

FLORIDA PUBLIC SERVICE COMMISSION

COMMISSION CONFERENCE AGENDA

CONFERENCE DATE AND TIME: Tuesday, February 5, 2019, 9:30 a.m.

LOCATION: Betty Easley Conference Center, Joseph P. Cresse Hearing Room 148

DATE ISSUED: January 28, 2019*

NOTICE

Persons affected by Commission action on certain items on this agenda may be allowed to address the Commission, either informally or by oral argument, when those items are taken up for discussion at this conference. These items are designated by double asterisks (**) next to the item number.

To participate informally, affected persons need only appear at the conference and request the opportunity to address the Commission on an item listed on the agenda. Informal participation is not permitted: (1) on dispositive motions and motions for reconsideration; (2) when a recommended order is taken up by the Commission; (3) in a rulemaking proceeding after the record has been closed; or (4) when the Commission considers a post-hearing recommendation on the merits of a case after the close of the record. The Commission allows informal participation at its discretion in certain types of cases (such as declaratory statements and interim rate orders) in which an order is issued based on a given set of facts without hearing. See Florida Administrative Code Rules 25-22.0021 (agenda conference participation) and 25-22.0022 (oral argument).

Conference agendas, staff recommendations, vote sheets, and transcripts are available online at <http://www.floridapsc.com>, by selecting *Conferences & Meeting Agendas* and *Commission Conferences of the FPSC*. An official vote of "move staff" denotes that the Item's recommendations were approved.

In accordance with the Americans with Disabilities Act, persons needing a special accommodation to participate at this proceeding should contact the Office of Commission Clerk no later than five days prior to the conference at 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850 or 850-413-6770 (Florida Relay Service, 1-800-955-8770 Voice or 1-800-955-8771 TDD). Assistive Listening Devices are available upon request from the Office of Commission Clerk, Gerald L. Gunter Building, Room 152.

The Commission Conference has a live video broadcast the day of the conference, which is available from the FPSC website. Upon completion of the conference, the archived video will be available from the website by selecting *Conferences & Meeting Agendas*, then *Audio and Video Event Coverage*.

EMERGENCY CANCELLATION OF CONFERENCE: If a named storm or other disaster requires cancellation of the Conference, Commission staff will attempt to give timely notice. Notice of cancellation will be provided on the Commission's website (<http://www.floridapsc.com>) under the Hot Topics link on the home page. Cancellation can also be confirmed by calling the Office of Commission Clerk at 850-413-6770.

If you have any questions, contact the Office of Commission Clerk at 850-413-6770 or Clerk@psc.state.fl.us.

***Revised to insert late-filed Item(s) 8, 9, 10 and 11.**

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ITEM NO.

CASE

1**

Docket No. 20180141-WS – Proposed adoption of Rule 25-30.4575, F.A.C., Operating Ratio Methodology.

Rule Status: Proposed

Commissioners Assigned: All Commissioners

Prehearing Officer: Polmann

Staff: GCL: Harper
AFD: Galloway, Wilson
ECO: Guffey

(Proposal May Be Deferred)

Issue 1: Should the Commission propose the adoption of Rule 25-30.4575, F.A.C., Operating Ratio Methodology?

Recommendation: Yes, the Commission should propose the adoption of Rule 25-30.4575, F.A.C., as set forth in Attachment A of staff's memorandum dated January 24, 2019. The Commission should certify Rule 25-30.4575, F.A.C., as a minor violation rule.

Issue 2: Should this docket be closed?

Recommendation: Yes. If no requests for hearing or comments are filed, the rule may be filed with the Department of State, and this docket should be closed.

ITEM NO.

CASE

2

Docket No. 20180221-EQ – Petition by Tesla, Inc. for declaratory statement concerning leasing of solar electric equipment.

Critical Date(s): 3/4/19 (Final Order must be issued by this date pursuant to Section 120.565(3), Florida Statutes)

Commissioners Assigned: All Commissioners

Prehearing Officer: Fay

Staff: GCL: Harper

IDM: B. Crawford

(Parties May Participate at the Commission's Discretion)

Issue 1: Should the Commission grant Tesla's Petition for Declaratory Statement?

