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 April 5, 2022

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Item 1

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: Office of Industry Development and Market Analysis (Yglesias de Ayala, Wendel) *CH*
Office of the General Counsel (Weisenfeld, Garcia, Trierweiler, Imig) *TLT*

RE: Application for Certificate of Authority to Provide Pay Telephone Service

AGENDA: 4/5/2022 - Consent Agenda - Proposed Agency Action - Interested Persons May Participate

SPECIAL INSTRUCTIONS: None

Please place the following Applications for Certificate of Authority to Provide Pay Telephone Service on the consent agenda for approval.

<u>DOCKET NO.</u>	<u>COMPANY NAME</u>	<u>CERT. NO.</u>
20220020-TX	Tillman FiberCo Florida, LLC	8969
20220027-TX	EarthGrid PBC	8970
20220043-TX	BIF IV Intrepid OpCo LLC	8971

The Commission is vested with jurisdiction in this matter pursuant to Section 364.335, Florida Statutes. Pursuant to Section 364.336, Florida Statutes, certificate holders must pay a minimum annual Regulatory Assessment Fee if the certificate is active during any portion of the calendar year. A Regulatory Assessment Fee Return Notice will be mailed each December to the entity listed above for payment by January 30.

Item 2

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: Office of the General Counsel (Cowdery) *SMC*
Division of Accounting and Finance (T. Brown) *ALM*
Division of Economics (Guffey) *JGH*

RE: Docket No. 20210122-WS – Proposed amendment of Rules 25-30.025, 25-30.4345, 25-30.445, 25-30.446, 25-30.455, 25-30.456, and 25-30.565, F.A.C., related to water and wastewater utilities.

AGENDA: 04/05/22 – Regular Agenda – Interested Persons May Participate

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: La Rosa

RULE STATUS: Rule Hearing

SPECIAL INSTRUCTIONS: None

Case Background

Rule 25-30.445, Florida Administrative Code (F.A.C.), General Information and Instructions Required of Water and Wastewater Utilities in an Application for a Limited Proceeding (Limited Proceeding Rule), was amended and proposed for adoption, along with six other water and wastewater rules, by publication in the October 14, 2021 edition of the Florida Administrative Register (F.A.R.), Vol. 47, No. 200.¹ On November 3, 2021, the Office of Public Counsel (OPC) timely filed a petition for public hearing and requested changes to paragraph (6)(a) of the proposed Limited Proceeding Rule.

¹Rule 25-30.025, 25-30.446, 25-30.455, 25-30.456, and 25-30.565, F.A.C., were filed for adoption with the Department of State and became effective on December 8, 2021.

Pursuant to notice published in the December 15, 2021 edition of the F.A.R., Vol. 47, No. 241, a Section 120.54(3)(c)1., Florida Statutes (F.S.), rule hearing was held before the Commission on January 20, 2022, for the purpose of giving affected persons an opportunity to present evidence and argument on all issues under consideration.² At the January 20, 2022 rule hearing, argument concerning the proposed rule was made by OPC and by Sunshine Water Services (SWS). In addition, the Commission raised two issues for consideration:

- (1) Whether a definition of the term “project” should be included in the rule; and
- (2) Whether, instead of capping the number of projects that may be requested in a limited proceeding, an alternative metric should be used, such as a dollar value threshold or a percentage of the capital outlay budget.

After hearing the arguments made by OPC and SWS, comments by Commission staff, and discussion by the Commissioners, the Commission asked staff to consider the issues and provide a staff recommendation for Commission determination at a future public hearing to be held at a regularly scheduled Commission Conference.

This item is being brought back to the Commission as a Section 120.54(3)(c)1., F.S., rule hearing,³ the purpose of which is for the Commission to decide whether to change the language of Rule 25-30.445, F.S., that was proposed on October 14, 2021. The provisions of Section 120.54(3)(c)1., F.S., give affected persons the opportunity to present evidence and argument on all issues under consideration. Pursuant to Section 120.54(3)(d), F.S.:

Any change, other than a technical change that does not affect the substance of the rule, must be supported by the record of public hearings held on the rule, must be in response to written material submitted to the agency within 21 days after the date of publication of the notice of intended agency action or submitted to the agency between the date of publication of the notice and the end of the final public hearing, or must be in response to a proposed objection by the [Joint Administrative Procedures] committee.

The Commission has jurisdiction pursuant to Sections 120.54(3), 350.127(2), 367.081, 367.0812, 367.0822, 367.121(1)(a), and 367.145(2), F.S.

²The January 20, 2022 rule hearing was also held for the purpose of the Commission determining whether to make changes to proposed Rule 25-30.4345, F.A.C., Notice of Requests for New or Revised Service Availability Charges or Policies and Notice of Requests for Allowance for Funds Prudently Invested (AFPI) Charges. The Commission voted to make changes to proposed Rule 25-30.4345, F.A.C. Rule 25-30.4345, F.A.C., was filed with the Department of State on February 15, 2022, and became effective on March 7, 2022.

³Notice of this rule hearing was published in the March 1, 2022 issue of the F.A.R., Vol. 48, No. 41.

Discussion of Issues

Issue 1: Should the Commission make changes to proposed Rule 25-30.445, F.A.C., General Information and Instructions Required of Water and Wastewater Utilities in an Application for a Limited Proceeding?

Recommendation: No. The Commission should not make changes to proposed Rule 25-30.445, F.A.C., but should adopt the rule as it was proposed on October 14, 2021, as shown in Attachment A. (T. Brown, Cowdery)

Staff Analysis:

The six project cap is appropriate for all water and wastewater utility limited proceedings

Currently, under Rule 25-30.445, F.A.C., limited proceeding applications will not be accepted if a water and/or wastewater utility requests more than four projects. The proposed rule increases the maximum number of projects requested in a limited proceeding to six. OPC's petition asked the Commission to change the proposed Limited Proceeding Rule as follows:

(6) A limited proceeding will not be allowed if:

(a) The utility's filing includes more than 4 ~~six~~ separate projects for which recovery is sought unless the utility is eligible for staff assistance pursuant to Section 367.0814, Fla. Stat. Utilities eligible for staff assistance pursuant to Section 367.0814, Fla. Stat., shall be limited to 6 separate projects under this section. Corresponding adjustments for a given project are not subject to the above limitation; ...

Staff notes that to be eligible for a staff assisted rate case (SARC) pursuant to Rule 25-30.455, Staff Assistance in Rate Cases, water and wastewater utilities must have total gross annual operating revenues of \$300,000 or less for water service or wastewater service, or \$600,000 or less on a combined basis. Thus, under OPC's suggested change, water utilities or wastewater utilities with revenues over \$300,000 for either system, or over \$600,000 on a combined basis, that file for a limited proceeding may not ask for recovery of more than four separate projects, while water utilities and wastewater utilities with revenues less than those amounts may seek recovery for up to six separate projects.

Commission Rule 25-30.115, F.A.C., Uniform System of Accounts for Water and Wastewater Utilities, defines a Class A water or wastewater utility as one having annual operating revenues of \$1 million or more; Class B as having annual water or wastewater operating revenues of \$200,000 or more but less than \$1 million; and Class C as having annual water or wastewater revenues of less than \$200,000. Thus, under OPC's suggested change, some Class B utilities would be SARC-eligible and allowed up to six projects, while other Class B utilities would not be SARC-eligible and thus limited to four projects.

**January 20, 2022 Rule Hearing
OPC's position**

At the January 20, 2022 rule hearing, OPC appeared to change its position that only SARC-eligible utilities should be allowed six projects, by arguing that its “real goal” was that Class A utilities should be limited to four projects in a limited proceeding, and that Class B and C utilities could be allowed up to six projects. (TR 24, 31-34) OPC stated that after review, it could see that “staff was not off the mark” on increasing the number of projects for Class B and C utilities. (TR 32) OPC stated that the nature of limited proceedings is to provide a way for utilities to make necessary upgrades or to address unexpected material costs for which earnings do not reasonably provide recovery in between full rate cases and that capping the number of permissible projects at four was presumably to preserve the truly limited streamlined nature of the proceedings. (TR 9)

OPC witness Jena Price stated that OPC supports increasing the number of allowable projects from four to six for SARC-eligible utilities to conserve staff resources dedicated to SARCs and because the data available shows that limited proceedings offer the opportunity to provide utilities with a more expeditious process to obtain rate relief and minimize rate case expense. Witness Price stated that this approach could perhaps forestall a more expensive rate case for these utilities. (TR 12-14) However, witness Price argued that the number of rate cases filed by Class A and B utilities in the past 10 years does not indicate excessive rate case activity for larger utilities that would require increasing the project limit in limited proceedings from four to six in order to alleviate a possible excessive or congested rate case workload. (TR 15)

OPC argued that there is no need to increase the number of allowable projects for Class A or non-SARC eligible utilities. (TR 10) OPC stated that sometimes it is the number of projects that can make the case not be limited and that the more projects that are allowed, the more opportunity for complications and for potentially overlooking the overall earnings position of a utility, which seems to erode the goal of limited proceedings. (TR 10) OPC was also concerned that raising the number of allowable projects for non-SARC eligible utilities could encourage some of those utilities to add projects that may not necessarily need to be added in between rate cases in order to reach the 30 percent rate increase allowed by the rule without the comprehensive earnings-based determination of genuine need. (TR 10-11) OPC witness Price stated that with large companies where rate case expense is less likely to make OPC's intervention in a full revenue requirement case cost prohibitive, limited proceedings are more likely to be opportunities for piecemeal ratemaking, which essentially circumvents the full and thorough review of the requested revenue increase, including any offsets that may reduce the requested increase. (TR 15)

Sunshine Water Service's position

Sunshine Water Systems supports the Limited Proceeding Rule as proposed, which allows all water and wastewater utilities to seek recovery in a limited proceeding for up to six separate projects. Jared Deason, on behalf of SWS, argued that the proposed Limited Proceeding Rule made the process more efficient and achieved cost savings by allowing six projects to be considered in one limited proceeding instead of breaking it down into two proceedings, each with separate filing fees, customer service hearing costs and other processing costs. Witness Deason stated that by encouraging all utilities, not just Class B and Class C utilities, to take

advantage of a limited proceeding, it could lengthen the time between full rate cases. (TR 16-18, 24-26) Witness Deason further stated that he was not aware of any situation where companies have achieved a 30 percent rate increase in a limited proceeding. (TR 25)

Staff Analysis

After considering all evidence and argument from the rule hearing, staff believes that allowing up to six projects is appropriate for all water and wastewater utility limited proceedings and that the proposed Limited Proceeding Rule provides the necessary safeguards to preserve the efficiencies the rule affords utilities. Staff does not believe that the six project cap will increase the number of limited proceedings at the expense of rate cases because the proposed rule contains provisions that effectively prevent water and wastewater utilities from using the limited proceeding process as a means to avoid rate cases.

The seven-year limitation requires that a utility must have had a rate case within seven years, ensuring that the utility's operations have been reviewed and reflect its current operations. This provision alone prevents a utility from filing only limited proceedings. Moreover, the Limited Proceeding Rule contains a maximum percentage rate increase of 30 percent. Again, a utility cannot avoid a rate case if it has experienced significant growth in plant or an increase in expenses if the indicated rate increase exceeds that 30 percent cap. The 30 percent cap limits the customers' exposure due to potential variations in the anticipated operational changes associated with a project. Finally, the six project cap serves to limit the complexity of evaluating a utility's request while offering greater flexibility to capture the economies of scale associated with grouping related tasks in a single limited proceeding. As an additional safeguard, the Commission will continue to conduct yearly earnings surveillance as part of its review of utility annual reports.

Staff notes that Class A utilities may actually have a more heightened need for the additional projects given the size of their systems. Water and wastewater utilities that are in need of repair, upgrade, or refurbishment may be required to engage in multiple projects to meet quality standards. Providing water and wastewater utilities a more expeditious process to obtain necessary rate relief can serve to minimize rate case expense and improve service to customers. In fact, one of the primary benefits of a limited proceeding is the overall reduction of rate case expense. This is especially true for larger Class A utilities. As mentioned by witness Deason during the hearing, SWS rate case expense may range from \$40,000 to \$50,000 in a limited proceeding and from \$750,000 to more than \$1 million in a formal rate case. Moreover, staff notes that allowing the use of a limited proceeding for requests of six or fewer projects only provides for the utility to use the limited proceeding process; the Commission will ultimately determine whether any of the projects should be approved for cost recovery.

Staff does not believe the addition of two projects amounts to "mission creep," as suggested by OPC, nor does it overly complicate the process. Even with two additional projects, the process remains limited in nature. The additional projects also provide some ability to divide projects into subprojects if it becomes necessary, without adversely impacting the docket. The change from four to six projects may make limited proceedings more efficient by avoiding some of the time-consuming back-and-forth that sometimes occurs if the scope of an individual project is challenged or if there is an issue as to whether a project should be divided into multiple projects.

Staff disagrees with OPC's position that "the data does not indicate excessive rate case activities" that would warrant the need to increase the project limit "as a solution to alleviate a possible excessive or congested rate case workload at the SARC level." OPC's statement does not reflect an accurate picture of staff's water and wastewater rate case workload, as it appears to only look at file and suspend rate cases.⁴ In addition to the 20 file and suspend rate cases mentioned by OPC, staff processed 52 SARCs and 10 limited alternative rate increases between 2011 and 2021.⁵ During this same period, eight limited proceedings were also processed.⁶

Finally, staff supports the proposed Limited Proceeding Rule's six project limit because it will help capture economies of scale as well as reduce costs to the utility and, in turn, customers. Staff believes that limited proceedings provide a critical role in a utility's ability to recover costs associated with necessary plant projects in a timely and cost effective manner.

Additional questions raised at the rule hearing

Procedural Overview

In this docket, during the January 20, 2022 rule adoption hearing, the Commission raised two new questions relative to this rulemaking: (1) whether the term "project" should be defined in the rule, and (2) whether there should be an alternative to "using the number of projects" (such as the metric of a dollar value threshold or a percentage of the capital outlay budget) as a limiting factor to request a limited proceeding.

Chapter 120, F.S., sets forth the proper procedures for agency rulemaking, including rulemaking by collegial bodies. When an agency such as the Commission undertakes a rulemaking, the law allows for rule development workshops. In this docket, a workshop was not requested so none was held. The purpose of the rule development workshop is to obtain information from stakeholders to assist in drafting the rule being adopted or amended.

