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FPSC - COMMISSION CLERK

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: March 24, 2022

TO: Office of Commission Clerk (Teitzman)

FROM: Division of Engineering (Wooten, Ellis) TB
Division of Accounting and Finance (Cicchetti) ALM
Office of the General Counsel (Trierweiler, Weisenfeld) JSC

RE: Docket No. 20210016-EI – Petition for limited proceeding to approve 2021 settlement agreement, including general base rate increases, by Duke Energy Florida, LLC.

AGENDA: 04/05/22 – Regular Agenda – Proposed Agency Action - Interested Persons May Participate

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: La Rosa

CRITICAL DATES: None

SPECIAL INSTRUCTIONS: None

Case Background

On September 14, 2021, the Florida Department of Revenue issued a Tax Information Publication (TIP) that stated the "Florida corporate income/franchise tax rate is reduced from 4.458% to 3.535% for taxable years beginning on or after January 1, 2021, but before January 1, 2022. The tax rate returns to 5.5% for taxable years beginning on or after January 1, 2022."

Paragraph 18 of Duke Energy Florida's (DEF) 2021 Settlement Agreement describes the methodology for calculating tax impacts and flow back associated with tax reform, including changes such as those provided for in the TIP.[1] On December 9, 2021, DEF filed a motion requesting that the Commission approve its calculation of tax impacts resulting from the change in the Florida corporate income tax rate.[2]

The Commission has jurisdiction over this matter pursuant to Sections 366.04 and 366.06, Florida Statutes.

[1]Order No. PSC-2021-0202-AS-EI, issued June 4, 2021, in Docket No. 20210016-EI, *In re: Petition for limited proceeding to approve 2021 settlement agreement, including general base rate increases, by Duke Energy Florida, LLC*, as amended by Order No. PSC-20210020A-AS-EI, issued June 28, 2021.
[2] Document No. 13005-2021.

Discussion of Issues

Issue 1: Should the Commission approve DEF's calculation of the tax reform impacts and acknowledge that DEF has agreed to forego collection of the associated deficiency?

Recommendation: Yes. Staff recommends the Commission approve DEF's calculation of the tax reform impacts and acknowledge that DEF has agreed to forego collection of the associated deficiency of $98,969. (Cicchetti)

Staff Analysis: DEF's 2021 Settlement Agreement contained provisions for addressing tax changes including changes to tax rates, changes to deductibility of certain costs, and changes to the timing of the deductibility of certain costs. The Florida Department of Revenue issued a Tax Information Publication (TIP) on September 14, 2021, that stated the "Florida corporate income/franchise tax rate is reduced from 4.458% to 3.535% for taxable years beginning on or after January 1, 2021, but before January 1, 2022. The tax rate returns to 5.5% for taxable years beginning on or after January 1, 2022."

DEF used the 2021 Forecasted Earnings Surveillance Report to calculate the impact of the Florida corporate income tax rate changing from 4.458 percent to 3.535 percent for 2021. The change in the Florida corporate income tax rate resulted in a revenue requirement increase of $98,969. Although the lowered Florida corporate income tax rate results in tax savings on a system-wide basis, the benefit is more than offset by the tax impact associated with Florida Public Service Commission (Commission) adjustments at the retail level. Commission adjustments that reduce revenues also reduce taxes. When the tax rate is lowered the tax benefit associated with reduced revenues is also lowered. In the instant case, as shown on Attachment 1, DEF's retail tax savings of $356,484 were offset by the tax impacts of $431,905 associated with Commission adjustments at the base rates retail level resulting in a revenue requirement increase of $75,421 which increases to $98,969 after grossing-up for taxes. DEF has agreed to forego collection of the $98,969 deficiency.

Staff reviewed DEF's calculation of the tax reform impacts and found no errors. As indicated in its motion, DEF has conferred with the signatories to the 2021 Settlement and Nucor Steel Florida, Inc., PCS Phosphate d/b/a White Springs and the Office of Public Counsel concur with DEF's calculation. DEF represents that the Florida Industrial Power Users Group takes no position.

For the reasons discussed above, staff recommends the Commission approve DEF's calculation of the tax reform impacts and acknowledge that DEF has agreed to forego collection of the associated deficiency of $98,969.

Issue 2: Should this docket be closed?