Recommendation: Yes. Based on the facts presented by Tesla, the Commission should grant Tesla's Petition and declare: (1) Tesla's proposed residential solar equipment lease, as described by its Petition, will not be deemed to constitute a sale of electricity; (2) Offering its solar equipment lease, as described in its Petition, to consumers in Florida will not cause Tesla to be deemed a public utility; and (3) The residential solar equipment lease described in its Petition will not subject Tesla or Tesla's customer-lessees to regulation by this Commission. The Commission should also state that its declaration is limited to the facts described in Tesla's Petition and would not apply to different, alternative facts. However, for those with an identical fact pattern to Sunrun's, Vivint's, or Tesla's Petitions, these declarations have precedential significance and individual declaratory statements are not necessary.

Issue 2: Should this docket be closed?

Recommendation: Yes, if the Commission votes to either grant or deny the Petition for Declaratory Statement, the docket should be closed.

ITEM NO.

CASE

3**PAA

Docket No. 20180230-GU – Petition for temporary waiver of Rule 25-7.045, F.A.C., by Florida Public Utilities Company.

Critical Date(s): 03/26/19 (date by which the petition must be ruled upon pursuant to Section 120.542, F.S.)

Commissioners Assigned: All Commissioners

Prehearing Officer: Administrative

Staff: GCL: King

ECO: DiPietro, Higgins

Issue 1: Should the Commission grant FPUC’s request for a temporary waiver from Rule 25-7.045(4)(a), F.A.C.?

Recommendation: Yes. The Commission should grant FPUC’s petition and require that FPUC file its depreciation study no later than March 4, 2019. The Commission should also order that FPUC’s next depreciation study will be due within five years from the date that it files its March 2019 depreciation study.

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, a consummating order should be issued and this docket should be closed.

ITEM NO.

CASE

4**

Docket No. 20180162-EI – Application for authority to issue and sell securities and to receive common equity contributions during 12 months ending December 31, 2019, pursuant to Chapter 25-8, F.A.C., and Section 366.04, F.S., by Gulf Power Company.

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Administrative

Staff: AFD: Richards, D. Buys, Cicchetti

GCL: Schrader

Issue 1: Should Gulf Power Company's petition for modification of the authority to issue and sell securities be approved?

Recommendation: Yes. Gulf Power Company's petition for modification of the authority to issue and sell securities filed on January 7, 2019 should be approved as requested.

Issue 2: Should this docket be closed?

Recommendation: No. This docket should remain open until Gulf Power Company has filed the required Consummation Report.

ITEM NO.

CASE

5**

Docket No. 20180222-EI – Petition for approval of customer specified lighting tariff by Tampa Electric Company.

Critical Date(s): 60-day suspension date waived by the utility until 02/05/2019

Commissioners Assigned: All Commissioners

Prehearing Officer: Administrative

Staff: ECO: Doherty

GCL: Simmons

Issue 1: Should the Commission approve TECO's proposed customer specified lighting tariff as shown in Attachment A of staff's memorandum dated January 24, 2019?

Recommendation: Yes. The Commission should approve TECO's proposed customer specified lighting tariff, as shown in Attachment A of staff's memorandum dated January 24, 2019, effective February 5, 2019. The LS-2 tariff allows TECO to respond to customer requests for special fixtures or poles in a timely and efficient manner. The general body of ratepayers will be protected as LS-2 customers will be responsible for all costs associated with their request.

Issue 2: Should this docket be closed?

Recommendation: If Issue 1 is approved and a protest is filed within 21 days of the issuance of the order, the tariff should remain in effect, with any revenues held subject to refund, pending resolution of the protest. If no timely protest is filed, this docket should be closed upon the issuance of a consummating order.

ITEM NO.

CASE

6**PAA

Docket No. 20170147-WS – Application for staff-assisted rate case in Levy County by FIMC Hideaway, Inc.

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Brown

Staff: ECO: Sibley, Hudson

ENG: Lewis

GCL: DuVal

Issue 1: What further action should be taken considering FIMC’s failure to meet DEP secondary water quality standards?

Recommendation: Staff recommends that the Commission direct FIMC to create an estimate of costs and benefits of a plausible solution to reduce sulfates and total dissolved solids to a level that is within acceptable DEP standards. Staff additionally recommends that the Commission direct FIMC to meet with its customers to discuss the estimated costs and benefits of and the time necessary for implementing a plausible solution to reduce sulfates and total dissolved solids to a level that is within acceptable DEP standards. The Utility should report the results of such meeting(s) to the Commission by August 6, 2019. After analyzing FIMC’s report, staff will bring this item before the Commission for further action, if needed.

