

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

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
ORDER NO. PSC-2022-0146-PAA-EI
ISSUED: April 15, 2022

The following Commissioners participated in the disposition of this matter:

ANDREW GILES FAY, Chairman
ART GRAHAM
GARY F. CLARK
MIKE LA ROSA
GABRIELLA PASSIDOMO

NOTICE OF PROPOSED AGENCY ACTION
ORDER APPROVING DUKE ENERGY FLORIDA LLC'S
PROPOSED TREATMENT OF EXCESS ACCUMULATED DEFERRED INCOME TAXES

BY THE COMMISSION:

NOTICE is hereby given by the Florida Public Service Commission that the action discussed herein is preliminary in nature and will become final unless a person whose interests are substantially affected files a petition for a formal proceeding, pursuant to Rule 25-22.029, Florida Administrative Code (F.A.C.).

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, we approved stipulated positions agreed upon by the Office of Public Counsel (OPC) and DEF that resolved all issues in the docket.¹ We 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 us to address is the feedback from the IRS.

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

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.*

We have jurisdiction over this matter pursuant to Sections 366.04, 366.05, and 366.06, Florida Statutes.

Decision

At the time we 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. We 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, filed March 9, 2022, DEF and 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

We have reviewed the PLRs and agree with DEF and OPC that DEF's proposed treatment of COR will not result in a normalization violation. Based on the foregoing, we hereby 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.

Based on the foregoing, it is

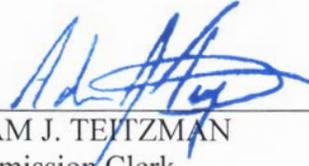
ORDERED by the Florida Public Service Commission that Duke Energy Florida LLC's proposed treatment of the excess accumulated deferred income taxes associated with the cost of removal as satisfying the requirements set forth in Order No. PSC-2019-0053-FOF-EI. It is further

ORDERED that the provisions of this Order, issued as proposed agency action, shall become final and effective upon the issuance of a Consummating Order unless an appropriate petition, in the form provided by Rule 28-106.201, Florida Administrative Code, is received by the Commission Clerk, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on the date set forth in the "Notice of Further Proceedings" attached hereto. It is further

ORDERED that in the event this Order becomes final, this docket shall be closed.

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.

By ORDER of the Florida Public Service Commission this 15th day of April, 2022.



ADAM J. TEITZMAN
Commission Clerk
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399
(850) 413-6770
www.floridapsc.com

Copies furnished: A copy of this document is provided to the parties of record at the time of issuance and, if applicable, interested persons.

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NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), Florida Statutes, to notify parties of any administrative hearing that is available under Section 120.57, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing will be granted or result in the relief sought.

Mediation may be available on a case-by-case basis. If mediation is conducted, it does not affect a substantially interested person's right to a hearing.

The action proposed herein is preliminary in nature. Any person whose substantial interests are affected by the action proposed by this order may file a petition for a formal proceeding, in the form provided by Rule 28-106.201, Florida Administrative Code. This petition must be received by the Office of Commission Clerk, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on May 6, 2022.

In the absence of such a petition, this order shall become final and effective upon the issuance of a Consummating Order.

Any objection or protest filed in this/these docket(s) before the issuance date of this order is considered abandoned unless it satisfies the foregoing conditions and is renewed within the specified protest period.