After the conclusion of rule development workshops, staff will typically bring a draft rule to the Commission at a public hearing, generally held at a regularly scheduled Commission Conference, for the purpose of having the Commission decide whether to officially propose the rule. At that time, the Commission will take any comments from the public, direct staff to consider making different amendments to the rule language, which could involve additional workshops, or propose the rule as recommended or as modified by the Commission.

Once the Commission proposes a rule, an affected person has 21 days in which to ask the Commission to make changes to the proposed rule at a rule hearing pursuant to Section 120.54(3)(c), F.S. If no request for hearing is brought, the rule will be officially filed with the

⁴OPC witness Price stated "there have only been 20 rate cases over the last 10 years of which eight were for Class A companies and 12 for Class B." (TR 15)

⁵Seven limited alternative rate increase (LARI) applications were received between 2011 and 2021. One of the applications contained increases for four separate utilities. The number of SARCs and LARIs referenced above is based on dockets opened between 2011 and 2021 that have had a final order issued. There are five active SARCs and one active LARI as of the filing of this recommendation.

⁶Two additional limited proceedings were filed during this period, but were later withdrawn. One of these utilities came back to the Commission and filed a file and suspend rate case. The number of limited proceedings is based on dockets opened between 2011 and 2021 that have had a final order issued. There is one active limited proceeding as of the filing of this recommendation.

Department of State for adoption (a ministerial act), following the procedures in Section 120.54(3)(d) and (e), F.S.

On the other hand, if the Commission holds a rule hearing to address concerns of a petitioner about the proposed rule, the Commission is limited under Section 120.54(3)(d), F.S., to the changes it may make to the proposed rule. In other words, an agency's ability to make changes to the proposed rule beyond what is raised by a Petitioner is narrowed after a rule is officially proposed. As referenced in the Case Background, one of these limitations is that any changes must be supported by the record of public hearings held on the rule.

In this docket, the two questions raised by the Commission at the rule hearing were not addressed during the development of the proposed rule or raised in OPC's petition for rule hearing. Thus, there is no information in the hearing record on which to base a change to the proposed Limited Proceeding Rule on these two questions.

However, after an agency proposes a rule, without changes or with changes supported by the record, if the agency wishes to make new and different amendments to the rule, the correct procedure to follow is to either: (1) withdraw the proposed rule prior to adoption pursuant to Section 120.54(3)(d)2., F.S., (essentially terminating the existing rulemaking altogether and starting all over) or (2) file the proposed rule for adoption pursuant to Section 120.54(3)(e), F.S., and open a separate new rulemaking docket to address the new issues. The latter approach can be a more efficient way to proceed to address new questions because it allows the other amendments that have been proposed to the rule, and fully vetted as supported by the record, to be adopted and become effective. Staff will discuss below the merits of addressing the questions raised in a future rulemaking.

Alternative to the project metric

At the January 20, 2022 rule hearing, the Commission raised a question about finding an alternative to using the number of projects as one of the limiting factors for requesting a limited proceeding. Use of a metric such as a dollar value threshold or a percentage of the capital outlay budget were suggested. These alternatives were not raised in the rule development process prior to the rule being proposed or by OPC in its petition for hearing, and neither staff, OPC, nor SWS had a comprehensive response during the hearing as to how that approach would impact limited proceedings or what its application would look like. As discussed above, any substantive change to the proposed rule must be based on the record of the public hearing pursuant to Section 120.54(3)(d), F.S. Thus, at this point in the rulemaking process, it would not be appropriate to change the proposed rule to use an alternative to the project metric.

Nevertheless, OPC stated at the hearing that this approach would be "difficult" to use. (TR 24) OPC indicated that its primary concern was with "mission creep," especially with the increase in the number of projects from four to six for Class A utilities. SWS addressed the issue by indicating that the proposed rule is still only looking at a limited number of projects. SWS suggested that "if you can have the opportunity to carve out some of those larger components, some of the larger projects that come up that need to be addressed and address them solely so that you can reduce rate case expense from having to go to a full-blown rate case, that's an efficiency." (TR 26) SWS went on to state that the efficiency "benefits the utility and the customers" and reiterated support for the six projects in the proposed rule. (TR 26)

Staff notes that only a limited number of water and wastewater utilities will have a designated capital outlay budget. While many of the Class A and larger Class B utilities might have capital budgets, the vast majority of the Class B and Class C utilities do not. In addition, the use of a dollar value threshold, instead of a specific number of projects, might not reflect the true impact of the capital improvements. When capital additions are made, there will be a series of corresponding adjustments that will also impact the calculated final increase. When capital additions are made to utility plant in service, that amount may be offset by retirements, with additional adjustments being made to accumulated depreciation, depreciation expense, and taxes. Finally, staff notes that the limited proceeding process is not limited to the recovery of capital projects as many limited proceedings involve adjustments to operating expenses as well.

For the above reasons, staff does not recommend that the proposed rule be changed to include an alternative to the project metric. However, as with the question of whether a definition of the term “project” might be included in the Limited Proceeding Rule, the question of using a dollar value threshold or a percentage of capital outlay budget as a factor in determining whether a limited proceeding is appropriate could be evaluated in a future rulemaking where affected persons would be given an opportunity to provide more detailed input on the issue.

Definition of project

Also at the January 20, 2022 rule hearing, the Commission raised the question of whether the term “project” should be defined in the Limited Proceeding Rule. No definition of project was provided during rule development or at the rule hearing. As previously explained, it would not be appropriate to add a definition of project to the rule at this time in the rulemaking process. As such, staff recommends that the Commission move forward with the Limited Proceeding Rule as initially proposed with no changes. Further, staff recommends that the Commission consider the following arguments as to whether to direct staff to proceed with future rulemaking to define the term “project.”

Staff believes that it is not necessary to define the term “project” in this rule. Application of the plain meaning of the term has not typically resulted in controversies that are not worked out among parties. Currently, a project is best described generally as a capital investment in plant, with a defined beginning and end, comprised of a series of tasks to complete, resulting in an in-service plant investment. The term “project” is best summarized in Rule 25-30.445(4)(c), F.A.C., which identifies pieces of costs and requires the identification of rate base components associated with a capital item, for which a limited proceeding is sought. For example, a typical project that might qualify under the current rule would be work associated with a DEP required replacement of a broken water pump in a well.

None of the parties in this rulemaking docket have raised the lack of a definition of a project as a possible issue that needs to be addressed. Parties and staff generally agree on the singularity of purpose concept in a capital item or capital project. While the scope of a project can be an issue in a docket, the definition of a project is not typically an issue. Because the facts of each case determine the nature and scope of a project, the practice has been to determine what constitutes a project on a case-by-case determination thereby obviating the need for guidance in a rule. If a dispute arose as to whether a project constituted one or more projects (i.e. the scope of a project),

staff would work with the parties to reach agreement to determine the scope of a project, or the matter would become an issue in the docket for the Commission to decide.

In summary, because the lack of a definition of a project has not been at issue in cases thus far and because there is a process to resolve a dispute on a case-by-case basis should the issue arise, staff is of the view that it is not necessary to pursue the definition of a project in any future rulemaking.

Conclusion

Staff recommends that the Commission should not make changes to proposed Rule 25-30.445, F.A.C., but should adopt the rule as it was proposed on October 14, 2021, as shown in Attachment A.

Issue 2: Should this docket be closed?

Recommendation: Yes. The rule as approved by the Commission should be filed with the Department of State pursuant to Section 120.54(3), F.S., and the docket should be closed. (Cowdery)

Staff Analysis: The rule as approved by the Commission should be filed with the Department of State pursuant to the requirements of Section 120.54(3)(e), F.S., and the docket should be closed.

1 **25-30.445 General Information and Instructions Required of Water and Wastewater**
2 **Utilities in an Application for a Limited Proceeding.**

3 (1) Each applicant for a limited proceeding must provide the following general
4 information to the Commission:

5 (a) The name of the applicant as it appears on the applicant’s certificate and the address of
6 the applicant’s principal place of business.

7 (b) The type of business organization under which the applicant’s operations are
8 conducted; if the applicant is a corporation, the date of incorporation; the names and addresses
9 of all persons who own 5 percent or more of the applicant’s stock; or the names and addresses
10 of the owners of the business.

11 (c) The number(s) of the Commission order(s), if any, in which the Commission most
12 recently considered the applicant’s rates for the system(s) involved.

13 (d) The address within the service area where the application is available for customer
14 inspection during the time the rate application is pending.

15 (e) A statement signed by an officer of the utility that the utility will comply with the
16 noticing requirements in Rule 25-30.446, F.A.C.

17 (2) In a limited proceeding application:

18 (a) Each schedule must be cross-referenced to identify related schedules.

19 (b) Except for handwritten official company records, all data in the petition and
20 application must be typed.

21 (c) The original and three copies must be filed with the Office of Commission Clerk. The
22 copies must be clearly labeled “COPY.” If the application is e-filed, the utility must provide
23 the required number of paper copies, clearly labeled “COPY,” to the Office of Commission
24 Clerk within seven calendar days after electronic filing,

25 (3) A filing fee as required in Rule 25-30.020, F.A.C., must be submitted at the time of
CODING: Words underlined are additions; words in ~~struck through~~ type are deletions from
existing law.

1 application.

2 (4) The following minimum filing requirements must be filed with the utility's application
3 for limited proceeding for a Class A or B water or wastewater utility:

4 (a) A detailed statement of the reason(s) why the limited proceeding has been requested.

5 (b) If the limited proceeding is being requested to recover costs required by a
6 governmental or regulatory agency, provide the following:

7 1. A copy of any rule, regulation, order or other regulatory directive that has required or
8 will require the applicant to make the improvement or the investment for which the applicant
9 seeks recovery.

10 2. An estimate by a professional engineer, or other person, knowledgeable in design and
11 construction of water and wastewater plants, to establish the projected cost of the applicant's
12 investment and the period of time required for completion of construction.

13 (c) A schedule that provides the specific rate base components for which the utility seeks
14 recovery. Supporting detail must be provided for each item requested, including:

15 1. The actual or projected cost(s);

16 2. The date the item will be or is projected to be placed in service;

17 3. Any corresponding adjustments that are required as a result of adding or removing the
18 requested component(s) from rate base, which may include retirement entries; and,

19 4. Any other relevant supporting information.

20 (d) If the utility's application includes a request for recovery of plant in service,
21 accumulated depreciation and depreciation expense, supporting detail must be provided by
22 primary account as defined by the NARUC Uniform System of Accounts, in accordance with
23 Rule 25-30.110, F.A.C.

24 (e) A calculation of the weighted average cost of capital must be provided for the most
25 recent 12-month period, using the mid-point of the range of the last authorized rate of return
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existing law.

1 on equity, the current embedded cost of fixed-rate capital, the actual cost of short-term debt,
2 the actual cost of variable-cost debt, and the actual cost of other sources of capital which were
3 used in the last individual rate proceeding of the utility. If the utility does not have an
4 authorized rate of return on equity, the utility must use the current leverage formula pursuant
5 to Section 367.081(4)(f), F.S.

6 (f) If the utility is requesting recovery of operating expenses, the following information
7 must be provided:

- 8 1. A detailed description of the expense(s) requested;
- 9 2. The total cost by primary account pursuant to the NARUC Uniform System of
10 Accounts;
- 11 3. Supporting documentation or calculations; and,
- 12 4. Any allocations that are made between systems, affiliates or related parties. If
13 allocations are made, submit full detail that shows the total amount allocated, a description of
14 the basis of the allocation methodology, the allocation percentage applied to each allocated
15 cost, and the workpapers supporting the calculation of the allocation percentages.

16 (g) Calculations for all items that will create cost savings or revenue impacts from the
17 implementation of the requested cost recovery items.

18 (h) If the utility includes any other items where calculations are required, supporting
19 documentation must be filed that reflects the calculations or assumptions made.

20 (i) A calculation of the revenue increase including regulatory assessment fees and income
21 taxes, if appropriate.

22 (j) Annualized revenues for the most recent 12-month period using the rates in effect at the
23 time the utility files its application for limited proceeding and a schedule reflecting this
24 calculation by customer class and meter size.

25 (k) A schedule of current and proposed rates for all classes of customers.

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1 (l) Schedules for the most recent 12-month period showing that, without any increased
2 rates, the utility will earn below its authorized rate of return in accordance with Section
3 367.082, F.S. The schedules must consist of a rate base, net operating income and cost of
4 capital schedule with adjustments to reflect those consistent with the utility's last rate
5 proceeding.

6 (m) If the limited proceeding is being requested to change the current rate structure,
7 provide a copy of all workpapers and calculations used to calculate requested rates and
8 allocations between each customer class. The test year must be the most recent 12-month
9 period. In addition, the following schedules from Form PSC 1028 (12/20), entitled "Class A
10 Water and/or Wastewater Utilities Financial, Rate and Engineering Minimum Filing
11 Requirements," which is incorporated by reference in Rule 25-30.437, F.A.C., must be
12 provided:

- 13 1. Schedule E-2, entitled "Revenue Schedule at Present and Proposed Rates."
- 14 2. Schedule E-14, entitled "Billing Analysis Schedules." Only an original and one copy is
15 required.

16 (n) Revised tariff sheets should not be filed with the application.

17 (o) A water utility's application for limited proceeding must also include:

- 18 1. A copy of all customer complaints that the utility has received regarding DEP secondary
19 water quality standards during the past five years; and,
- 20 2. A copy of the utility's most recent secondary water quality standards test results.

21 (5) In addition to the requirements stated in subsections (1) through (3), the following
22 minimum filing requirements must be filed with the utility's application for limited
23 proceeding for a Class C water or wastewater utility:

24 (a) A detailed statement of the reason(s) why the limited proceeding has been requested.

25 (b) If the limited proceeding is being requested to recover costs required by a

CODING: Words underlined are additions; words in ~~struck through~~ type are deletions from existing law.

1 governmental or regulatory agency, provide a copy of any rule, regulation, order or other
2 regulatory directive that has required or will require the applicant to make the improvement or
3 the investment for which the applicant seeks recovery.

4 (c) A schedule that provides the specific rate base components for which the utility seeks
5 recovery, if known. Supporting detail must be provided for each item requested, including:

- 6 1. The actual or projected cost(s);
- 7 2. The date the item will be or is projected to be placed in service;
- 8 3. Any corresponding adjustments, if known, that are required as a result of adding or
9 removing the requested component(s) from rate base, which may include retirement entries;
10 and,
- 11 4. Any other relevant supporting information, if known.