Issue 2: Should this docket be closed?

Recommendation: No. 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, a consummating order should be issued. The docket should remain open to allow the Utility to provide the appropriate reporting information and the allow staff to bring this item back to the Commission for further action, if needed.

ITEM NO.

CASE

7**PAA

Docket No. 20170174-SU – Application for transfer of assets of exempt utility, amendment of Certificate No. 465-S, and petition for partial variance or waiver of Rule 25-30.030(5)(b), F.A.C. by Utilities, Inc. of Florida.

Critical Date(s): None

Commissioners Assigned: Brown, Polmann, Clark

Prehearing Officer: Polmann

Staff: ENG: Wooten, Ellis, King

AFD: Frank, Norris

ECO: Bruce

GCL: Schrader

(Proposed Agency Action for Issues 2 and 3)

Issue 1: Should the transfer of Barrington Estates HOA wastewater system, an exempt entity in Lake County, to Utilities, Inc. of Florida and amendment of Certificate No. 465-S be approved?

Recommendation: Yes. The transfer of the Barrington Estates HOA wastewater system and amendment of Certificate No. 465-S, to include the territory as described in Attachment A of staff's memorandum dated January 24, 2019, is in the public interest and should be approved effective the date of the Commission's vote. The resultant order should serve as the Buyer's amended certificate and should be retained by the Buyer. The application contains proof of compliance with the noticing provisions set forth in Rule 25-30.030, F.A.C., as modified by the Commission pursuant to Order No. PSC-2017-0387-PAA-SU. UIF should be responsible for filing all future annual reports and Regulatory Assessment Fees (RAFs) subsequent to the date of closing.

Issue 2: What is the appropriate net book value for the Barrington Estates HOA wastewater system for transfer purposes?

Recommendation: The net book value of the wastewater system for transfer purposes is \$277,549 as of April 21, 2019. An acquisition adjustment should not be included in rate base. Within 90 days of the date of the final order, UIF should be required to notify the Commission in writing that it has adjusted its books in accordance with the Commission's decision. The adjustments should be reflected in UIF's 2019 Annual Report when filed.

ITEM NO.

CASE

7**PAA

Docket No. 20170174-SU – Application for transfer of assets of exempt utility, amendment of Certificate No. 465-S, and petition for partial variance or waiver of Rule 25-30.030(5)(b), F.A.C. by Utilities, Inc. of Florida.

(Continued from previous page)

Issue 3: Should the Commission approve UIF’s request to implement its consolidated monthly wastewater rates and charges for Barrington Estates?

Recommendation: Yes. The Commission should, consistent with the Purchase Agreement, approve UIF’s request to implement its consolidated monthly wastewater rates and miscellaneous service charges as shown on Schedule No. 2 of staff’s memorandum dated January 24, 2019, for the Utility. The approved rates and charges should be effective for the Utility for service rendered after the order becomes final, the sale of Barrington Estates’ wastewater system is final, and the Barrington Estates HOA homeowners have been noticed of the approved rates and charges. The notice should be approved by staff prior to publication and the Utility should provide proof of the date notice was given within 10 days of the date of the notice.

Issue 4: Should this docket be closed?

Recommendation: If no protest to the proposed agency action is filed by a substantially affected person within 21 days of the date of the issuance of the order, a consummating order should be issued and the docket should be closed administratively upon Commission staff’s verification that the revised tariff sheets have been filed, the Buyer has notified the Commission in writing that it has adjusted its books in accordance with the Commission’s decision, and proof that appropriate noticing has been completed pursuant to Rule 25-30.4345, F.A.C.

ITEM NO.

CASE

8

Docket No. 20180051-GU – Consideration of the tax impacts associated with Tax Cuts and Jobs Act of 2017 Florida Public Utilities Company - Gas.

Critical Date(s): None

Commissioners Assigned: Brown, Clark, Fay

Prehearing Officer: Brown

Staff: AFD: Cicchetti, D. Buys, Hightower

ECO: Guffey

ENG: Ellis

GCL: Dziechciarz, DuVal

(Post-Hearing Decision - Participation is Limited to Commissioners and Staff)

Issue 4B: What is the appropriate disposition of the protected excess deferred taxes?

Recommendation: FPUC should be allowed to retain the annual amortized amount of the protected excess deferred tax balance less the unprotected excess deferred tax amortization, for an annual net amount of \$537,174.

