

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Consideration of the tax impacts
Associated with Tax Cuts and Jobs Act of 2017
For Florida Power & Light Company.

DOCKET NO.: 20180046-EI
FILED: January 7, 2019

**FLORIDA INDUSTRIAL POWER USERS GROUP'S
PREHEARING STATEMENT**

The Florida Industrial Power Users Group (“FIPUG”), pursuant to the Revised Order Establishing Procedure in this docket, Order No. PSC-2018-0278-PCO-EI, issued June 1, 2018 hereby submits its Prehearing Statement.

APPEARANCES:

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1. WITNESSES:

All witnesses listed by other parties.

2. EXHIBITS:

All exhibits listed by other parties.

3. STATEMENT OF BASIC POSITION:

FIPUG seeks a full and fair distribution of dollars to FIPUG members and other Florida Power & Light Company (FPL) customers resulting from the federal Tax Cuts and Jobs Act of 2017. This distribution should be done efficiently, transparently, accurately, and without delay.

4. STATEMENT OF FACTUAL ISSUES AND POSITIONS

ISSUE 1: What is the forecasted tax expense for the tax year 2018 at a 21 percent federal corporate tax rate?

FIPUG: Adopt the Office of Public Counsel (OPC).

ISSUE 2: What is the forecasted tax expense for the tax year 2018 at a 35 percent federal corporate tax rate?

FIPUG: Adopt the position of OPC.

ISSUE 3: What is the forecasted NOI for the tax year 2018 at a 21 percent federal corporate tax rate?

FIPUG: Adopt the position of OPC.

ISSUE 4: What is the forecasted NOI for the tax year 2018 at a 35 percent federal corporate tax rate?

FIPUG: Adopt the position of OPC.

ISSUE 5: What is the forecasted capital structure for the tax year 2018 at a 21 percent federal corporate tax rate?

FIPUG: Adopt the position of OPC.

ISSUE 6: What is the forecasted capital structure for the tax year 2018 at a 35 percent federal corporate tax rate?

FIPUG: Adopt the position of OPC.

ISSUE 7: What is the forecasted jurisdictional adjusted base revenue requirement for the tax year 2018 using a 21 percent federal corporate tax rate?

FIPUG: Adopt the position of OPC.

ISSUE 8: What is the forecasted jurisdictional adjusted revenue requirement for the tax year 2018 using a 35 percent federal corporate tax rate?

FIPUG: Adopt the position of OPC.

ISSUE 9: What is the annual jurisdictional adjusted base revenue requirement increase/decrease due to the enactment of the Tax Cuts and Jobs Act of 2017 for the tax year 2018?

FIPUG: Adopt the position of OPC.

ISSUE 10: Were “protected excess deferred taxes” for 2018 using a 21 percent federal corporate tax rate appropriately calculated?

FIPUG: Adopt the position of OPC.

ISSUE 11: Were “unprotected excess deferred taxes” for 2018 using a 21 percent federal corporate tax rate appropriately calculated?

FIPUG: Adopt the position of OPC.

ISSUE 12: Were Accumulated Deferred Income Taxes (ADIT) for 2018 appropriately calculated?

FIPUG: Adopt the position of OPC.

ISSUE 13: Are classifications of the excess ADIT between “protected” and “unprotected” appropriate?

FIPUG: Adopt the position of OPC.

ISSUE 14: How should unprotected excess ADITs be flowed back to FPL customers?

FIPUG: Adopt the position of OPC.

ISSUE 15: How should protected excess ADITs be flowed back to FPL customers?

FIPUG: Adopt the position of OPC.

ISSUE 18: Should this docket be closed?

FIPUG: Adopt the position of OPC.

CONTESTED ISSUES

OPC

ISSUE 16: Should FPL seek a private letter ruling from the IRS regarding its classification of the excess ADIT relating to cost of removal/negative net salvage as “protected”?

FIPUG: Adopt the position of OPC.

ISSUE 17: If FPL seeks a private letter ruling and the IRS rules therein (or issues other relevant guidance) that the excess ADIT relating to cost of removal/negative net salvage is to be treated as “unprotected”, what process should be followed for the reclassification?

FIPUG: Adopt the position of OPC.

FIPUG

ISSUE A: What is the rate decrease for each customer class resulting from the Tax Cuts and Jobs Act of 2017, if any, and, if so, when will those rate decreases become effective?

FIPUG: The rate decrease for each customer class should reflect the monies FPL saved as a result of the enactment of the federal Tax Cuts and Jobs Act of 2017. This law reduced FPL’s corporate tax rate from 35% to 21%. FPL’s currently customers pay these taxes as part of the rates FPL currently charges, which the Commission approved, at a federal tax rate of 35%. All other Florida investor-owned utilities have made provision to flow back federal tax savings realized from the tax rate decrease from 35% to 21% to customers. The Commission should order FPL to act in a similar fashion, and flow back these tax savings to customers. The Commission should order the flow back of these federal tax savings resulting from the enactment of the federal Tax Cuts and Jobs Act of 2017 as soon as possible.

FPL

ISSUE B: How should FPL treat the savings associated with the Tax Cuts and Jobs Act of 2017?

FIPUG: The tax savings should be flowed back to FIPUG members and other FPL customers as soon as possible.

STAFF

ISSUE C: Does the 2016 Settlement Agreement allow FPL to replenish the Amortization Reserve with the tax savings resulting from the Tax Cuts and Jobs Act of 2017?

FIPUG: No.

5. STIPULATED ISSUES:

None at this time.

6. PENDING MOTIONS:

None.

**7. STATEMENT OF PARTY'S PENDING REQUESTS OR CLAIMS FOR
CONFIDENTIALITY:**

None.

8. OBJECTIONS TO QUALIFICATION OF WITNESSES AS AN EXPERT:

FIPUG objects to any expert witness not designated as an expert and expressly offered as an expert witness, with areas of expertise identified.

9. STATEMENT OF COMPLIANCE WITH ORDER ESTABLISHING PROCEDURE:

There are no requirements of the Order Establishing Procedure with which FIPUG cannot comply.

/s/ Jon C. Moyle

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CERTIFICATE OF SERVICE

I **HEREBY CERTIFY** that a true and correct copy of the foregoing has been furnished by electronic mail this 7th day of January, 2019, to the following:

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