12 (d) If the utility is requesting recovery of operating expenses, provide an itemized
13 description of the expense(s), including the cost and any available supporting documentation
14 or calculations.

15 (e) Provide a description of any known items that will create cost savings or revenue
16 impacts from the implementation of the requested cost recovery items.

17 (f) A calculation of the revenue increase including regulatory assessment fees and income
18 taxes, if applicable.

19 (g) Annualized revenues for the most recent 12-month period using the rates in effect at
20 the time the utility files its application for limited proceeding and a schedule reflecting this
21 calculation by customer class and meter size.

22 (h) A Class C water utility's application for limited proceeding must also include:

- 23 1. A copy of all customer complaints that the utility has received regarding DEP secondary
24 water quality standards during the past five years; and,
- 25 2. A copy of the utility's most recent secondary water quality standards test results.

CODING: Words underlined are additions; words in ~~struck through~~ type are deletions from existing law.

- 1 (6) A limited proceeding will not be allowed if:
- 2 (a) The utility's filing includes more than six separate projects for which recovery is
- 3 sought. Corresponding adjustments for a given project are not subject to the above limitation;
- 4 (b) The requested rate increase exceeds 30 percent;
- 5 (c) The utility has not had a rate case within seven years of the date the petition for limited
- 6 proceeding is filed with the Commission; or
- 7 (d) The limited proceeding is filed as the result of the complete elimination of either the
- 8 water or wastewater treatment process.
- 9 (7) The utility must provide a statement in its filing to the Commission that addresses
- 10 whether the utility's rate base has declined or whether any expense recovery sought by the
- 11 utility is offset by customer growth since its most recent rate proceeding or will be offset by
- 12 future customer growth expected to occur within one year of the date new rates are
- 13 implemented.
- 14 *Rulemaking Authority 350.127(2), 367.121(1)(a) FS. Law Implemented 367.081, 367.0812,*
- 15 *367.0822, 367.121(1)(a), 367.145(2) FS. History—New 3-1-04, Amended 5-30-*
- 16 *17,_____.*

Item 3

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 Accounting and Finance (Cicchetti) *ALM*
Office of the General Counsel (Brownless) *JSC*

RE: Docket No. 20220018-GU – Petition for limited proceeding to address the impact of changes to Florida state income tax rates by Peoples Gas System.

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

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: Graham

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.”

Section 8 of Peoples Gas System’s (Peoples or the Company) 2020 Settlement Agreement describes the procedures and principles to be followed for changes in federal or state corporate income tax rates.¹ On January 12, 2022 Peoples filed a petition to allow the adjusted net operating income impacts on annual revenue requirements from the 2021 state tax rate change and the 2022 anticipated state tax rate change to be offset and addressed via the Company’s Cast

¹Order No. PSC-2020-0485-FOF-GU, issued December 10, 2020, in Docket No. 20200051-GU, *In re: Petition for rate increase by Peoples Gas System.*

Docket No. 20220018-GU

Date: March 24, 2022

Iron Bare Steel Replacement Rider (CIBS Rider) that will be filed in September 2022 for rates effective January 2023.

The Commission has jurisdiction over this matter pursuant to Sections 366.076 and 366.06(3), Florida Statutes.

Discussion of Issues

Issue 1: Should the Commission allow the adjusted net operating income impacts on annual revenue requirements from the 2021 state tax rate change and the 2022 anticipated state tax rate change to be offset and addressed via the Company's Cast Iron Bare Steel Replacement Rider that will be filed in September 2022 for rates effective January 2023?

Recommendation: Yes. Staff recommends the Commission allow the adjusted net operating income impacts on annual revenue requirements from the 2021 state tax rate change and the 2022 anticipated state tax rate change to be offset and addressed via the Company's Cast Iron Bare Steel Replacement Rider that will be filed in September 2022 for rates effective January 2023. (Cicchetti)

Staff Analysis: Peoples 2020 Settlement Agreement contained provisions for addressing tax changes to federal and state tax rates. The Florida Department of Revenue issued a 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."

Per the 2020 Settlement Agreement, Peoples used the 2021 and 2022 Forecasted Earnings Surveillance Reports to calculate the impact of the Florida corporate income tax rate changing from 4.458 percent to 3.535 percent in 2021 and to 5.5 percent in 2022. The change in the Florida corporate income tax rate resulted in a revenue requirement decrease of \$843,751 for 2021 and a revenue requirement increase of \$1,096,830 for 2022. Netting the 2021 and 2022 revenue requirement impacts results in a net revenue requirement increase of \$253,079. Attachment 1 shows Peoples' calculation of the net revenue requirement impact.

In its petition, Peoples requests that the Commission allow the adjusted net operating income impacts on annual revenue requirements from the 2021 state tax rate change and the 2022 anticipated state tax rate change to be offset and addressed via the Company's Cast Iron Bare Steel Replacement Rider (CIBS Rider) that will be filed in September 2022 for rates effective January 2023. Because the 2021 state tax rate change was retroactively instituted for 2021 only and the state tax rate increased January 1, 2022 it is administratively burdensome to separately implement two slight rate adjustments. The Company has in place, in the form of the Cast Iron Bare Steel Rider, a mechanism for making yearly rate adjustments which the parties contemplated in the 2020 Settlement Agreement. As stated in the Company's petition, "By allowing the Company to 'net' the effects of the 2021 state tax rate change and the higher state tax rates in 2022, these administrative burdens can be avoided and the effects of the state income tax changes on Peoples' rates will be less volatile and less likely to create customer confusion." Peoples consulted with the Office of Public Counsel and the Florida Industrial Power Users Group and they do not object to the proposal and consider it to be efficient and not inconsistent with the provisions of the Settlement Agreement.

For the reasons discussed above, staff recommends the Commission allow the adjusted net operating income impacts on annual revenue requirements from the 2021 state tax rate change and the 2022 anticipated state tax rate change to be offset and addressed via the Company's Cast

Docket No. 20220018-GU
Date: March 24, 2022

Issue 1

Iron Bare Steel Replacement Rider that will be filed in September 2022 for rates effective January 2023.

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. If a protest is timely filed, the docket shall remain open pending resolution of the proceeding. (Brownless)

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. If a protest is timely filed, the docket shall remain open pending resolution of the proceeding.

**Peoples Gas System
 Florida State Income Tax Rate Change
 Estimated Annual Revenue Requirement Difference**

	2021 Budget	2022 Budget
Florida State Tax Rate	3.535%	5.500%
Net Operating Income at Former Tax Rate	\$ 88,696,302	\$ 101,989,570
Net Operating Income at New Tax Rate	<u>89,339,303</u>	<u>101,170,731</u>
Impact of New Rate	\$ 643,001	\$ (818,838)
Effective Tax Rate Gross-Up Factor	<u>1.3122</u>	<u>1.3395</u>
Revenue Requirement Change	\$ 843,751	\$ (1,096,830)
2021 and 2022 Net Revenue Requirement Impact		\$ (253,079)

Item 4

FILED 3/24/2022
DOCUMENT NO. 02070-2022
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 Accounting and Finance (Cicchetti) *ALM*
Office of the General Counsel (Brownless) *GCL*

RE: Docket No. 20220053-EI – Petition for limited proceeding to address base rates and charges to reflect the impact of the 2021 temporary state income tax rate reduction, by Tampa Electric Company.

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

Commission Order No. PSC-2017-0456-S-EI approved Tampa Electric Company's (Tampa Electric or the Company) 2017 Amended and Restated Stipulation and Settlement Agreement (2017 Agreement).¹ The 2017 Agreement included provisions to address changes in federal or state corporate income taxes. In September 2019, the State of Florida temporarily reduced its corporate income tax rate from 5.5 percent to 4.458 percent retroactive to January 1, 2019. In September 2021, the State of Florida further lowered its corporate income tax rate from 4.458 percent to 3.535 percent for calendar year 2021 only. Florida's corporate income tax rate returned to 5.5 percent beginning January 1, 2022.

¹Order No. PSC-2017-0456-S-EI, issued November 27, 2017, in Docket No. 20170210-EI, *In re: Petition for limited proceeding to approve 2017 amended and restated stipulation and settlement agreement, by Tampa Electric Company.*

In 2019, to recognize the 2019 tax rate decrease, the Commission issued Order No. PSC-2019-0524-PAA-EI on December 17, 2019, approving a base rate decrease of \$4,959,442 that included a net annual state income tax expense reduction plus the amortization over five years of estimated excess accumulated deferred state income taxes (EADSIT).² The Company's 2019 petition stated its calculation of the EADSIT as of December 31, 2018 was based on estimates and would be trued-up after filing its 2018 state corporate income tax return.

On November 29, 2021, the Company filed a petition for a limited proceeding to reduce base rates and charges to address the 2021 temporary state income tax rate reduction and the true-up of the EADSIT. In that petition, the Company indicated it would need until the spring of 2022 to complete its calculations. On January 31, 2022, the Company filed the results of its completed calculations.

In its petition, the Company has requested that the Commission approve its calculations of the 2021 net annual income tax expense reduction and the true-up of the estimated EADSIT amount that was calculated as of December 31, 2018.

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

²Order No. PSC-2019-0456-S-EI, issued December 17, 2019, in Docket No. 20190203-EI, *In re: Petition for limited proceeding to reduce base rates and charges to reflect impact of the 2019 temporary state income tax reduction, by Tampa Electric Company.*

Discussion of Issues

Issue 1: Should the Commission approve Tampa Electric Company's calculation of the total revenue requirement reduction of \$6,198,225 associated with the state corporate income tax rate of 3.535 percent for 2021 and the true-up of the estimated excess accumulated deferred state income taxes that were previously calculated as of December 31, 2018 and order the Company to include the revenue requirement reduction in its 2021 Energy Conservation Cost Recovery Clause true-up filing to be filed in the spring of 2022?

Recommendation: Yes. Staff recommends the Commission approve Tampa Electric Company's calculation of the total revenue requirement reduction of \$6,198,225 associated with the state corporate income tax rate of 3.535 percent for 2021 and the true-up of the estimated excess accumulated deferred state income taxes that were previously calculated as of December 31, 2018 and order the Company to include the revenue requirement reduction in its 2021 Energy Conservation Cost Recovery Clause true-up filing to be filed in the spring of 2022. (Cicchetti)

Staff Analysis: Paragraph 9 of the Company's 2017 Agreement included provisions for addressing changes to federal and state corporate income tax rates. According to the 2017 Agreement, the Company's forecasted earnings surveillance report for the calendar year that includes the period in which a tax change is effective is to be used to determine the impact of the tax change. The 2017 Agreement also provides that any effects of tax reform on retail revenue requirements shall be flowed back to customers through the Energy Conservation Cost Recovery Clause (ECCR).

In September 2021, the State of Florida temporarily reduced its corporate income tax rate from 4.455 percent to 3.535 percent retroactive to January 1, 2021. The Company has determined that the net annual income tax expense reduction associated with the tax rate reduction to 3.535 is \$2,725,826 for 2021 which increases to \$3,576,854 after being grossed-up for taxes.

The Company also has determined that the revenue requirement impact of the true-up of the EADSIT that was previously calculated through December 31, 2018 is \$1,997,678 which increases to \$2,621,371 after being grossed-up for taxes. The combined total of the net annual income tax expense reduction associated with the tax rate reduction of \$3,576,854 and the true-up of the EADSIT of \$2,621,371 results in a total revenue requirement reduction of \$6,198,225. Attachment 1 shows the Company's calculation. It should be noted, the original five year amortization of the EADSIT was for the period 2019-2023. The Company's current proposal accelerates the 2022 and 2023 annual amortization amounts into its proposed credit for the 2021 ECCR true-up to the benefit of the customers. The Company has presented the calculations and the proposal to the parties to the 2017 agreement (the Office of Public Counsel, the Florida Industrial Power Users Group, the Federal Executive Agencies, the Florida Retail Federation) and to Walmart and they have no objections. The WCF Hospital Utility Alliance has been contacted but has provided no response to date.

For the reasons discussed above, staff recommends the Commission approve the Company's calculation of the total revenue requirement reduction of \$6,198,225 associated with the state corporate income tax rate of 3.535 percent for 2021 and the true-up of the estimated excess accumulated deferred state income taxes that were previously calculated as of December 31,

2018 and order the Company to include the revenue requirement reduction in its 2021 ECCR true-up filing to be filed in the spring of 2022.

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. (Brownless)

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.

**Florida State Income Tax Rate Change
Estimated Annual Revenue Requirement Difference
2021 Budget**

Net Operating Income (Retail Jurisdictional) at Former Tax Rate	\$	377,664,782
Net Operating Income (Retail Jurisdictional) at New Tax Rate		<u>380,390,608</u>
Impact of New Rate	\$	2,725,826
Effective Tax Rate Gross-Up Factor		<u>0.76207350</u>
Revenue Requirement Change	\$	3,576,854
Excess State Tax True Up	\$	1,997,678
Effective Tax Rate Gross-Up Factor		<u>0.76207350</u>
Excess State Tax True Up Revenue Requirement	\$	2,621,371
Total Revenue Requirement Change	\$	6,198,225

Item 5

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

Docket No. 20210016-EI

Date: March 24, 2022

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.

¹Order 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.

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		Total	Current Tax		Deferred Tax		Total
	State	Federal	State	Federal		State	Federal	State	Federal	
1	\$1,001,514,648	\$1,001,514,648				\$1,001,514,648	\$1,001,514,648			
2	179,932,523	179,932,523				179,932,523	179,932,523			
3	(294,418,119)	(294,418,119)				(294,418,119)	(294,418,119)			
4	887,029,053	887,029,053				887,029,053	887,029,053			
5										
6	(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	22,278,000	22,278,000				22,278,000	22,278,000			
8										
9	53,387,750		855,919,303			53,387,750		855,919,303		
10	3.535%		5.500%			4.458%		5.500%		
11	868,000					868,000				
12	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		296,604,789		563,739,445			296,112,020		563,739,445	
15		21.0%		21.0%			21.0%		21.0%	
16		62,287,006		118,385,283			62,183,524		118,385,283	
17		(3,409,812)		3,409,812			(3,409,812)		3,409,812	
18				(50,411,915)					(50,411,915)	
19				(129,000)					(129,000)	
20				(300,168)					(300,168)	
21		(118,000)					(118,000)			
22		58,759,194		70,954,012	129,713,206		58,655,712		70,954,012	129,609,725
23										
24										
25		2,755,257	58,759,194		61,514,451	3,248,026	58,655,712			61,903,738
26				47,075,562	70,954,012			47,075,562	70,954,012	118,029,574
27					<u>\$179,544,025</u>					<u>\$179,933,312</u>

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%) and 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)	(575,421)
46	Gross-up to Pre-Tax Revenue Requirement Flow Back/(Collection) (divide by 1 - .23793)	<u>(598,969)</u>

Item 6

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 (Knoblauch, Ramos) *TB*
 Division of Accounting and Finance (D. Buys, Mathis) *ALM*
 Division of Economics (Hudson, Sibley) *JGH*
 Office of the General Counsel (Imig) *TLI*

RE: Docket No. 20210182-WU – Application for limited alternative rate increase in Highlands County by Country Walk Utilities, Inc.