Issue 5B: What is the appropriate disposition of the unprotected excess deferred taxes?

Recommendation: FPUC should be allowed to retain the excess deferred tax amount associated with the net acquisition adjustment of \$6,518,569 amortized over the life of the acquisition adjustment. Further, the unprotected deferred tax amount of \$3,072,874 should be amortized over 10 years and netted against the protected excess deferred taxes of \$21,955,922.

Issue 21: Should FPUC be allowed to retain the tax benefits arising from the TCJA rate reduction, excluding the 2018 GRIP savings, as well as the estimated Deferred Tax portion of the Protected and estimated Unprotected Deferred Tax regulatory asset that are not associated with the acquisition adjustment?

Recommendation: Yes, FPUC should be allowed to retain the tax savings arising from the TCJA rate reduction, excluding the 2018 GRIP savings, as well as the estimated net deferred tax savings of the protected and unprotected deferred tax regulatory amount not associated with the acquisition adjustment

Issue 24: Should this docket be closed?

Recommendation: Yes, this docket should be closed after the time for filing an appeal has run.

ITEM NO.

CASE

9

Docket No. 20180052-GU – Consideration of the tax impacts associated with Tax Cuts and Jobs Act of 2017 for Florida Public Utilities Company - Indiantown Division.

Critical Date(s): None

Commissioners Assigned: Brown, Clark, Fay

Prehearing Officer: Brown

Staff: AFD: Cicchetti, D. Buys, Hightower

ECO: Coston, Guffey

ENG: Ellis,

GCL: DuVal, Dziechciarz

(Post-Hearing Decision - Participation is Limited to Commissioners and Staff)

Issue 4B: What is the appropriate disposition of the protected excess deferred taxes?

Recommendation: Indiantown should be allowed to retain the net amortized amount of the protected excess deferred tax balance of \$7,862.

Issue 5B: What is the appropriate disposition of the unprotected excess deferred taxes?

Recommendation: Indiantown should be allowed to retain the unprotected excess deferred tax balance of \$6,484, amortized over 10 years at \$648 per year, netted against the protected excess deferred tax balance.

Issue 17: Should Indiantown be allowed to recover any detrimental impact associated with the corporate income tax rate change implemented by the TCJA? If so, what amount, and should Indiantown be allowed to recover such amount through the Energy Conservation Cost Recovery (ECCR) clause?

Recommendation: No, Indiantown should not be allowed to recover from its customers an alleged detrimental impact associated with the corporate income tax rate change implemented by the TCJA.

Issue 18: Should Indiantown be allowed to retain and amortize, over 26 years, the total annual benefit associated with the Protected Deferred Tax liabilities?

Recommendation: Yes, Indiantown should be allowed to retain and amortize, over 26 years, the total annual amount of the tax savings associated with the protected excess deferred taxes consistent with the ARAM.

Issue 19: Should Indiantown be allowed to retain and amortize, over 10 years, the total annual benefit associated with the Unprotected Deferred Tax liabilities?

Recommendation: Yes, Indiantown should be allowed to retain and amortize, over 10 years, the total annual amount of the tax savings associated with the unprotected excess deferred taxes.

ITEM NO.

CASE

9

Docket No. 20180052-GU – Consideration of the tax impacts associated with Tax Cuts and Jobs Act of 2017 for Florida Public Utilities Company - Indiantown Division.

(Continued from previous page)

Issue 21: Should this docket be closed?

Recommendation: Yes, this docket should be closed after the time for filing an appeal has run.

ITEM NO.

CASE

10

Docket No. 20180053-GU – Consideration of the tax impacts associated with Tax Cuts and Jobs Act of 2017 for Florida Public Utilities Company - Fort Meade Division.

Critical Date(s): None

Commissioners Assigned: Brown, Clark, Fay

Prehearing Officer: Brown

Staff: AFD: Cicchetti, D. Buys, Hightower

ECO: Coston, Guffey

ENG: Ellis

GCL: DuVal, Dziechciarz

(Post-Hearing Decision - Participation is Limited to Commissioners and Staff)

Issue 4B: What is the appropriate disposition of the protected excess deferred taxes?

Recommendation: Fort Meade should be allowed to retain the amortized amount of the protected excess deferred tax balance of \$1,787.

Issue 5B: What is the appropriate disposition of the unprotected excess deferred taxes?

