff.

14 I would also advise the Commission that George  
15 Cavros, on behalf of SACE, has been excused. And  
16 my understanding is that the Office of Public  
17 Counsel will speak for SACE.

18 MR. REHWINKEL: That is correct.

19 MS. HELTON: And Mary Anne Helton is here as  
20 your adviser, along with your general counsel,  
21 Keith Hetrick.

22 CHAIRMAN GRAHAM: Okay. Staff, preliminary  
23 matters.

24 MS. BROWNLESS: Yes, sir. Shane Boyett and  
25 JoAnne Ivy will be appearing as witnesses on behalf

1 of Gulf as a panel to answer any questions that you  
2 may have about the stipulation.

3 CHAIRMAN GRAHAM: Okay. Any exhibits we have  
4 to mark?

5 MS. BROWNLESS: Yes, sir, staff has prepared a  
6 comprehensive exhibit list, which includes the  
7 stipulation and settlement agreement regarding  
8 remaining issues between Gulf Power Company, the  
9 Office of Public Counsel, the Florida Industrial  
10 Power Users Group, the Florida Retail Federation,  
11 and the Southern Alliance for Clean Energy, dated  
12 August 27th, 2018, with attachments, revised tariff  
13 sheets, and Gulf's responses to OPC's discovery,  
14 and staff data requests.

15 The list has been provided to the parties, to  
16 Commissioners, and to the court reporter. Staff  
17 requests at this time that the list, itself, be  
18 marked as Exhibit No. 1.

19 CHAIRMAN GRAHAM: We will mark that list as  
20 Exhibit No. 1.

21 (Whereupon, Exhibit No. 1 was marked for  
22 identification.)

23 MS. BROWNLESS: Thank you.

24 And at this time, staff would request that  
25 Exhibit No. 1 be entered into the record and that



1 all other exhibits be marked as identified therein.

2 CHAIRMAN GRAHAM: Is there any opposition to  
3 entering Exhibit 1 into the record?

4 MR. STONE: No objection.

5 MR. WRIGHT: No objection.

6 MR. MOYLE: No objection.

7 CHAIRMAN GRAHAM: Seeing none, we will enter  
8 Exhibit 1 into the record.

9 (Whereupon, Exhibit No. 1 was admitted into  
10 the record, and Exhibit Nos. 2 through 13 were  
11 marked for identification.)

12 MS. BROWNLESS: At this time, there are no  
13 other preliminary matters.

14 CHAIRMAN GRAHAM: All right. Staff, what's  
15 the current status?

16 MS. BROWNLESS: We're here today to discuss  
17 the stipulation and settlement agreement regarding  
18 remaining issues, which we'll refer to as SSA2,  
19 between Gulf and the Office of Public Counsel, the  
20 Florida Industrial Power Users Group, the Florida  
21 Retail Federation, and the Southern Alliance for  
22 Clean Energy.

23 The is SSA2 addresses the treatment of excess  
24 protected deferred income taxes, the one issue  
25 unresolved by the first stipulation and settlement

1 agreement approved by the Commission in Order  
2 No. PSC20180180FOF-EI, issued April 12th, 2018.  
3 The SSA2 is signed by all parties to this docket,  
4 Gulf, OPC, FIPUG, FRF, and SACE.

5 CHAIRMAN GRAHAM: All right. Next is my  
6 favorite part, opening statements.

7 MR. STONE: Thank you, Mr. Chairman.

8 CHAIRMAN GRAHAM: Everybody has been given  
9 five minutes to speak.

10 (Laughter.)

11 CHAIRMAN GRAHAM: I apologize. I took a  
12 little liberty on that one.

13 We will start with Gulf.

14 MR. STONE: Thank you, Mr. Chairman. And we  
15 will be brief. This proceeding essentially began  
16 at the conclusion of our last rate case when the  
17 Commission approved the stipulation in that case,  
18 in April 2017. And that stipulation included at  
19 Paragraph 6 to deal with the eventuality of tax  
20 reform.

21 When the Tax Cuts and Jobs Act was enacted at  
22 the end of last year, effective the beginning of  
23 this year, we immediately undertook to implement  
24 that stipulation. And that resulted in the SSA1, I  
25 believe, as Ms. Brownless referred to it, the

1 stipulation you approved that allowed a base-rate  
2 reduction as well as reductions to our Fuel Clause  
3 and our Environmental Cost Recovery Clause,  
4 effective April 1 of this year.