AGENDA: 04/05/22 – Regular Agenda – Proposed Agency Action – Except Issue Nos. 3 and 4 - Interested Persons May Participate

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: Passidomo

CRITICAL DATES: 04/14/22 – 90 day deadline Pursuant to Rule 25-30.457(11), F.A.C.

SPECIAL INSTRUCTIONS: None

Case Background

Country Walk Utilities, Inc. (Country Walk or Utility) is a Class C utility providing water service to approximately 70 residential customers and 1 general service customer in Highlands County. The service area is located in the Southwest Florida Water Management District. Wastewater treatment is provided by septic tank. Country Walk was granted Certificate No. 579-W in a transfer from Holmes Utilities, Inc. in Docket No. 20130294-WU.¹ The Utility's rates were last approved by the Commission in a staff-assisted rate case in 2018.²

¹Order No. PSC-14-0495-PAA-WU, issued September 17, 2014, in Docket No. 20130294-WU, *In re: Application for transfer of water systems and Certificate No. 579-W in Highlands County from Holmes Utilities, Inc. to Country Walk Utilities, Inc.*

²Order No. PSC-2018-0553-PAA-WU, issued November 19, 2018, in Docket No. 20180021-WU, *In re: Application for staff-assisted rate case in Highlands County by Country Walk Utilities, Inc.*

On November 16, 2021, Country Walk filed an application for a limited alternative rate increase (LARI) pursuant to Rule 25-30.457, Florida Administrative Code (F.A.C.). In its application, the Utility stated the reason for filing this request was due to under earnings as a result of decreased revenues, increased operating expenses, and an increase in Highlands County taxes. On December 15, 2021, staff notified the Utility that it had met the initial requirements of Rule 25-30.457, F.A.C., and the official date of filing was established as January 14, 2022. The 90-day time frame for the Florida Public Service Commission (Commission) to render a decision began on that date.

As stated above, Country Walk's rates were last set in 2018, and in that proceeding, the Commission found the Utility's overall quality of service to be satisfactory. Since the 2018 rate case, staff has identified no secondary water quality complaints filed with either the Commission or the Florida Department of Environmental Protection (DEP). Four complaints were received by the Utility pertaining to DEP secondary standards. Two of those complaints originated from the same customer, and all of the complaints were related to odor from the water. A Notice for the Solicitation of Comments (Notice) was sent to customers on February 17, 2022, and three comments were received. Staff notes that the most recent DEP secondary standard test results, dated November 15, 2021, indicate that Country Walk is currently passing all secondary standards.

Country Walk selected the test year ended September 30, 2021, for this proceeding. The Commission has jurisdiction pursuant to Sections 367.0814(9) and 367.121(1), Florida Statutes (F.S.).

Discussion of Issues

Issue 1: Should the Commission approve Country Walk Utilities, Inc.'s application for a LARI?

Recommendation: Yes. Staff recommends a revenue increase of \$4,340 or 7.62 percent. Pursuant to Rule 25-30.457(7), F.A.C., the Utility is required to hold any revenue increase granted subject to refund. To ensure overearnings will not occur due to the implementation of the rate increase, staff will conduct an earnings review of the 12-month period following the implementation of the revenue increase. If overearnings occur, such overearnings, up to the amount held subject to refund, with interest, must be disposed of to the benefit of the customers. If staff determines that the Utility did not exceed the range of its last authorized return on equity, the revenue increase will no longer be held subject to refund. (Mathis, Knoblauch)

Staff Analysis: Pursuant to Rule 25-30.457, F.A.C., any utility eligible to file for a staff-assisted rate case may petition the Commission for a rate increase of up to 20 percent applied to metered or flat recurring rates as an alternative to a rate case. This Rule was designed to streamline the rate increase process for qualifying water or wastewater utilities by establishing an abbreviated procedure for a limited rate increase that is less time consuming and thus less costly for utilities, their customers, and the Commission. This Rule is similar to the rules governing price index and pass-through increases, in that neither an engineering review nor a financial audit of the utility's books and records is required.

On November 16, 2021, Country Walk notified the Commission of its intent to implement a LARI pursuant to Rule 25-30.457, F.A.C. Staff determined the Utility's application met the initial requirements of the Rule, and established January 14, 2022, as the official filing date. Staff verified that the Utility is current on the filing of regulatory assessment fees (RAFs) and annual reports. Country Walk has had rates established within the last seven years, pursuant to Rule 25-30.457(2)(1), F.A.C., and was under earning based on information provided in its application. The filing contained additional relevant information in support of the Utility's application.

On February 17, 2022, the Utility sent its customers the Notice that provided a summary of the rate request, the current and proposed rates, detailed instructions on how comments may be filed with the Commission prior to the Commission Conference, and instructions if a customer wished to comment at the Commission Conference. Also attached to the Notice was a customer comment card that customers could complete and mail to the Commission. As of March 23, 2022, three customers submitted comments. The customers expressed concerns regarding water quality issues, specifically the smell of the water and a dark or black substance developing in their sinks, showers, and toilets after repeated contact with the water. Based on Country Walk's most recent DEP test results, the Utility is currently passing all secondary standards.

Utility's Requested Revenue Increase

Country Walk requested a revenue increase of \$4,658, or 8.18 percent. The three main drivers for the requested revenue increase are an increase in Contractual Services – Other of \$2,009, an increase in Miscellaneous Expenses of \$1,150, and a Highlands County property tax increase of

\$1,312, as compared to the amounts approved in Country Walk’s last rate case.³ The Utility also requested an allowance for rate case expense of \$1,153, which amortized over four years is \$288 per year. Staff’s recommended adjustments and the increase in property taxes are explained below.

The increase in Contractual Services – Other of \$2,009 was due to a price increase for the service contract with U.S. Water Service Corporation from \$21,828 to \$23,837. In its filing, the Utility requested an amount of \$23,699 for Contractual Services – Other, but provided a more recent cost of \$23,837 in its response to Staff’s First Data Request.⁴ Staff made an adjustment to increase the expense by the difference of \$138.

The increase in Miscellaneous Expenses included an amount of \$1,000 for a political contribution. The Utility acknowledged this amount was inadvertently included and was removed.

The increase in county property taxes in 2021 was due to an increase in the assessed value of the utility plant from \$25,999 in 2020 to \$150,754 in 2021.

Staff reviewed Country Walk’s requested allowance for rate case expense of \$1,153, or \$288 per year, and believes the following adjustments are appropriate. The Utility paid a filing fee of \$1,000, but only included \$500 in its rate case expense request. Therefore, staff increased rate case expense by \$500. Staff also increased the total customer noticing expense by \$45, and removed \$250 for the travel expense to attend the customer meeting. In total, staff calculated an allowance for rate case expense of \$1,448, which amortized over four years is \$362 per year, an increase of \$74 per year.

As result of staff’s recommended reduction to the revenue requirement, RAFs are reduced by \$15. A summary of Country Walk’s requested expenses and staff’s recommended adjustments are shown in Table 1-1.

Table 1-1
Summary of Staff’s Recommended Adjustments

Operation & Maintenance (O&M) Expenses	Utility Requested	Staff Adjustment	Staff Recommended
Contractual Services – Other	\$23,699	\$138	\$23,837
Misc. Expenses	\$1,250	(\$1,000)	\$250
Rate Case Expense	\$288	\$74	\$362
RAFs on Rev. Increase	\$210	(\$15)	\$195
Total Operating Expense	\$50,123	(\$803)	\$49,320

Source: Utility’s application and response to Staff’s First Data Request, and staff calculations.

³Order No. PSC-2018-0553-PAA-WU, issued November 19, 2018, in Docket No. 20180021-WU, *In re: Application for staff-assisted rate case in Highlands County by Country Walk Utilities, Inc.*

⁴Document No. 00219-2022, filed on January 13, 2022.

Additionally, to calculate its requested revenue increase and revenue requirement, Country Walk used a rate of return of 7.75 percent based on its most recent capital structure and a return on equity of 7.85 percent that was derived from the current leverage formula. In the instant petition, staff believes it is more appropriate to calculate the revenue increase using the return on equity of 8.11 percent and overall rate of return of 8.08 percent that was approved by the Commission in the Utility's most recent rate case.⁵ After applying the recommended adjustments to the O&M expenses, and calculating the revenue requirement to achieve the authorized return on equity mid-point of 8.11 percent, the adjusted revenue increase is \$4,340, or 7.62 percent.

Conclusion

The information presented in the application was based on annualized revenues by customer class and meter size for the period ended September 30, 2021, the most recent 12-month period. As discussed above, staff recommends an annual revenue increase of \$4,340, which includes an allowance for rate case expense of \$1,448, which amortized over four years is \$362 per year. A summary of Country Walk's requested revenue increase and staff's recommended revenue increase is presented in Table 1-2.

Table 1-2
Staff's Recommended Increase

	Annualized Revenues	Revenue Increase	Revenue Requirement	Percent Increase
Utility Requested	\$56,943	\$4,658	\$61,602	8.18%
Staff Recommended	\$56,943	\$4,340	\$61,283	7.62%

Source: Utility's application and staff calculations.

Pursuant to Rule 25-30.457(7), F.A.C., Country Walk is required to hold any revenue increase granted subject to refund in accordance with Rule 25-30.360(4), F.A.C.

To ensure overearnings will not occur due to the implementation of this rate increase, staff will conduct an earnings review of the 12-month period following the implementation of the revenue increase. At the end of the 12-month period, each Utility has 90 days to complete and file Form PSC 1025 (03/20), entitled "Limited Alternative Rate Increase Earnings Review." In the event Country Walk needs additional time to complete the form, the Utility may request an extension of time supported by a statement of good cause that must be filed with Commission staff no less than seven days prior to the 90-day deadline. If staff's earnings review demonstrates that Country Walk exceeded the range of its last authorized rate of return on equity, such overearnings, up to the amount held subject to refund, with interest, shall be disposed of to the benefit of the customers. If staff determines that the Utility did not exceed the range of its last authorized return on equity, the revenue increase will no longer be held subject to refund.

Based on the information described above, staff recommends approval of the Country Walk's application with the recommended modifications discussed above.

⁵Order No. PSC-2018-0553-PAA-WU, issued November 19, 2018, in Docket No. 20180021-WU, *In re: Application for staff-assisted rate case in Highlands County by Country Walk Utilities, Inc.*

Issue 2: What are the appropriate monthly service rates for Country Walk?

Recommendation: The existing service rates for Country Walk should be increased by 7.62 percent in accordance with Rule 25-30.457, F.A.C. The appropriate service rates are shown on Schedule No. 1. The Utility should file tariff sheets and a proposed customer notice to reflect the Commission-approved rates. The approved rates should be effective for service rendered on or after the stamped approval date on the tariff sheets pursuant to Rule 25-30.475(1), F.A.C. In addition, the rates should not be implemented until staff has approved the proposed customer notice. The Utility should provide proof of the date notice was given no less than 10 days after the date of the notice. (Sibley)

Staff Analysis: Based on staff's recommended approval of the Utility's LARI in Issue 1, the existing service rates for Country Walk should be increased by 7.62 percent in accordance with Rule 25-30.457, F.A.C. Therefore, staff calculated rates by applying the 7.62 percent increase across-the-board to the existing base facility and gallonage charges. The Utility's existing water rates and the staff recommended rates are shown on Schedule No. 1. The Utility should file tariff sheets and a proposed customer notice to reflect the Commission-approved rates. The approved rates should be effective for service rendered on or after the stamped approval date on the tariff sheets pursuant to Rule 25-30.475(1), F.A.C. In addition, the rates should not be implemented until staff has approved the proposed customer notice. The Utility should provide proof of the date notice was given no less than 10 days after the date of the notice.

Issue 3: What is the appropriate amount by which rates should be reduced four years after the published effective date to reflect the removal of the amortized rate case expense as required by Section 367.081(8), F.S.?

Recommendation: The rates should be reduced to remove rate case expenses grossed-up for RAFs and amortized over a four-year period. The decrease in rates should become effective immediately following the expiration of the rate case expense recovery period, pursuant to Section 367.081(8), F.S. Country Walk should be required to file revised tariffs and proposed customer notices setting forth the lower rates and the reason for the reductions no later than one month prior to the actual date of the required rate reductions. If the Utility files this reduction in conjunction with price index or pass-through rate adjustments, separate data should be filed for the price index and/or pass-through increase or decrease and the reductions in the rates due to the amortized rate case expenses. (Sibley, Mathis) (Procedural Agency Action)

Staff Analysis: Section 367.081(8), F.S., requires that the rates be reduced immediately following the expiration of the recovery period by the amount of the rate case expense previously included in rates. These reductions will reflect the removal of revenue associated with the amortization of rate case expense and the gross-up for RAFs. The total revenue reduction for the Utility is \$1,516 ($\$1,448 \div 0.955$) or \$379 annually.

Staff recommends that the rates should be reduced to remove rate case expense grossed-up for RAFs and amortized over a four-year period. The decrease in rates should become effective immediately following the expiration of the rate case expense recovery period, pursuant to Section 367.081(8), F.S. Country Walk should be required to file revised tariffs and proposed customer notices setting forth the lower rates and the reason for the reductions no later than one month prior to the actual date of the required rate reductions. If the Utility files these reductions in conjunction with price index or pass-through rate adjustments, separate data should be filed for the price index and/or pass-through increases or decreases and the reductions in the rates due to the amortized rate case expenses.

Issue 4: Should the recommended rates be approved for Country Walk on a temporary basis, subject to refund, in the event of a protest filed by a party other than the Utility?