Recommendation: Yes. If no person whose substantial interests are affected by the proposed agency action files a protest within 21 days of the issuance of the order, this docket should be closed upon the issuance of a consummating order. (Trierweiler, Weisenfeld)

Staff Analysis: At the conclusion of the protest period, if no protest is filed this docket should be closed upon the issuance of a consummating order.

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Exhibit 1
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Duke Energy Florida, LLC
Calculation of Tax Savings Resulting from State Corporate Income Tax Rate Reduction from 4.458% to 3.535%
Based on 2021 Forecasted Earnings Surveillance Report

Line		System per Books - New State Corporate Tax Rate					System per Books - Old State Corporate Tax Rate				
		Current Tax		Deferred Tax			Current Tax		Deferred Tax		
		State	Federal	State	Federal	Total	State	Federal	State	Federal	Total
1	Net Utility Operating Income	$1,001,514,648	$1,001,514,648				$1,001,514,648	$1,001,514,648			
2	Add Income Tax Accounts	179,932,523	179,932,523				179,932,523	179,932,523			
3	Less Interest Charges	(294,418,119)	(294,418,119)				(294,418,119)	(294,418,119)			
4	Taxable Income	887,029,053	887,029,053				887,029,053	887,029,053			
5											
6	Temporary Differences	(855,919,303)	(610,815,007)	$855,919,303	$610,815,007		(855,919,303)	(610,815,007)	$855,919,303	$610,815,007	
7	Permanent Differences	22,278,000	22,278,000				22,278,000	22,278,000			
8											
9	State Taxable Income	53,387,750		855,919,303			53,387,750		855,919,303		
10	State Income Tax Rate	**3.535%**		5.500%			**4.458%**		5.500%		
11	Other	868,000					868,000				
12	State Income Tax	2,755,257	(1,887,257)	47,075,562	(47,075,562)	49,830,819	3,248,026	(2,380,026)	47,075,562	(47,075,562)	50,323,588
13											
14	Federal Taxable Income		296,604,789		563,739,445			296,112,020		563,739,445	
15	Federal Income Tax Rate		21.0%		21.0%			21.0%		21.0%	
16	Federal Income Tax		62,287,006		118,385,283			62,183,524		118,385,283	
17	Federal Net Operating Loss (NOL)		(3,409,812)		3,409,812			(3,409,812)		3,409,812	
18	Excess ADIT Amort.				(50,411,915)					(50,411,915)	
19	Tax Rate Differential (34% to 35%)				(129,000)					(129,000)	
20	R&D Credit				(300,168)					(300,168)	
21	Other		(118,000)					(118,000)			
22	Federal Income Tax		58,759,194		70,954,012	129,713,206		58,655,712		70,954,012	129,609,725
23											
24	Summary of Income Tax Expense:										
25	Current Tax Expense	2,755,257	58,759,194			61,514,451	3,248,026	58,655,712			61,903,738
26	Deferred Income Tax			47,075,562	70,954,012	118,029,574			47,075,562	70,954,012	118,029,574
27	Total Income Tax Expense - System					**$179,544,025**					**$179,933,312**
28											

Line		
29		
30	**CALCULATION OF ANNUAL TAX SAVINGS:**	
31	Income Tax at New Rate - System per Books	$179,544,025
32	Income Tax at Old Rate - System per Books	179,933,312
33	Difference = Savings - System per Books	389,287
34		
35	Total Income Tax per Surveillance Schedule 2 page 2 - System per Books	179,932,523
36	Total Income Tax per Surveillance Schedule 2 page 2 - Retail	164,770,430
37	Ratio	91.57%
38		
39	Difference - Retail Savings (line 33 x line 37)	356,484
40		
41	Net Operating Impact of Tax on FPSC Adjustments per Surveillance Schedule 2 page 2	14,528,363
42	Divide by old Statutory Rate (24.522%) an Multiply by New Statutory Rate (23.793%)	14,096,458
43	Difference in Net Operating Income due to Tax Savings on FPSC Adjustments	(431,905)
44		
45	Difference - Retail FPSC Adjusted Tax Savings/(Cost) (line 39 + line 43)	($75,421)
46	Gross-up to Pre-Tax Revenue Requirement Flow Back/(Collection) (divide by 1 - .23793)	**($98,969)**