5 We left one matter outstanding in that  
6 stipulation, and that was the resolution of the  
7 protected piece of the excess deferred income  
8 taxes.

9 The parties were able to work collaboratively,  
10 subsequent to that initial stipulation. Although  
11 we were not able to reach our -- a new agreement by  
12 our initial deadline of May 1 of this year, we  
13 continue to work collaborative- -- collaboratively  
14 and we were successful in reaching a resolution,  
15 not only amongst the parties to that original  
16 stipulation, but a resolution that the Florida  
17 Retail Federation was able to join in as an  
18 additional party.

19 And that stipulation is brought to you in the  
20 public -- in our view, in the public interest.

21 It's certainly a determination that you need to  
22 make, but it will result in base-rate reduction of  
23 \$9.6 million effective January 2019.

24 And that will be the final resolution of the  
25 ratemaking treatment for the Tax Cuts and Jobs Act,

1 something that was envisioned by the parties when  
2 we entered into the stipulation to resolve our last  
3 rate case, and one that we are now bringing to  
4 fruition with this hearing today.

5 CHAIRMAN GRAHAM: Thank you, sir.

6 OPC?

7 MR. REHWINKEL: Thank you, Commissioners.

8 I -- my remarks will be brief, but I want to take  
9 this opportunity to thank Gulf Power. This utility  
10 worked with the Public Counsel and the other  
11 intervenors in the 20- -- I'm losing track of  
12 time -- 2016 rate case.

13 And they agreed -- they were the first utility  
14 to come forward and agree to put in a placeholder  
15 that would accommodate a reduction to the customers  
16 to pass back the benefits of the reduction in the  
17 tax rate -- the tax savings. And we are grateful  
18 to them for that.

19 But I couldn't stop there. I have to stay  
20 that I want to also commend Gulf Power for  
21 following through with the commitments they made in  
22 that agreement first in the tax-implementation  
23 stipulation that we filed with you earlier, and  
24 then what I'll call the final tax settlement, which  
25 is the last piece that we're doing here today.

1           In every step of the way, they lived up to  
2           their word and they showed integrity and commitment  
3           to their company and to the customers they serve.  
4           And so, we are here to thank them for doing that.  
5           The gentlemen to my right, Mr. Badders and  
6           Mr. Stone, were instrumental in that, as well as  
7           Mr. Fletcher, who we also worked closely with.

8           So, it's not often that I'm here singing the  
9           praises of the company, but they did the right  
10          thing. And they did it in a measured way that  
11          allows this whole process to conclude as  
12          contemplated in time to make the reductions  
13          beginning January '19.

14          So, the final thing I'll say is thank you to  
15          your staff for facilitating this process and us  
16          being here today in time to make the reductions in  
17          January. And we definitely believe this agreement  
18          is in the public interest.

19                 Thank you.

20                 CHAIRMAN GRAHAM: Thank you.

21                 Mr. Wright?

22                 MR. WRIGHT: Thank you, Mr. Chairman.

23                 I would like to echo Mr. Stone's and  
24          Mr. Rehwinkel's comments, expressions of gratitude  
25          and commendations to Gulf Power Company, the

1 personnel involved, Jeff, Russell, Jim, and quite a  
2 few others who were in the meetings that led to  
3 these settlements, to the Public Counsel, FIPUG,  
4 and all the parties who worked well,  
5 professionally, cordially to -- to get this done.

6 Thanks all to -- also to the staff and to you  
7 for getting this on this agenda so that we can get  
8 it done and in effect on January 1st, 2019. Thank  
9 you very much.

10 We support the recommendation. And if you  
11 have any questions, I'll try to answer them.

12 CHAIRMAN GRAHAM: Thank you, sir.

13 Mr. Moyle?

14 MR. MOYLE: Thank you. On behalf of the  
15 Florida Power -- Florida Industrial Power Users  
16 Group, I would also like to echo my thanks to the  
17 other parties and to Gulf, to work toward this.

18 I also wanted just to take a minute and make  
19 some broader comments with respect to what is  
20 before you today and what you're being asked --  
21 asked to do.