Recommendation: Yes. Pursuant to Rule 25-30.457(9), F.A.C., in the event of a protest of the Proposed Agency Action (PAA) Order by a substantially affected person other than Country Walk, the Utility should be authorized to implement the rates established in the LARI PAA Order on a temporary basis subject to refund upon filing a staff-assisted rate case (SARC) application within 21 days from the date the protest is filed. The Utility should file revised tariff sheets and a proposed customer notice to reflect the Commission-approved rates. The rates should be effective for service rendered on or after the stamped approval date on the tariff sheet, pursuant to Rule 25-30.475(1), F.A.C. In addition, the temporary rates should not be implemented until staff has approved the proposed notice, and the notice has been received by the customers. If the recommended rates are approved on a temporary basis, the incremental increase collected by the Utility will be subject to the refund provisions outlined in Rule 25-30.360, F.A.C. Pursuant to Rule 25- 30.457(9), F.A.C., if Country Walk fails to file a SARC application within 21 days in the event there is a protest, the application for a LARI will be deemed withdrawn. (Mathis, Imig) (Procedural Agency Action)

Staff Analysis: This recommendation proposes an increase in rates. A timely protest might delay what may be a justified rate increase resulting in an unrecoverable loss of revenue for the Utility. Therefore, pursuant to Rule 25-30.457(9), F.A.C., Country Walk should be authorized to implement the rates established in the LARI PAA Order on a temporary basis subject to refund upon filing a SARC application within 21 days from the date the protest is filed. The Utility should file revised tariff sheets and a proposed customer notice to reflect the Commission-approved rates. The rates should be effective for service rendered on or after the stamped approval date on the tariff sheet, pursuant to Rule 25-30.475(1), F.A.C. In addition, the temporary rates should not be implemented until staff has approved the proposed notice, and the notice has been received by the customers. If the recommended rates are approved on a temporary basis, the incremental increase collected by the Utility will be subject to the refund provisions outlined in Rule 25-30.360, F.A.C. Pursuant to Rule 25-30.457(9), F.A.C., if Country Walk fails to file a SARC application within 21 days in the event there is a protest, the application for a LARI will be deemed withdrawn.

Issue 5: Should this docket be closed?

Recommendation: No. In the event of a protest, Country Walk may implement the rates established in the PAA Order on a temporary basis, subject to refund with interest, upon the Utility's filing of a SARC application within 21 days of the date the protest is filed. If Country Walk fails to file a SARC within 21 days, the Utility's petition for a LARI will be deemed withdrawn pursuant to Rule 25-30.457(9), F.A.C. If no person whose substantial interests are affected by the proposed agency action files a protest within 21 days of the issuance of the PAA Order, a Consummating Order should be issued. The docket should remain open for staff's verification that the revised tariff sheets which reflect the Commission-approved rates, and the customer notice, have been filed by Country Walk and approved by staff, and so that staff may conduct an earnings review of the Utility pursuant to Rule 25-30.457(8), F.A.C. Upon staff's approval of the tariff and completion of the earnings review process as set forth in Rule 25-30.457(8)(a), F.A.C., this docket should be closed administratively. (Imig)

Staff Analysis: In the event of a protest, Country Walk may implement the rates established in the PAA Order on a temporary basis, subject to refund with interest, upon the Utility's filing of a SARC application within 21 days of the date the protest is filed. If Country Walk fails to file a SARC within 21 days, the Utility's petition for a LARI will be deemed withdrawn pursuant to Rule 25-30.457(9), F.A.C. If no person whose substantial interests are affected by the proposed agency action files a protest within 21 days of the issuance of the PAA Order, a Consummating Order should be issued. The docket should remain open for staff's verification that the revised tariff sheets which reflect the Commission-approved rates, and the customer notice, have been filed by Country Walk and approved by staff, and so that staff may conduct an earnings review of the Utility pursuant to Rule 25-30.457(8), F.A.C. Upon staff's approval of the tariff and completion of the earnings review process as set forth in Rule 25-30.457(8)(a), F.A.C., this docket should be closed administratively.

Country Walk Utilities, Inc.				Schedule No. 1
Test Year Ended 12/31/21				Docket No. 20210182-WU
Water Rates				
	UTILITY'S EXISTING RATES	UTILITY'S PROPOSED RATES	STAFF RECOMMENDED RATES	4-YEAR RATE REDUCTION
<u>Residential and General Service</u>				
Base Facility Charge by Meter Size				
5/8" x 3/4"	\$29.65	\$32.08	\$31.91	\$0.20
3/4"	\$44.48	\$48.12	\$47.87	\$0.30
1"	\$74.13	\$80.19	\$79.78	\$0.50
1 1/2"	\$148.25	\$160.38	\$159.55	\$1.00
2"	\$237.20	\$256.61	\$255.28	\$1.60
3"	\$474.40	\$513.21	\$510.56	\$3.20
4"	\$741.25	\$801.89	\$797.75	\$5.00
6"	\$1,482.50	\$1,603.78	\$1,595.50	\$10.00
Charge per 1,000 gallons - Residential Service				
0-3,000 gallons	\$13.29	\$14.38	\$14.30	\$0.09
Over 3,000 gallons	\$24.15	\$26.13	\$25.99	\$0.16
Charge per 1,000 gallons - General Service				
	\$15.45	\$16.71	\$16.63	\$0.10
<u>Typical Residential 5/8" x 3/4" Meter Bill Comparison</u>				
3,000 Gallons	\$69.52	\$75.22	\$74.81	
6,000 Gallons	\$141.97	\$153.61	\$152.78	
10,000 Gallons	\$238.57	\$258.13	\$256.74	

Item 7

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 Economics (Forrest) *JGH*
Office of the General Counsel (Brownless) *JSC*

RE: Docket No. 20220011-EI – Petition to modify tariff to close existing lighting tariff to new business and introduce new LED lighting tariff by Florida Public Utilities Company.

AGENDA: 04/05/22 – Regular Agenda – Tariff Filing – Interested Persons May Participate

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: Administrative

CRITICAL DATES: 08/03/2022 – 8 Month Effective Date

SPECIAL INSTRUCTIONS: None

Case Background

On January 3, 2022, Florida Public Utilities Company (FPUC or utility) filed a petition requesting Commission approval to modify its Lighting Service tariff (Rate Schedule LS). Currently, Rate Schedule LS offers customers various High Pressure Sodium (HPS) and Metal Halide (MH) outdoor lighting options. In its petition, FPUC proposed to close the existing HPS and MH fixture options to new customers and offer new Light Emitting Diode (LED) fixture options.

Staff issued a data request on January 26, 2022, with responses filed by the utility on February 9, 2022. In its response, FPUC submitted revised tariff sheets Nos. 56, 57, and 58 to reflect corrections made to the cost support for the LED fixtures. The revised tariffs are included as

Docket No. 20220011-EI

Date: March 24, 2022

Attachment A to this recommendation. On January 12, 2022, FPUC filed a letter in this docket waiving the 60-day file and suspend provision of Section 366.06(3), Florida Statutes (F.S.). The Commission has jurisdiction over this matter pursuant to Sections 366.04, 366.05, and 366.06 F.S.

Discussion of Issues

Issue 1: Should the Commission approve FPUC's proposed modifications to the Rate Schedule LS lighting tariff?

Recommendation: Yes. The Commission should approve FPUC's proposed modifications to the Rate Schedule LS lighting tariff as shown in Attachment A to the recommendation. The proposed new LED fixture options are cost based and expand the fixture options available to customers. Closing the current HPS and MH options for new lighting customers allows FPUC to recognize energy efficiencies and technological improvements in the lighting industry. The revised tariffs should be effective upon the issuance of a consummating order. (Forrest)

Staff Analysis:

FPUC, under Rate Schedule LS, currently provides outdoor lighting service offering HPS and MH fixtures. The utility requested approval to modify its Rate Schedule LS to close the existing HPS and MH fixture options to new customers and to offer new customers fifteen LED fixture options. Current customers served under Rate Schedule LS would remain on the HPS and MH fixture rates and would not see a change in their lighting bill. If a customer served under Rate Schedule LS needs to replace a light fixture, it would be replaced with an LED fixture and billed under the new LED fixture rates. All new lighting customers would be served under the proposed new LED lighting rates.

Closure of HPS and MH Fixtures

To support its petition, FPUC explained that as technology advances in the lighting market, the demand for HPS and MH fixtures has decreased, while the demand for LED lighting has increased. LED is a type of solid-state light that uses a semiconductor to convert electric current to visible light. LED lighting is a more energy efficient lighting source compared to its predecessors HPS and MH lights. Along with demand decreasing for HPS and MH lights, manufacturers have begun to phase out traditional product lines for HPS and MH lighting sources and replace them with the more energy efficient LED production.

New LED Fixtures

FPUC proposed to add fifteen new LED fixture rate options: five cobra heads, four decorative, four flood lights, and two shoe box with varying lamp lumens and watt sizes. The charges for the new LED lighting fixtures are comprised of three components: the fixture, maintenance, and energy charges. The fixture charge includes the estimated total cost to install an LED fixture and any carrying costs and taxes. The maintenance charge is the cost associated with maintaining the LED fixture for its expected service life. The energy charge is calculated by multiplying the estimated energy usage of the fixture by the lighting non-fuel energy charge. The new LED fixtures and associated charges can be seen on tariff sheet No. 57.

In conjunction with its petition, the utility submitted supporting cost information for the proposed LED fixture, maintenance, and energy charges. In its response to staff's data request, the utility made two corrections to its originally-submitted calculations. With previous lighting options, there was a need to factor power loss into the calculation. However, with LED technology, there is no longer a need to factor in a power loss adjustment. Thus, the utility

removed the eighteen percent power loss calculation that was originally submitted with the petition.

Along with that change, the utility stated that an adjustment was needed in its original overhead calculation. FPUC determined the correct percentage for the overhead calculation should be decreased from 35 percent to 34 percent. These two cost calculation adjustments resulted in a decrease to the proposed LED fixture rates submitted with the original petition. The revised tariff sheets, which include these corrections, were submitted with the utility's data request responses and are attached as Attachment A to the recommendation. Staff has reviewed these changes and believes them to be appropriate and reasonable.

FPUC has provided staff with documentation that supports closing the HPS and MH lighting rates to new customers and to offer LED lighting rates in its place. As noted by FPUC, this should not only decrease energy used by FPUC subscribers, but should also lower operating and maintenance costs for the utility. The Commission has approved similar petitions to close existing HPS and MH fixture options to new customers and offer LED fixture options.¹ Staff has reviewed all pertinent information in the docket and analyzed the cost support submitted to the Commission.

Conclusion

The Commission should approve FPUC's proposed modifications to the Rate Schedule LS lighting tariff as shown in Attachment A to the recommendation. The proposed new LED fixture options are cost based and expand the fixture options available to customers. Closing the current HPS and MH options for new installations allows FPUC to recognize energy efficiencies and technological improvements in the lighting industry. The revised tariffs should be effective upon the issuance of a consummating order.

¹Order No. PSC-2019-0100-TRF-EI, issued March 13, 2019, in Docket No. 20190023-EI, in re: *Petition for approval of modifications to rate schedule LS-1, lighting service, by Duke Energy Florida, LLC.*, and Order No. PSC-15-0094-TRF-EI, issued February 5, 2015, in Docket No. 20140232-EI, *In re: Petition for approval of revised lighting tariff by Tampa Electric Company.*

Issue 2: Should this docket be closed?

Recommendation: If a protest is filed within 21 days of the issuance of the order approving the proposed tariffs, the current tariffs should remain in effect pending resolution of the protest. If no timely protest is filed, the approved tariffs should go into effect, and the docket be closed, upon the issuance of a consummating order. (Brownless)

Staff Analysis: If a protest is filed within 21 days of the issuance of the order approving the proposed tariffs, the current tariffs should remain in effect pending resolution of the protest. If no timely protest is filed, the approved tariffs should go into effect, and the docket be closed, upon the issuance of a consummating order.

Florida Public Utilities Company
 F.P.S.C. Electric Tariff
 Third Revised Volume No. I

~~Sixth~~^{Fifth} Revised Sheet No. 56
 Cancels ~~Fifth~~^{Fourth} Revised Sheet No. 56

*RATE SCHEDULE LS
 LIGHTING SERVICE*

Availability

Available within the territory served by the Company in Calhoun, Jackson and Liberty Counties and on Amelia Island in Nassau County.

Applicability

Applicable to any customer for non-metered outdoor lighting service.

Character of Service

Lighting service from dusk to dawn as described herein.

Limitations of Service

Service is limited to lighting by high-pressure sodium vapor, ~~or~~ metal halide, or light emitting diode lamps mounted on company poles as described herein. Company-owned facilities will be installed only on Company-owned poles.

