

State of Florida



Public Service Commission

CAPITAL CIRCLE OFFICE CENTER • 2540 SHUMARD OAK BOULEVARD
TALLAHASSEE, FLORIDA 32399-0850

-M-E-M-O-R-A-N-D-U-M-

DATE: August 6, 2020

TO: Office of Commission Clerk (Teitzman)

FROM: Division of Accounting and Finance (Cicchetti, Buys, Hightower) *ALM* *MC*
Office of the General Counsel (Brownless) *JC*

RE: Docket No. 20200149-WS – Consideration of the tax impacts associated with Tax Cuts and Jobs Act of 2017 for St. James Utility Company.

AGENDA: 08/18/20 – Regular Agenda – Proposed Agency Action – Interested Persons May Participate

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: Graham

CRITICAL DATES: None

SPECIAL INSTRUCTIONS: None

Case Background

The Tax Cuts and Jobs Act of 2017 (TCJA) was signed into law on December 22, 2017, and became effective for the taxable year beginning January 1, 2018. On January 9, 2018, the Office of Public Counsel (OPC) filed a “Petition to Establish Generic Docket to Investigate and Adjust Rates for 2018 Tax Savings.” On February 6, 2018, in Order No. PSC-2018-0104-PCO-PU,¹ the Florida Public Service Commission (Commission) established jurisdiction over utilities’ tax savings if such a date was not contained in an applicable settlement agreement. Subsequently, the Commission opened separate dockets to address the tax savings for electric and natural gas utilities. At this time, all electric, natural gas, and water and wastewater utilities (WAW) tax savings dockets have been resolved except for two WAW utilities, Gold Coast Utility

¹Order No. PSC-2018-0104-PCO-PU, issued February 6, 2018 in Docket No. 20180013-PU, *In re: Petition to establish a generic docket to investigate and adjust rates for 2018 tax savings, by Office of Public Counsel.*

Docket No. 20200149-WS

Date: August 6, 2020

Corporation and St. James Utility Company (St. James). The instant docket was opened to address tax savings associated with St. James.

For WAW utilities that have income taxes included in their revenue requirement, the 2018 annual reports are necessary to determine each utility's earned return and if a utility earned in excess of its allowed return. St. James recently provided the Commission with its 2018 annual report.

The Commission has jurisdiction in this case pursuant to Sections 367.011, 367.081, and 367.121, Florida Statutes.

Discussion of Issues

Issue 1: What is the appropriate disposition of the tax impacts resulting from the passage of the TCJA for St. James?

Recommendation: St. James is not earning above its allowed rate of return range. No adjustment to base rates is necessary regarding the tax impacts resulting from the passage of the TCJA for St. James. (Cicchetti)

Staff Analysis: St. James is earning significantly below its authorized rate of return. Attachment A shows St. James' Net Operating Income, Rate Base, Achieved Rate of Return, and Approved Rate of Return Cap.

It is staff's opinion that it is reasonable for the Commission to consider the earnings position of the utility when deciding if base rates should be reduced for changes in tax rates. Reducing base rates would result in cash flow reductions for the utilities, put downward pressure on earnings, and accelerate the need for a rate case sooner versus later. Consequently, staff recommends that no adjustment to base rates is necessary regarding the tax impacts resulting from the passage of the TCJA for St. James. Such treatment is consistent with the Commission's decisions in Docket Nos. 20180051-GU, 20180052-GU, 20180053-GU, 20180054-GU, and 20180013-PU.²

²Order No. PSC-2019-0076-FOF-GU, issued February 25, 2019, in Docket No. 20180051-GU, *In re: Consideration of the tax impacts associated with the Tax Cuts and Jobs Act of 2017 for Florida Public Utilities Company – Gas*; Order No. PSC-2019-0077-FOF-GU, issued February 25, 2019, in Docket No. 20180052-GU, *In re: Consideration of the tax impacts associated with the Tax Cuts and Jobs Act of 2017 for Florida Public Utilities Company – Indiantown Division*; Order No. PSC-2019-0079-FOF-GU, issued February 25, 2019, in Docket No. 20180053-GU, *In re: Consideration of the tax impacts associated with the Tax Cuts and Jobs Act of 2017 for Florida Public Utilities Company – Fort Meade Division*; Order No. PSC-2019-0078-FOF-GU, issued February 25, 2019, in Docket No. 20180054-GU, *In re: Consideration of the tax impacts associated with the Tax Cuts and Jobs Act of 2017 for the Florida Division of Chesapeake Utilities Corporation*. Order No. PSC-2019-0350-PAA-PU, issued August 22, 2019, in Docket No. 20180013-PU, *In re: Petition to establish a generic docket to investigate and adjust rates for 2018 tax savings by Office of Public Counsel*.

Issue 2: Should this docket be closed?

Recommendation: Yes. Upon expiration of the protest period, if a timely protest is not received from a substantially affected person, the decision should become final and effective upon issuance of the Consummating Order and this docket should be closed. (Brownless)

Staff Analysis: Upon expiration of the protest period, if a timely protest is not received from a substantially affected person, the decision should become final and effective upon issuance of the Consummating Order and this docket should be closed.

**Table 1-1
Tax Cuts and Jobs Act WAW Analysis**

	Company	Net Operating Income	Rate Base	Achieved ROR	Approved ROR Cap
3	St. James Utility Company	\$ (196,755)	\$ (1,638,999)	Loss	9.50%

Source: 2018 Annual Report