22 And I -- I would note that a lot of the issues  
23 that come before you are complex and are technical.  
24 And you know, the federal Tax Reform Act is complex  
25 and technical. And oftentimes, in -- in

1 discussions, people say, well, you know, what --  
2 what -- what do you do professionally. And -- and  
3 I tell them I spend some time at the Public Service  
4 Commission and -- and you know, they'll ask about  
5 things that -- that are before you.

6 And in presenting cases and information, I  
7 think a good piece of advice is, try to get it to a  
8 point where you can explain it to your mom or to  
9 your -- to your kids.

10 And this federal tax-reform piece, while it's  
11 very complicated, I think it's also very, very  
12 simple. And in terms of explaining it to people,  
13 you know, the way I do it is I say, well, as part  
14 of the regulatory construct, if the Federal  
15 Government puts a certain tax on a utility company,  
16 that is something that the ratepayers pay for.  
17 It's a -- it's a pass-through, a straight pass-  
18 through, dollar-for-dollar.

19 And since the Federal Government has reduced  
20 that tax, the corollary to that should be those  
21 monies should come back to the ratepayers. And it  
22 shouldn't be involved and -- and complicated. It's  
23 a pretty straightforward and understandable  
24 proposition.

25 And in the settlement agreement, we put

1 something in that said that. And FIPUG has been  
2 before you and said, on the federal tax reform  
3 dollars, we want them to flow back promptly and we  
4 want it to be transparent and we want the money to  
5 come back to the ratepayers. We think they're the  
6 best people to decide what to do with the money,  
7 and I commend Gulf for doing that.

8 What's before you today is 9.6 million, but I  
9 think it bears comment that that is additive to  
10 more than a hundred million that has already been  
11 put in place to be refunded to ratepayers.

12 So, Gulf, one of the smaller utilities in the  
13 state -- I think the number I wrote it down is  
14 112.8 million has flowed back of the federal tax  
15 reforms. And we're appreciative of that and I know  
16 our FIPUG members and the other ratepayers  
17 appreciate those dollars coming back to them so  
18 they can make the decisions as to the best  
19 decisions as to what -- what to do with that.

20 You all have done that in a number of other  
21 cases, these tax-reform dollars that have been in  
22 front of you. But we would maintain it's a pretty  
23 simple process. And we appreciate your favorable  
24 consideration of voting today to return these  
25 additional tax dollars to the ratepayers, which is



1           where we believe those -- those dollars belong.

2           Thank you.

3           MR. REHWINKEL: Mr. Chairman, if I might say,  
4           on behalf of SACE, is that they fully support the  
5           stipulation, as evidenced by their signing onto --  
6           to this agreement. Thank you.

7           CHAIRMAN GRAHAM: Thank you.

8           I have to agree with you, Mr. Moyle. It  
9           should be simple, but this thing is quite  
10          difficult. And this thing that passed back in  
11          December. We're still dealing with it. And we  
12          probably won't be finished until, what, February,  
13          of next year, but hopefully, we will be done by  
14          February of next year.

15          All right. That all being said, public  
16          comments -- is there anybody in the audience to  
17          speak before us on this issue other than our panel  
18          witnesses?

19          I don't see anybody waving their hands or  
20          standing up, so, I assume that's a no.

21          Okay. If I can get our panel witnesses to  
22          come on over, I'll swear you in up over here.

23          If I can get you to raise your right hand.

24          (Witnesses sworn en masse.)

25          CHAIRMAN GRAHAM: Okay. Who is teeing these

1 witnesses up for us, staff?

2 MR. STONE: Mr. Chairman, I would introduce  
3 you to Shane Boyett and JoAnne Ivy, our panel of  
4 witnesses. We will dispense with an opening  
5 statement for the witnesses and tender them for  
6 examination by the Commission or other attorneys.

7 CHAIRMAN GRAHAM: Okay. Staff, do you have  
8 any questions of these witnesses?

9 MS. BROWNLESS: No, sir.

10 CHAIRMAN GRAHAM: Commissioners, do you have  
11 any questions of these witnesses?

12 Commissioner Brown? Thank you.

13 COMMISSIONER BROWN: Thank you.

14 And I think this stipulation and settlement  
15 agreement is very straightforward, provides tons of  
16 benefits to the customers. It's very clear. I  
17 don't have any questions for the witnesses either,  
18 and thank the parties for coming forward with this.