Monthly Rate

When lighting fixtures are mounted on existing poles and served directly from existing overhead secondary distribution lines:

Type Facility	Lamp Lumens	Size Watts	KWH/Mo. Estimate	Facilities Charge	Maintenance* Charge	Energy Charge	Total Charge
<u>High Pressure Sodium Lights (closed to new service)</u>							
Acorn	16,000	150	61	\$19.69	\$2.49	\$3.19	\$25.37
ALN 440	16,000	150	61	\$28.07	\$3.32	\$3.19	\$34.58
Amer. Rev.	9,500	100	41	\$9.66	\$3.29	\$2.15	\$15.10
Amer. Rev.	16,000	150	61	\$9.05	\$3.33	\$3.19	\$15.57
Cobra Head	9,500	100	41	\$7.25	\$2.11	\$2.15	\$11.51
Cobra Head	22,000	200	81	\$9.78	\$2.53	\$4.26	\$16.57
Cobra Head	28,500	250	101	\$11.63	\$3.33	\$5.30	\$20.26
Cobra Head	50,000	400	162	\$10.86	\$2.77	\$8.54	\$22.17
Flood	28,500	250	101	\$11.37	\$2.42	\$5.30	\$19.09
Flood	50,000	400	162	\$17.85	\$2.27	\$8.54	\$28.66
Flood	130,000	1,000	405	\$22.36	\$3.00	\$21.30	\$46.66
SP2 Spectra	9,500	100	41	\$24.81	\$3.10	\$2.15	\$30.06
<u>Metal Halide Lights (closed to new service)</u>							
ALN 440	16,000	175	71	\$26.86	\$2.61	\$3.77	\$33.24
Flood	50,000	400	162	\$12.12	\$2.21	\$8.54	\$22.87
Flood	130,000	1,000	405	\$20.61	\$2.92	\$21.30	\$44.83
Shoebox	16,000	175	71	\$22.68	\$2.93	\$3.77	\$29.38
Shoebox	28,500	250	101	\$24.14	\$3.28	\$5.30	\$32.72
SP2 Spectra	9,500	100	41	\$24.62	\$3.00	\$2.15	\$29.77
Vertical Shoebox	130,000	1,000	405	\$25.45	\$3.32	\$21.30	\$50.07

(Continued on Sheet No. 57)

Issued by: Jeffrey M. Householder, President

Effective: JAN 01 2021

Florida Public Utilities Company
 F.P.S.C. Electric Tariff
 Third Revised Volume No. 1

~~Sixth~~^{Fifth} Revised Sheet No. 57
 Cancels ~~Fifth~~^{Fourth} Revised Sheet No. 57

*RATE SCHEDULE LS
 LIGHTING SERVICE*

(Continued from Sheet No. 56)

Type Facility	Lamp Lumens	Size Watts	KWH/Mo. Estimate	Facilities Charge	Maintenance* Charge	Energy Charge	Total Charge
<u>Light Emitting Diode Lights</u>							
Cobra Head	5,682	50	17	\$6.58	\$2.08	\$0.89	\$9.55
Cobra Head	5,944	50	17	\$8.31	\$2.59	\$0.89	\$11.79
Cobra Head	9,600	82	28	\$7.78	\$2.43	\$1.47	\$11.68
Cobra Head	14,571	130	45	\$7.75	\$2.42	\$2.36	\$12.53
Cobra Head	28,653	210	72	\$13.55	\$3.95	\$3.78	\$21.28
Decorative	2,650	26	9	\$7.78	\$2.72	\$0.47	\$10.97
Decorative	4,460	44	15	\$7.71	\$2.69	\$0.79	\$11.19
Decorative	10,157	90	31	\$11.14	\$3.71	\$1.63	\$16.48
Decorative	7,026	60	21	\$19.74	\$6.25	\$1.10	\$27.09
Flood	12,500	80	27	\$10.80	\$3.40	\$1.42	\$15.61
Flood	24,000	170	58	\$10.80	\$3.40	\$3.05	\$17.24
Flood	20,686	150	52	\$10.80	\$3.40	\$2.73	\$16.93
Flood	38,500	290	100	\$10.80	\$3.40	\$5.25	\$19.45
Shoe Box	20,050	150	52	\$9.52	\$3.23	\$2.73	\$15.48
Shoe Box	17,144	131	45	\$10.72	\$3.59	\$2.36	\$16.67

Charges for other Company-owned facilities:

- 1) 30' Wood Pole \$4.82
- 2) 40' Wood Pole Std \$10.72
- 3) 18' Fiberglass Round \$9.98
- 4) 13' Decorative Concrete \$14.14
- 5) 20' Decorative Concrete \$16.41
- 6) 35' Concrete Square \$15.83
- 7) 10' Deco Base Aluminum \$18.56
- 8) 30' Wood Pole Std \$5.36

For the poles shown above that are served from an underground system, the Company will provide up to one hundred (100) feet of conductor to service each fixture. The customer will provide and install the necessary conduit system to Company specifications.

Purchased Power Charges

Purchased power charges are adjusted annually by the Florida Public Service Commission. For current purchased power costs included in the tariff, see Sheet No. 65 & 66.

Minimum Bill

The above rates times the number of lamps connected.

(Continued on Sheet No. 58)

Issued by: Jeffry M. Householder, President

Effective: JAN 01 2021

Florida Public Utilities Company
F.P.S.C. Electric Tariff
Third Revised Volume No. I

First Revised Original Sheet No. 58
Cancels Original Sheet No. 58

*RATE SCHEDULE LS
LIGHTING SERVICE*

(Continued from Sheet No. 57)

Terms of Payment

Bills are rendered net and are due and payable within twenty (20) days from date of bill.

Purchased Power Costs

See Sheet No. 65 & 66.

Conservation Costs

See Sheet No. 65 & 66.

Franchise Fee Adjustment

Customers taking service within franchise areas shall pay a franchise fee adjustment in the form of a percentage to be added to their bills prior to the application of any appropriate taxes. This percentage shall reflect the customer's pro rata share of the amount the Company is required to pay under the franchise agreement with the specific governmental body in which the customer is located.

Term of Service

Service under this rate schedule shall be by written contract for a period of five or more years.

Terms and Conditions

1. Service under this rate schedule is subject to the Company's Rules and Regulations applicable to electric service.
2. The charges set forth above cover the initial installation of overhead lines, poles and fixture assembly including bracket, and the maintenance duty as limited to lamp renewals due to burn outs only, or the repair or replacement of equipment causing lamps not to be illuminated.

* The Company will repair or replace malfunctioning lighting fixtures maintained by the company in accordance with Section 768.1382, Florida Statutes (2005). Maintenance duty to be undertaken by Florida Public Utilities Company is limited to lamp renewal due to burn outs only, or the repair or replacement of equipment causing lamps not to be illuminated. Such burnt out lamp replacements or repairs causing non-illumination of lamps will be performed only during regular daytime working hours as soon as practical after notification of the burn out or non-illumination conditions of the lamp by the customer. The maintenance duties undertaken herein are expressly limited to our paying customer, and are not to be deemed to create a duty to the general public at large.

Issued by: Jeffrey M. Householder, President

Effective: NOV 01 2014

Item 8

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 Economics (Hampson) *JGH*
Office of the General Counsel (Stiller) *JSC*

RE: Docket No. 20220037-EI – Petition for approval of a new small commercial lighting tariff, by Tampa Electric Company.

AGENDA: 04/05/22 – Regular Agenda – Tariff Suspension – Participation is at the discretion of the Commission

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: Administrative

CRITICAL DATES: 04/20/22 (60-Day Suspension Date)

SPECIAL INSTRUCTIONS: None

Case Background

On February 18, 2022, Tampa Electric Company (TECO) filed a petition for approval of a new Small Commercial Bright Choices Outdoor Lighting Agreement tariff (Small Commercial lighting agreement). The proposed Small Commercial lighting agreement would allow customers installing less than \$20,000 of lighting equipment on commercial property to take lighting service on a month-to-month term, as opposed to the ten-year term specified in the current Commission-approved lighting service tariff. The proposed Small Commercial lighting agreement can be terminated by either party with 30 days' notice. This proposal is similar to the Small Residential lighting agreement, which was initially implemented pursuant to TECO's Commission-approved 2021 settlement agreement.¹ TECO further proposes several modifications and clarifications to its current lighting tariffs and lighting agreements. This recommendation is to suspend the proposed tariffs. The Commission has jurisdiction over this matter pursuant to Sections 366.03, 366.04, 366.05, and 366.06, Florida Statutes (F.S.).

¹ Order No. PSC-2021-0423-S-EI, issued November 10, 2021, in Docket No. 20210034-EI, *In re: Petition for rate increase by Tampa Electric Company*.

Discussion of Issues

Issue 1: Should the Commission suspend TECO's proposed Small Commercial lighting agreement and other revised lighting tariff sheets?

Recommendation: Yes. Staff recommends that TECO's proposed Small Commercial lighting agreement and other revised lighting tariff sheets be suspended to allow staff sufficient time to review the petition and gather all pertinent information in order to present the Commission with an informed recommendation on the tariff proposal. (Hampson)

Staff Analysis: Staff recommends that TECO's proposed Small Commercial lighting agreement and other revised lighting tariff sheets be suspended to allow staff sufficient time to review the petition and gather all pertinent information in order to present the Commission with an informed recommendation on the tariff proposal.

Pursuant to Section 366.06(3), F.S., the Commission may withhold consent to the operation of all or any portion of a new rate schedule, delivering to the utility requesting such a change, a reason, or written statement of good cause for doing so within 60 days. Staff believes that the reason stated above is a good cause consistent with the requirement of Section 366.06(3), F.S.

Issue 2: Should this docket be closed?

Recommendation: No. This docket should remain open pending the Commission decision on the proposed tariffs. (Stiller)

Staff Analysis: This docket should remain open pending the Commission decision on the proposed tariffs.

Item 9

FILED 3/24/2022
DOCUMENT NO. 02061-2022
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 Economics (Smith II) *JGH*
Division of Accounting and Finance (D. Buys, Osorio) *ALM*
Office of the General Counsel (Sandy, Crawford) *JSC*

RE: Docket No. 20210183-GU – Petition for approval of 2021 depreciation study by Sebring Gas System, Inc.

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

Rule 25-7.045, Florida Administrative Code (F.A.C.), requires natural gas public utilities to file a comprehensive depreciation study with the Florida Public Service Commission (Commission) for review at least once every five years from the submission date of the previous study or pursuant to Commission order. Sebring Gas System, Inc.'s (Sebring or the Company) last depreciation study was filed on July 20, 2016. The Company's 2021 depreciation study was due to be filed on or before July 20, 2021. Sebring filed its 2021 depreciation study on November 18, 2021. Staff would note that no parties were materially impacted as a consequence of the late filing.

Docket No. 20210183-GU

Date: March 24, 2022

Sebring serves approximately 711 customers, and reported 2020 operating revenues of approximately \$1,242,000.¹ Staff has completed its review of Sebring's 2021 Depreciation Study and presents its recommendations to the Commission herein.

The Commission is vested with jurisdiction over these matters through several provisions of the Florida Statutes (F.S.), including Sections 350.115, 366.05, and 366.06, F.S.

¹ Sebring Gas System's Annual Report of Natural Gas Utilities Form PSC/AFA 20, at December 31, 2020, filed with the Florida Public Service Commission on May 21, 2021.

Discussion of Issues

Issue 1: Should currently prescribed depreciation rates for Sebring Gas System be revised?

Recommendation: Yes. The review of Sebring's plant depreciation information indicates a need for revising the Company's currently prescribed depreciation rates. (Smith)

Staff Analysis: Sebring's last depreciation study was filed on July 20, 2016. By Order No. PSC-16-0574-PAA-GU, the Commission approved revised depreciation rates that became effective January 1, 2017.²

Rule 25-7.045, F.A.C., requires natural gas companies to file a comprehensive depreciation study at least once every five years from the submission date of the previously filed study or pursuant to Commission order. A review of the Company's plant activity and data indicates the need for revising depreciation rates. Staff's recommended depreciation components and rates are discussed in Issue 3 and shown on Attachments A, B, and C.

² Order No. PSC-16-0574-PAA-GU, issued December 19, 2016, in Docket No. 20160174-GU, *In re: Request for approval of 2016 depreciation study by Sebring Gas Systems, Inc.*

Issue 2: What should be the implementation date for newly proposed depreciation rates?

Recommendation: Staff recommends January 1, 2022, for implementing newly proposed depreciation rates as shown on Attachments A, B, and C to this recommendation. (Smith)

Staff Analysis: Rule 25-7.045, F.A.C., requires that the data submitted in a depreciation study, including plant and reserve balances or Company estimates, “shall be brought to the effective date of the proposed rates.” The supporting data and calculations provided by Sebring match an implementation date of January 1, 2022.

Issue 3: What are the appropriate depreciation parameters and resulting rates?

Recommendation: Staff recommends the Commission approve the lives, reserve percentages, net salvage percentages, and resulting remaining life depreciation rates for Sebring that are shown on Attachments A and C. As shown on Attachment B, the corresponding depreciation expense effect of staff's rate recommendations is an increase of \$4,342 annually, or 1.8 percent, based on December 31, 2021 investments. (Smith)

Staff Analysis: Staff's recommendations are the result of a comprehensive review of Sebring's plant depreciation data filed in this docket. Attachments A and C to this recommendation show a comparison of certain currently-approved depreciation parameters and rates to those staff is recommending become effective January 1, 2022 (Issue 2). Staff and the Company are in agreement on all proposed depreciation parameters and resulting rates.³ Displayed on Attachment B is a comparison of depreciation expenses between currently-approved and proposed rates based on December 31, 2021 investments.

The Company provided plant addition and retirement data spanning 2017-2021 (2021 projected), proposed net salvage values, proposed average service lives, and proposed Iowa-type survivor curves.⁴ With this information, staff determined the average age of investments on an account-by-account basis, then applied the results to Sebring's proposed curve/life combinations for determining account-specific average remaining lives. Sebring's proposed account-specific average service lives are unchanged from its prior study.

Plant Additions

Sebring's total plant investment experienced moderate growth over the current study period. In its last depreciation study filing, the Company experienced substantial growth (almost 89 percent) mainly due to initiating gas service to two state correctional institutes in Hardee and Desoto Counties. The Company stated in 2016 that it did not foresee similar levels of investment growth and believed that its system would revert to more typical growth patterns for this study period.⁵ In keeping with the Company's expectation, during the 2017-2021 period (2021 projected), the Company's system grew by approximately 22 percent, or from approximately \$5.8 million to approximately \$7.1 million. Over half of this system growth is attributable to the additions within Account 376.2 – Mains – Plastic and Account 380.2 – Services – Plastic.

Plant Retirements

The Company's plant has experienced minimal retirement activity over the study period. Expressed as a percentage of study period additions, plant retirements total approximately three percent from 2017-2021.⁶

³ Sebring's Response to 2021 Depreciation Study Staff Report, No. 2 and "Sebring March 7, 2022 Correspondence – Response to Staff Account 382.1 Depreciation Parameters" DN-01657-2022.

⁴ "Iowa-type Curves" are a widely-used group of generalized survivor curves that contain the range of survivor characteristics usually experienced by public utilities, as well as companies in other industries.

⁵ Docket No. 20160174-GU, Sebring's Responses to Staff's First Data Request, No. 7, DN 08031-2016.

⁶ Formula is Study Period Retirements ÷ Study Period Additions or $\$41,051 \div \$1,321,694 = 3.11\%$

Average Service and Remaining Lives

Neither Sebring, nor staff, propose any changes to the Company's currently-authorized, account-specific, average service lives. Consistent with its review of the Company's prior depreciation study, and as mentioned above, staff computed account-specific average remaining lives (shown on Attachment A) by first aging Sebring's projected plant investments at December 31, 2021, then applying the results to the Company's Iowa Curve and service life selections on an account-by-account basis. From this review, staff determined that no changes were necessary to the average service lives. However, staff does recommend the Company closely monitor the life characteristics of all its investments for evaluating if any average service life adjustments are warranted as part of future depreciation studies.