Recommendation: Fort Meade should be allowed to retain the unprotected excess deferred tax amortized over 10 years of \$4,588.

Issue 18: Should Fort Meade be allowed to recover any detrimental impact associated with the corporate income tax rate change implemented by the TCJA? If so, what amount, and should Fort Meade be allowed to recover such amount through the Energy Conservation Cost Recovery (ECCR) clause?

Recommendation: No, Fort Meade should not be allowed to recover any supposed detrimental impact associated with the corporate income tax rate change as a result of the TCJA through the ECCR clause.

Issue 19: Should Fort Meade be allowed to retain and amortize, over 26 years, the total annual benefit associated with the Protected Deferred Tax liability?

Recommendation: Yes, Fort Meade should be allowed to retain and amortize, over 26 years, the total annual benefit associated with the Protected Deferred Tax liability.

Issue 20: Should Fort Meade be allowed to retain and amortize, over 10 years, the total annual benefit associated with the Unprotected Deferred Tax liability?

Recommendation: Yes, Fort Meade should be allowed to retain and amortize, over 10 years, the total annual benefit associated with the Unprotected Deferred Tax liability.

Issue 21: Should Fort Meade be allowed to retain the 2018 tax benefits arising from the TCJA excluding the 2018 GRIP savings?

Recommendation: Yes, Fort Meade should be allowed to retain the 2018 tax benefits arising from the TCJA, excluding the 2018 gas reliability infrastructure program (GRIP) savings.

ITEM NO.

CASE

10

Docket No. 20180053-GU – Consideration of the tax impacts associated with Tax Cuts and Jobs Act of 2017 for Florida Public Utilities Company - Fort Meade Division.

(Continued from previous page)

Issue 24: Should this docket be closed?

Recommendation: Yes, this docket should be closed after the time for filing an appeal has run.

ITEM NO.

CASE

11

Docket No. 20180054-GU – Consideration of the tax impacts associated with Tax Cuts and Jobs Act of 2017 for Florida Division of Chesapeake Utilities Corporation.

Critical Date(s): None

Commissioners Assigned: Brown, Clark, Fay

Prehearing Officer: Brown

Staff: AFD: Cicchetti, D. Buys, Hightower

ECO: Guffey

ENG: Ellis

GCL: Dziechciarz, DuVal

(Post-Hearing Decision - Participation is Limited to Commissioners and Staff)

Issue 4B: What is the appropriate disposition of the protected excess deferred taxes?

Recommendation: Chesapeake should be allowed to retain the annual amortized amount of the protected excess deferred tax balance less the unprotected deferred tax amortization of \$250,042.

Issue 5B: What is the appropriate disposition of the unprotected excess deferred taxes?

Recommendation: Chesapeake should be allowed to amortize the unprotected excess deferred tax amount over 10 years and net this amount against the protected excess deferred tax annualized amount.

Issue 18: Should Chesapeake be allowed to retain any of the tax benefit associated with the tax rate change implemented by the TCJA and if so, how much?

Recommendation: Chesapeake should be allowed to retain the tax savings arising from the TCJA rate reduction, excluding the 2018 GRIP savings, as well as the net savings of the protected and unprotected excess deferred taxes.

Issue 19: Should Chesapeake be allowed to retain the total net benefit associated with the Protected Deferred Tax Liability and the Unprotected Deferred Tax Asset, and should Chesapeake be allowed to amortize the Protected Deferred Tax Liability over 26 years and the Unprotected Deferred Tax Asset over 10 years?

Recommendation: Yes, Chesapeake should be allowed to retain the total net savings associated with the protected excess deferred tax liability and the unprotected excess deferred tax amount, and should be allowed to amortize the protected excess deferred tax amount over 26 years and the unprotected deferred tax amount over 10 years.

Issue 20: Should the tax benefit arising from the TCJA rate reduction, excluding the 2018 GRIP savings, be retained by Chesapeake?

Recommendation: Yes, Chesapeake should be allowed to retain the net tax savings arising from the TCJA rate reduction, excluding the 2018 GRIP savings.

ITEM NO.

CASE

11

Docket No. 20180054-GU – Consideration of the tax impacts associated with Tax Cuts and Jobs Act of 2017 for Florida Division of Chesapeake Utilities Corporation.

(Continued from previous page)

Issue 23: Should this docket be closed?

Recommendation: Yes, this docket should be closed after the time for filing an appeal has run.