19 As OPC mentioned, in his opening comments,  
20 that Gulf was the first utility to contain this  
21 type of language in the settlement agreement that  
22 many of the other IOUs have -- also have in their  
23 settlement agreements, and appreciate the foresight  
24 and then streamlining this process for us to  
25 consider and really give the customers these

1 savings as quickly as we can.

2 So, thank you. And I support it in full.

3 CHAIRMAN GRAHAM: Okay. So, staff, we've got  
4 to deal with exhibits, correct?

5 MS. BROWNLESS: Yes, sir. We would now seek  
6 to enter into the record the materials that have  
7 been identified on the comprehensive exhibit list  
8 as Exhibits 2 through 13.

9 CHAIRMAN GRAHAM: There's any questions or  
10 concerns by the parties for Exhibits 2 through 13?  
11 Seeing none, we will enter those all into the  
12 record.

13 MS. BROWNLESS: Thank you, sir.

14 (Whereupon, Exhibit Nos. 2 through 13 were  
15 admitted into the record.)

16 CHAIRMAN GRAHAM: All right.

17 MS. BROWNLESS: And if there are no further  
18 concluding matters to be addressed, if you so  
19 choose, the Commission may make a bench decision at  
20 this time.

21 CHAIRMAN GRAHAM: Are there any concluding  
22 matters from any of the parties? I -- seeing none,  
23 Commissioners, it is our time. Any questions  
24 concerns, comments, further comments? Are you  
25 ready for a bench decision?

1 COMMISSIONER BROWN: Yes, sir.

2 CHAIRMAN GRAHAM: Looks like I see a bunch of  
3 people nodding their head yes.

4 Okay. So, I will take a motion.

5 COMMISSIONER CLARK: Mr. Chairman?

6 CHAIRMAN GRAHAM: Commissioner Clark.

7 COMMISSIONER CLARK: Mr. Chairman, I move that  
8 the stipulation and settlement agreement between  
9 Gulf Power Company, OPC, FIPUG, and Southern  
10 Alliance for Clean Energy regarding the tax cut  
11 acts -- Tax Cuts and Jobs Act of 2017 be approved.

12 COMMISSIONER BROWN: Second.

13 COMMISSIONER POLMANN: Second.

14 CHAIRMAN GRAHAM: It's been moved and second.  
15 Any further discussion, comments on that motion?

16 Seeing none, all in favor, say aye.

17 (Chorus of ayes.)

18 CHAIRMAN GRAHAM: Any opposed?

19 By your action, you have approved the motion.

20 I do want to thank all the parties, as always,  
21 for bringing this before us. I want to thank the  
22 prehearing officer. It's always nice when these  
23 things come together in a nice package and I see  
24 people in front of me smiling -- or at least not  
25 grimacing. That's a good thing.

1           Staff, I want to thank you for your time and  
2           packaging this up the way we have it.

3           Staff, is there anything else that I need to  
4           do before I adjourn this meeting?

5           MS. BROWNLESS: No, sir.

6           CHAIRMAN GRAHAM: All right. That all being  
7           said, once again, thank you very much. Travel  
8           safe. And we are adjourned.

9           MS. BROWNLESS: Thank you.

10          CHAIRMAN GRAHAM: We will have IA sitting  
11          right here in this room, five minutes.

12          (Whereupon, proceedings concluded at 11:11  
13          a.m.)

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CERTIFICATE OF REPORTER

STATE OF FLORIDA )  
COUNTY OF LEON )

I, ANDREA KOMARIDIS, Court Reporter, do hereby certify that the foregoing proceeding was heard at the time and place herein stated.

IT IS FURTHER CERTIFIED that I stenographically reported the said proceedings; that the same has been transcribed under my direct supervision; and that this transcript constitutes a true transcription of my notes of said proceedings.

I FURTHER CERTIFY that I am not a relative, employee, attorney or counsel of any of the parties, nor am I a relative or employee of any of the parties' attorney or counsel connected with the action, nor am I financially interested in the action.

DATED THIS 8th day of November, 2018.



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ANDREA KOMARIDIS  
NOTARY PUBLIC  
COMMISSION #GG060963  
EXPIRES February 9, 2021