Net Salvage

Without experiencing meaningful levels of retirement over a period of time, Company-specific net salvage investigations may prove inconclusive. Thus, staff compared the Company's currently-authorized/proposed-for-continued-use net salvage levels to those experienced by other natural gas distribution companies. With the exception of Account 392.1 – Transportation – Trucks, staff believes Sebring's currently-authorized/proposed net salvage values remain in line with those net salvage values currently being estimated by its industry peers and should continue to be used for applicable ratemaking purposes.

In its filing, the Company did not request any changes to its currently authorized net salvage levels.⁷ However, in response to the Staff Report⁸ and discussions between staff and Sebring's accountant, the Company provided staff with information that substantiates the need for a lower net salvage percentage for Account 392.1 – Transportation – Trucks. Sebring stated that over the last five years, net salvage related to this account was between five and ten percent. The Company also explained that at the time of retirement, these trucks had very high mileage, which lowered the resale value.

Staff compared Sebring's net salvage level for this account to the approved net salvage levels of three other natural gas companies in Florida. The average net salvage level for those three companies is eleven percent. Based on the above, staff recommends a ten percent net salvage value for Account 392.1 – Transportation – Trucks.

Iowa Curves

Sebring did not request any changes to its currently-approved application of Iowa curves to its plant accounts. As part of our review, staff evaluated each account's projected net book value five years into the future. This timeframe matches the timing of the filing of Sebring's next depreciation study, when staff would next have a chance to adjust Sebring's depreciation rates. Two accounts, Accounts 380.1 – Services – Steel and 386 – Property on Customer's Premises, indicated a negative net book value by the end of 2026 if no further investments were made in these accounts. Staff's analysis shows that applying the S1 curve to both accounts more

⁷ Sebring's Petition for approval of 2021 depreciation study, filed November 18, 2021.

⁸ DN 01519-2022.

appropriately matches each account's life characteristics and would prevent the probable over-depreciation issue found with maintaining the currently-approved S2 curve. Therefore, staff is recommending the application of the S1 curve to both accounts as shown on Attachment C.

Reserve Transfers

As part of reviewing Sebring's 2021 Depreciation Study, staff calculated the book reserve balance of each plant account. Staff also calculated the associated theoretical reserve balance of each plant account, using the current recommended life and net salvage inputs. The difference between an account's book and theoretical reserve amounts may be described as an imbalance, either positive or negative, or as a surplus or deficiency. When imbalances are present, corrective transfers among accounts should be considered, and if warranted, should be performed.

The specific depreciation reserve transfer proposals are presented in Table 3-1, and explained further below:

**Table 3-1
Accumulated Depreciation Transfers**

Acct. No.	Account Title	Transfer Amount
380.1	Service - Steel	(100,184)
380.2	Service - Plastic	108,283
386	Property on Customers' Premises	(8,099)

Staff evaluated each account's reserve imbalance as a percentage of its book reserve. Accounts 380.1 and 386 had the largest imbalance on a percentage basis. Therefore, staff made transfers to reduce those accounts to their theoretically correct levels. Staff then used the total from those two transfers to increase the reserve of Account 380.2 – Service – Plastic. Staff notes that its current rate recommendations incorporate all proposed reserve transfers discussed in this section.

Conclusion

Staff recommends the Commission approve the lives, net salvages, reserves, and resulting depreciation rates for Sebring that are shown on Attachments A and C. The expense effect of staff's plant depreciation rate recommendations, which is shown on Attachment B, is an increase of \$4,342 annually, or 1.8 percent, based on December 31, 2021 investments.

Issue 4: Should the current amortization of investment tax credits (ITCs) and flow back of excess deferred income taxes (EDITs) be revised to reflect the approved depreciation rates and amortization schedules?

Recommendation: Yes. The current amortization of ITCs should be revised to match the actual recovery periods for the related property. The Company should file detailed calculations of the revised ITC amortization at the same time it files its earnings surveillance report covering the period ended December 31, 2021, as specified in Rule 27-7.1352, F.A.C. (Osorio, D. Buys)

Staff Analysis: In Issue 3, staff has recommended approval of revised depreciation rates for the Company, which reflect changes to most accounts' remaining lives to be effective January 1, 2022. Revising a utility's book depreciation lives generally results in a change in its rate of ITC amortization in order to comply with the normalization requirements of the Internal Revenue Code (IRC or Code) set forth in Federal Tax Regulations under the Code sections,⁹ Sections 168(f)(2) and (i)(9),¹⁰ former IRC Sections 167(l), and 46(f),¹¹ and Section 203(e) of the Tax Reform Act of 1986 (the Act).¹²

Staff, the Internal Revenue Service (IRS), and independent outside auditors look at a company's books and records, and the orders and rules of the jurisdictional regulatory authorities to determine if the books and records are maintained in the appropriate manner. The books are also reviewed to determine if they are in compliance with the regulatory guidelines in regard to normalization.

Former IRC Section 46(f)(6) of the Code indicated that the amortization of ITC should be determined by the period of time actually used in computing depreciation expense for ratemaking purposes and on the regulated books of the utility.¹³ While Section 46(f)(6) was repealed, under IRC Section 50(d)(2), the terms of former IRC Section 46(f)(6) remain applicable to public utility property for which a regulated utility previously claimed ITCs. Since staff is recommending changes to the Company's remaining lives, it is also important to change the amortization of ITCs to avoid violation of the provisions of IRC Section 50(d)(2), and its underlying Treasury Regulations. The consequence of an ITC normalization violation is a repayment of unamortized ITC balances to the IRS. Therefore, staff recommends the current amortization of ITCs should be revised to match the actual recovery periods for the related property. The Company should file detailed calculations of the revised ITC amortization at the same time it files its earnings surveillance report covering the period ended December 31, 2021, as specified in Rule 25-7.1352, F.A.C.

⁹ Treas. Reg. §1.168; Treas. Reg. §1.167; Treas. Reg. §1.46.

¹⁰ 26 US Code §§168(f)(2) and (i)(9).

¹¹ Under IRC Section 50(d)(2), the terms of former 26 US Codes §167(l) and §46(f), which were repealed by the Revenue Reconciliation Act of 1990 (Pub. L. No. 101-508, §11812(a)(1-2)(1990)), remain applicable to public utility property for which a regulated utility previously claimed ITCs, which is the case here. (I.R.S. Priv. Ltr. Rul. 200933023, ln.1 (May 7, 2009)).

¹² Tax Reform Act of 1986, Pub. L. No. 99-514 (100 Stat. 2085, 2146)(1986).

¹³ Former 26 USC §46(f)(6) (establishing proper determination of ratable portion).

Issue 5: Should this docket be closed?

Recommendation: Yes. If no protest is filed by a person whose substantial interests are affected within 21 days of the issuance of the Order, this docket should be closed upon the issuance of a Consummating Order. (Sandy)

Staff Analysis: If no protest is filed by a person whose substantial interests are affected within 21 days of the issuance of the Order, this docket should be closed upon the issuance of a Consummating Order.

Comparison of Rates and Components								
Acct. No.	Account Title	Current ¹			Staff Recommended			
		Average Remaining Life (yrs)	Future Net Salvage (%)	Remaining Life Rate (%)	Average Remaining Life (yrs)	Theoretical Reserve (%)	Future Net Salvage (%)	Remaining Life Rate (%)
Distribution Plant								
376.1	Main - Steel	14.6	(30)	2.9	11.8	95.73	(30)	2.4
376.2	Main - Plastic	33.8	(30)	2.9	31.1	39.81	(30)	3.0
378	Measuring & Regulating Equip. Gen - Embedded	16.0	(2)	3.1	16.7	50.28	(2)	3.0
379	Measuring & Regulating Ept. - City Gate	27.6	(2)	3.2	22.9	28.58	(2)	3.2
380.1	Service - Steel	11.8	(30)	1.0	13.1	94.63	*	2.7
380.2	Service - Plastic	30.7	(30)	3.2	26.2	43.62	*	3.3
381	Meters	9.4	0	3.8	9.1	63.71	0	4.0
382	Meter Installations	19.5	(5)	3.1	22.6	34.94	(5)	3.1
383	House Regulations	7.0	0	3.1	12.0	60.47	0	3.3
384	House Regulator Installations	14.7	(3)	3.0	15.3	57.25	(3)	2.9
386	Property on Customers' Premises	6.9	0	2.3	6.6	73.60	*	4.0
387	Other Equipment	16.8	0	4.0	11.8	52.69	0	4.1
General Plant								
390	Leasehold Improvements	40.0	0	2.5	27.6	30.98	0	2.5
391.1	Office Furniture	25.0	0	4.0	16.3	34.74	0	4.1
391.2	Office Equipment	15.0	0	4.4	2.2	85.26	0	0.3
392.1	Transportation - Trucks	8.0	15	9.0	1.9	68.53	10	8.0
394	Tools, Shop & Garage Equipment	15.0	0	6.7	7.2	51.51	0	6.5
396	Power Operated Equipment - New	15.0	0	6.7	4.1	72.43	0	2.0
397	Communication Equipment	18.0	0	5.6	12.7	28.94	0	5.4

¹ Order No. PSC-16-0574-PAA-GU

*Denotes a Reserve Transfer

Comparison of Expenses						
Account No.	Account Title	Current		Staff Recommended		Change In Expense (\$)
		Depreciation Rate (%)	Annual Expense (\$)	Depreciation Rate (%)	Annual Expense (\$)	
Distribution Plant						
376.1	Main - Steel	2.9	5,435	2.4	4,498	(937)
376.2	Main - Plastic	2.9	85,484	3.0	88,431	2,947
378	Measuring & Regulating Equip. Gen - Embedded	3.1	705	3.0	682	(23)
379	Measuring & Regulating Ept. - City Gate	3.2	39,732	3.2	39,732	(0)
380.1	Service - Steel	1.0	3,498	2.7	9,446	5,948
380.2	Service - Plastic	3.2	34,400	3.3	35,475	1,075
381	Meters	3.8	14,179	4.0	14,925	746
382	Meter Installations	3.1	6,934	3.1	6,934	(0)
383	House Regulations	3.1	1,618	3.3	1,723	105
384	House Regulator Installations	3.0	2,505	2.9	2,421	(84)
386	Property on Customers' Premises	2.3	812	4.0	1,412	600
387	Other Equipment	4.0	928	4.1	952	24
	TOTAL DISTRIBUTION PLANT		196,230		206,631	10,401
General Plant						
390	Leasehold Improvements	2.5	332	2.5	332	0
391.1	Office Furniture	4.0	121	4.1	124	3
391.2	Office Equipment	4.4	1,471	0.3	100	(1,371)
392.1	Transportation - Trucks	9.0	27,693	8	24,616	(3,077)
394	Tools, Shop & Garage Equipment	6.7	2,262	6.5	2,194	(68)
396	Power Operated Equipment - New	6.7	2,070	2.0	618	(1,452)
397	Communication Equipment	5.6	2,624	5.4	2,530	(94)
	TOTAL GENERAL PLANT		36,573		30,514	(6,059)
	TOTAL		232,803		237,145	4,342

Current and Proposed Depreciation Components							
Account No.	Account Title	Curve Type	Current		Staff Recommended		
			Average Service Life	Age	Curve Type	Average Service Life	Age
Distribution Plant							
376.1	Main - Steel	S3	45	33.4	S3	45	38.4
376.2	Main - Plastic	S3	45	11.2	S3	45	13.9
378	Measuring & Regulating Equip. Gen - Embedded	R3	33	18.7	R3	33	17.8
379	Measuring & Regulating Ept. - City Gate	R3	32	4.5	R3	32	9.5
380.1	Service - Steel	S2	48	49.0	S1	48	53.7
380.2	Service - Plastic	S2	40	9.4	S2	40	14.2
381	Meters	R4	25	16.5	R4	25	16.8
382	Meter Installations	S2	34	15.3	S2	34	11.7
383	House Regulations	R4	30	24.5	R4	30	18.9
384	House Regulator Installations	S2	34	21.9	S2	34	21.1
386	Property on Customers' Premises	S2	25	23.6	S1	25	28.6
387	Other Equipment	S4	25	8.2	S4	25	13.2
General Plant							
390	Leasehold Improvements	R3	40	8.0	R3	40	13.0
391.1	Office Furniture	S2	25	16.6	S2	25	9.0
391.2	Office Equipment	S3	15	13.1	S3	15	17.2
392.1	Transportation - Trucks	S2	8	7.4	S2	8	8.4
394	Tools, Shop & Garage Equipment	S3	15	10.2	S3	15	8.0
396	Power Operated Equipment - New	S4	15	6.3	S4	15	11.3
397	Communication Equipment	S4	18	2.5	S4	18	5.3

Item 10

FILED 3/24/2022
DOCUMENT NO. 02069-2022
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 Economics (Sibley, Hudson) *JGH*
Division of Accounting and Finance (D. Brown, Casper, T. Brown) *ALM*
Office of the General Counsel (Trierweiler, Garcia) *TLI*

RE: Docket No. 20220026-WU – Application for staff-assisted rate case in Marion County, and request for interim rate increase, by Leighton Estates Utilities, LLC.

AGENDA: 04/05/22 – Regular Agenda – Decision on Interim Rates – Participation is at the Discretion of the Commission

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: Graham

CRITICAL DATES: 3/28/22 (60 day Decision On Interim Rates, Waived)

SPECIAL INSTRUCTIONS: None

Case Background

Leighton Estates Utilities, LLC (Leighton Estates or utility) is a Class C utility serving approximately 80 residential customers in Marion County. The Commission last set rates in an original certificate proceeding in 2010 when the utility was known as Arma Water Service, LLC.¹ Subsequently, the utility's rates have been amended through two price index rate increases. The utility was transferred to the present operator in 2021.² The utility has never had a staff-assisted rate case before the Commission. According to Leighton Estates' 2021 Annual

¹Order No. PSC-2010-0552-PAA-WU, issued September 3, 2010, in Docket No. 20090366-WU, *In re: Application for certificate to operate water utility in Marion County by Arma Water Service, LLC.*

²Order No. PSC-2021-0408-PAA-WU, issued November 01, 2021, in Docket No. 20210043-WU, *In re: Application to transfer facilities and water Certificate No. 652-W in Marion County from Arma Water Service, LLC to Leighton Estates Utilities, LLC.*

Docket No. 20220026-WU

Date: March 24, 2022

Report, total gross water revenue was \$28,105 and total water operating expense was \$45,069. On January 27, 2022, Leighton Estates filed its application for a staff-assisted rate case. On February 15, 2022, the utility requested to waive the 60 day statutory deadline for interim rates.³ The utility has requested a test year ended December 31, 2021, for purposes of interim and final rates.

This recommendation addresses the utility's request for interim rates. The Commission has jurisdiction pursuant to Sections 367.082 and 367.0814(4), Florida Statutes (F.S).

³Document No. 01370-2022

Discussion of Issues

Issue 1: Should an interim revenue increase be approved?

Recommendation: Yes. Leighton Estates should be authorized to collect interim revenues as indicated below:

	Test Year Revenues	\$ Increase	Revenue Requirement	% Increase
Water	\$27,605	\$3,076	\$30,681	11.14%

(D. Brown, Casper)

Staff Analysis: On January 27, 2022, Leighton Estates filed an application requesting an interim revenue increase in its water rates. Section 367.0814(4), F.S., details the criteria for evaluating a request for an interim rate increase for staff-assisted rate cases.

Section 367.0814(4), F.S., states:

The Commission may, upon its own motion, or upon petition from the regulated utility, authorize the collection of interim rates until the effective date of the final order. Such interim rates may be based upon a test period different from the test period used in the request for permanent rate relief. To establish interim relief, there must be a demonstration that the operation and maintenance expenses exceed the revenues of the regulated utility, and interim rates shall not exceed the level necessary to cover operation and maintenance expenses as defined by the Uniform System of Accounts for Class C Water and Water Utilities (1996) of the National Association of Regulatory Utility Commissioners.

Staff has reviewed the utility's operation and maintenance (O&M) expenses in relation to its revenues. Based on the utility's filing, staff recommends that Leighton Estates has demonstrated a *prima facie* entitlement to an interim rate increase in accordance with Section 367.0814(4), F.S.

Revenue Increase

In order to establish interim rate relief as prescribed by Section 367.0814(4), F.S., staff used the utility's revenues reflected in its revised application dated January 31, 2022, for the test year ended December 31, 2021.⁴ The test year revenues are \$27,605, which includes \$27,240 from water service rates and \$365 from miscellaneous service revenues. The test year O&M expenses are \$30,543. The difference between the utility's reported revenues and O&M expenses is \$2,938.

In addition, the interim rate increase should be grossed up to include regulatory assessment fees (RAFs). The Commission has previously determined that it would be inappropriate to approve an increase in a utility's rates to cover its operating expenses and deny that same utility the funds to

⁴Document No. 00858-2022, filed on January 31, 2022.

pay RAFs.⁵ Furthermore, by approving an interim rate increase that allows for the payment of RAFs, the utility should be able to fully cover its O&M expenses. The RAFs associated with the interim increase equal \$138.

In total, Leighton Estates should be allowed an interim revenue increase of \$3,076 (\$2,938 + \$138) to produce revenues sufficient to cover O&M expenses and additional RAFs. Thus, staff recommends the appropriate interim revenue requirement is \$30,681. This is an 11.14 percent increase above the utility's test year revenues. Table 1-1 illustrates staff's interim increase calculation.

**Table 1-1
Determination of Interim Increase**

	Water
1. Utility Test Year O&M Expenses	\$30,543
2. Less: Utility Test Year Revenues	\$27,605
3. Revenues to Cover O&M Expenses	<u>\$2,938</u>
4. Interim Revenue Increase	\$2,938
5. RAFs on Interim Rate Increase	\$138
6. Total Interim Revenue Increase (\$)	<u>\$3,076</u>
7. Total Interim Revenue Increase (%)	11.14%

Source: Utility's revised application and staff's calculations.

⁵Order No. PSC-2001-1654-FOF-WS, issued August 13, 2001, in Docket No. 20010396-WS, *In re: Application for staff-assisted rate case in Brevard County by Burkim Enterprises, Inc.*

Issue 2: What are the appropriate interim water rates?

Recommendation: The interim rate increase of 11.29 percent should be applied as an across-the-board increase to the water service rates. The rates, as shown on Schedule No. 1, should be effective for service rendered on or after the stamped approval date on the tariff sheets pursuant to Rule 25-30.475(1), Florida Administrative Code (F.A.C.). The utility should file revised tariff sheets and a proposed customer notice to reflect the Commission-approved rates. In addition, the approved rates should not be implemented until the required security has been filed, staff has approved the proposed customer notice, and the notice has been received by the customers. The utility should provide proof of the date the notice was given within 10 days of the date of the notice. (Sibley)

Staff Analysis: Staff recommends that interim service rates for Leighton Estates be designed to allow the utility the opportunity to generate annual operating revenues of \$30,681 for water. Before removal of miscellaneous revenues, this would result in an increase of \$3,076 (11.14 percent). To determine the appropriate increase to apply to the service rates, miscellaneous revenues should be removed from the test year revenues. The calculation is as follows:

**Table 2-1
Percentage Service Rate Increase**

	<u>Water</u>
1 Total Test Year Revenues	\$27,605
2 Less: Miscellaneous Revenues	<u>\$365</u>
3 Test Year Revenues from Service Rates	\$27,240
4 Revenue Increase	<u>\$3,076</u>
5 Percentage Service Rate Increase (Line 4/Line 3)	11.29%

Source: Staff's Interim Recommended Revenue Requirement

Staff recommends that the interim rate increase of 11.29 percent should be applied as an across-the-board increase to the water service rates. The rates, as shown on Schedule No. 1, should be effective for service rendered on or after the stamped approval date on the tariff sheets pursuant to Rule 25-30.475(1), F.A.C. The utility should file revised tariff sheets and a proposed customer notice to reflect the Commission-approved rates. In addition, the approved rates should not be implemented until the required security has been filed, staff has approved the proposed customer notice, and the notice has been received by the customers. The utility should provide proof of the date notice was given within 10 days of the date of the notice.

Issue 3: What is the appropriate security to guarantee the interim increase?

Recommendation: The utility should be required to open an escrow account or secure a surety bond or letter of credit to guarantee any potential refund of revenues collected under interim conditions. If the security provided is an escrow account, the utility should deposit \$257 into the escrow account each month. Otherwise, the surety bond or letter of credit should be in the amount of \$2,054. Pursuant to Rule 25-30.360(6), F.A.C., the utility should provide a report by the 20th of each month indicating the monthly and total revenue collected subject to refund. Should a refund be required, the refund should be with interest and in accordance with Rule 25-30.360, F.A.C. (D. Brown, Casper)

Staff Analysis: Pursuant to Section 367.082, F.S., revenues collected under interim rates shall be placed under bond, escrow, letter of credit, or corporate undertaking subject to refund with interest at a rate ordered by the Commission. As recommended in Issue 1, the interim increase for water is \$3,076. In accordance with Rule 25-30.360, F.A.C., staff calculated the potential refund of revenues and interest collected under interim conditions to be \$2,054. This amount is based on an estimated eight months of revenue being collected under the recommended interim rates shown on Schedule No. 1.

The criteria for a corporate undertaking include sufficient liquidity, ownership equity, profitability, and interest coverage to guarantee any potential refund. Staff reviewed Leighton Estates' financial condition. Because the utility reported a significant net loss in 2021, has no meaningful liquidity, and has no equity, staff does not believe the utility has the financial capability to support a corporate undertaking in the amount requested at this time. In addition, the utility has only one year of annual reports under current ownership, whereas staff prefers to have three years of financial records. Instead, staff recommends that the utility be required to secure a surety bond, letter of credit, or escrow agreement to guarantee any potential refund.

If security is provided through an escrow agreement, the following conditions should be part of the agreement:

- 1) The Commission Clerk, or his or her designee, must be a signatory to the escrow agreement.
- 2) No monies in the escrow account may be withdrawn by the utility without the express approval of the Commission Clerk, or his or her designee.
- 3) The escrow account shall be an interest bearing account.
- 4) If a refund to the customers is required, all interest earned by the escrow account shall be distributed to the customers.
- 5) If a refund to the customers is not required, the interest earned by the escrow account shall revert to the utility.
- 6) All information on the escrow account shall be available from the holder of the escrow account to a Commission representative at all times.
- 7) The amount of revenue subject to refund shall be deposited in the escrow account within seven days of receipt.
- 8) This escrow account is established by the direction of the Florida Public Service Commission for the purpose(s) set forth in its order requiring such account. Pursuant to

Cosentino v. Elson, 263 So. 2d 253 (Fla. 3d DCA 1972), escrow accounts are not subject to garnishments.

- 9) The account must specify by whom and on whose behalf such monies were paid.

If the security provided is a surety bond or a letter of credit, said instrument should be in the amount of \$2,054. If the utility chooses a surety bond as security, the surety bond should state that it will be released or terminated only upon subsequent order of the Commission. If the utility chooses to provide a letter of credit as security, the letter of credit should state that it is irrevocable for the period it is in effect and that it will be in effect until a final Commission order is rendered releasing the funds to the utility or requiring a refund.

In no instance should the maintenance and administrative costs associated with the refund be borne by the customers. These costs are the responsibility of, and should be borne by, the utility. Irrespective of the form of security chosen by the utility, an account of all monies received as a result of the rate increase should be maintained by the utility. If a refund is ultimately required, it should be paid with interest calculated pursuant to Rule 25-30.360(4), F.A.C.

Issue 4: Should this docket be closed?

Recommendation: No. Staff recommends that this docket should remain open to address the merits of Leighton Estates' staff-assisted rate case. (Trierweiler, Garcia)

Staff Analysis: Staff recommends that this docket should remain open to address the merits of Leighton Estates' staff-assisted rate case.

Leighton Estates Utilities, LLC		Schedule No. 1	
Test Year Ended 12/31/21		Docket No. 20220026-WU	
Water Rates			
	UTILITY'S EXISTING RATES	STAFF RECOMMENDED RATES	
<u>Residential and General Service</u>			
Base Facility Charge by Meter Size			
5/8" x 3/4"	\$22.00	\$24.48	
1"	\$55.00	\$61.20	
1 1/2"	\$110.00	\$122.40	
2"	\$176.00	\$195.84	
Charge per 1,000 gallons	\$1.66	\$1.85	
<u>Typical Residential 5/8" x 3/4" Meter Bill Comparison</u>			
3,000 Gallons	\$26.98	\$30.03	
6,000 Gallons	\$31.96	\$35.58	
10,000 Gallons	\$38.60	\$42.98	

Item 11

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 Accounting and Finance (Cicchetti, Buys) *ALM*
Division of Engineering (Ellis) *TB*
Office of the General Counsel (DuVal) *JSC*

RE: Docket No. 20180047-EI – Consideration of the tax impacts associated with Tax Cuts and Jobs Act of 2017 for Duke Energy Florida, LLC.

AGENDA: 04/5/22 – Regular Agenda – Proposed Agency Action - Interested Persons May Participate

COMMISSIONERS ASSIGNED: Graham, Clark, Passidomo

PREHEARING OFFICER: Passidomo

CRITICAL DATES: None

SPECIAL INSTRUCTIONS: None

Case Background

This docket was opened to consider the impacts of the Tax Cuts and Jobs Act of 2017 on Duke Energy Florida, LLC (DEF). In Order No. PSC-2019-0053-FOF-EI, the Commission approved stipulated positions agreed upon by the Office of Public Counsel (OPC) and DEF that resolved all issues in the docket.¹ The Commission left the docket open to consider feedback from the Internal Revenue Service (IRS) regarding the treatment of excess accumulated deferred income taxes (EDIT) and the cost of removal (COR) and until all true-ups and offsets were fully implemented. The true-ups and offsets have been fully implemented and the only item left for the Commission to address is the feedback from the IRS.

¹Order No. PSC-2019-0053-FOF-EI, issued February 1, 2019, in Docket No. 20180047-EI, *In re: Consideration of the tax impacts associated with Tax Cuts and Jobs Act of 2017 for Duke Energy Florida, LLC.*

Docket No. 20180047-EI

Date: March 24, 2022

On March 9, 2022, DEF and the OPC filed a joint motion requesting that the Commission approve DEF's proposed treatment of the EDIT associated with the COR, as per IRS guidance, and close this docket.

The Commission has jurisdiction over this matter pursuant to Sections 366.04, 366.05, and 366.06, Florida Statutes.

Discussion of Issues

Issue 1: Should the Commission approve DEF's proposed treatment of the excess accumulated deferred income taxes (EDIT) associated with the cost of removal (COR) as satisfying the requirements set forth in Order No. PSC-2019-0053-FOF-EI?

Recommendation: Yes. Staff recommends that the Commission approve DEF's proposed treatment of the EDIT associated with the COR as satisfying the requirements set forth in Order No. PSC-2019-0053-FOF-EI. (Cicchetti)

Staff Analysis: At the time the Commission issued Order No. PSC-2019-0053-FOF-EI, there was uncertainty concerning the IRS's position regarding the COR and the determination of protected and unprotected EDIT. The Commission ordered that the instant docket remain open to consider feedback from the IRS regarding the treatment of EDIT relating to the COR. In the joint motion, DEF and the OPC proposed a reasonable resolution of the COR EDIT issue based on information from the IRS as reflected in Private Letter Rulings (PLR) 202033002 and 202124003. The adjustment to accumulated deferred income taxes for COR results in an EDIT of approximately \$68 million to be recovered from customers. DEF's EDIT related to COR will be amortized at the same rate as the protected EDIT. DEF's amortization of EDIT related to COR at the same rate as the protected EDIT is not a normalization violation. Furthermore, as stated in the joint motion:

“The amortization of both protected and unprotected EDIT has already been incorporated in the 2022-2024 revenue requirement in the 2021 Settlement. Accordingly, DEF's proposed treatment of the EDIT related to COR has no immediate impact on customer rates.”²

Staff has reviewed the PLRs and agrees with DEF and OPC that DEF's proposed treatment of COR will not result in a normalization violation. Based on the foregoing, staff recommends that the Commission approve DEF's treatment of the EDIT associated with the COR as satisfying the requirements set forth in Order No. PSC-2019-0053-FOF-EI.

²Joint Motion By Duke Energy Florida, LLC, and Citizens Of Florida Through Office Of Public Counsel To Approve Treatment Of Cost Of Removal And Close The Docket, Section 9, page 4.

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. (DuVal)

Staff Analysis: 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.