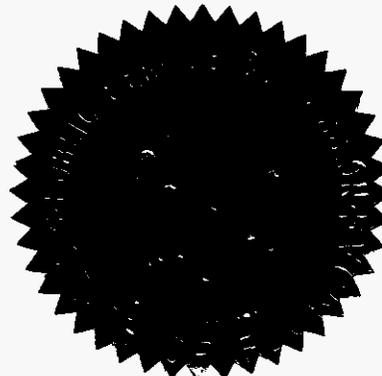


BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

In the Matter of

FUEL AND PURCHASED POWER
COST RECOVERY CLAUSE WITH
GENERATING PERFORMANCE
INCENTIVE FACTOR.

DOCKET NO. 100001-EI



PROCEEDINGS: PREHEARING CONFERENCE

COMMISSIONER PARTICIPATING: COMMISSIONER LISA POLAK EDGAR
PREHEARING OFFICER

DATE: Wednesday, January 19, 2011

TIME: Commenced at 1:30 p.m.
Concluded at 1:47 p.m.

PLACE: Betty Easley Conference Center
Room 148
4075 Esplanade Way
Tallahassee, Florida

REPORTED BY: JANE FAUROT, RPR
Official FPSC Reporter
(850) 413-6732

DOCUMENT NUMBER DATE

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FLORIDA PUBLIC SERVICE COMMISSION

FPSC-COMMISSION CLERK

1 APPEARANCES:

2 PATRICK K. WIGGINS, ESQUIRE, Post Office Drawer
3 1657, Tallahassee, Florida 32302, appearing on behalf of
4 the Association for Fairness in Rate Making.

5 CAPTAIN ALLEN JUNGELS, USAF, Utility Litigation
6 & Negotiation Team, Staff Attorney, AFLSA/JACL-ULFSC, 139
7 Barnes Drive, Suite 1, Tyndall AFB, Florida 32403-5317,
8 appearing on behalf of Federal Executive Agencies.

9 JOHN T. BUTLER, ESQUIRE, Florida Power & Light
10 Company, 700 Universe Boulevard, Juno Beach, Florida
11 33408-0420, appearing on behalf of Florida Power & Light
12 Company.

13 ROBERT SCHEFFEL WRIGHT, ESQUIRE and JOHN T.
14 LAVIA, III, ESQUIRE, c/o Young van Assenderp, P.A., 225
15 South Adams Street, Suite 200, Tallahassee, Florida 32301,
16 appearing on behalf of Florida Retail Federation.

17 VICKI GORDON KAUFMAN, ESQUIRE, Keefe, Anchors
18 Gordon & Moyle, P.A., 118 North Gadsden Street,
19 Tallahassee, Florida 32301, appearing on behalf of Florida
20 Industrial Power Users Group.

21 CECILIA BRADLEY, ESQUIRE, Senior Assistant
22 Attorney General, Office of Attorney General, The Capitol -
23 PL01, Tallahassee, Florida 32399-1050, appearing on behalf
24 of the Office of the Citizens of the State of Florida.

25

1 CHARLIE BECK, ESQUIRE, Office of Public
2 Counsel, c/o The Florida Legislature, 111 W. Madison St.,
3 Room 812, Tallahassee, Florida 32399-1400, appearing on
4 behalf of the Citizens of Florida.

5 KATHERINE FLEMING, ESQUIRE and ERIK SAYLER,
6 ESQUIRE, FPSC General Counsel's Office, 2540 Shumard Oak
7 Boulevard, Tallahassee, Florida 32399-0850, appearing on
8 behalf of the Florida Public Service Commission Staff.

9 MARY ANNE HELTON, Deputy General Counsel, Florida
10 Public Service Commission, 2540 Shumard Oak Boulevard,
11 Tallahassee, Florida 32399-0850, Advisor to the
12 Commissioners.

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P R O C E E D I N G S

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2 **COMMISSIONER EDGAR:** Good afternoon.

3 I call this prehearing to order; Commissioner
4 Lisa Edgar presiding.

5 Okay. Let's go ahead and have staff read the
6 notice, please.

7 **MS. FLEMING:** Pursuant to notice issued by the
8 Commission Clerk, this time and place has been set for a
9 prehearing conference in the FPL portion of the following
10 dockets: 100001-EI, 100002-EG, 100007-EI.

11 **CHAIRMAN GRAHAM:** Thank you.

12 And thank you for reading all of those zeros so
13 I didn't have to. We will go in order, numerical order,
14 01, 02, and then 07. Let's begin next by taking
15 appearances. And if you would, please, state if you are
16 in each of the three dockets that we are taking up today,
17 or just one or two of them.

18 Mr. Butler.

19 **MR. BUTLER:** Thank you, Commissioner.

20 John Butler on behalf of Florida Power and Light
21 Company, and I am appearing in all three of the dockets.

22 **MR. WRIGHT:** Thank you, Commissioner.

23 Robert Scheffel Wright, and I would also like to
24 enter an appearance for my law partner,
25 John T. LaVia, III, appearing on behalf of the Florida

1 Retail Federation in the 0001 docket, the fuel docket.

2 Thank you.

3 **COMMISSIONER EDGAR:** Thank you.

4 **MR. WIGGINS:** Patrick K. Wiggins appearing on
5 behalf of the Association for Fairness in Ratemaking in
6 the 0001 docket.

7 **MR. BECK:** Thank you.

8 Charlie Beck, Office of the Public Counsel,
9 appearing on behalf of the citizens in each of the three
10 dockets.

11 **MS. BRADLEY:** Cecilia Bradley, Office of the
12 Attorney General in the 01 docket.

13 **MS. KAUFMAN:** Good afternoon, Vicki Gordon
14 Kaufman of the law firm Keefe Anchors Gordon and Moyle.
15 I'm appearing on behalf of the Florida Industrial Power
16 Users Group in all three dockets.

17 **CAPTAIN JUNGELS:** Good afternoon.

18 Captain Allen Jungels appearing on behalf of the
19 Federal Executive Agencies in all three dockets.

20 **COMMISSIONER EDGAR:** And, staff?

21 **MS. FLEMING:** Katherine Fleming in the 01 and 02
22 docket, and I'd also like to enter an appearance for Erik
23 Sayler in the 01 docket.

24 **MS. TAN:** Lee Eng Tan in the 02 docket.

25 **MS. BROWN:** Martha Carter Brown and Anna

1 Williams in the 07 docket.

2 MS. HELTON: And Mary Anne Helton, Advisor to
3 the Commission in all three dockets.

4 COMMISSIONER EDGAR: Thank you.

5 Okay. Is there anything from staff and then
6 from the parties before we go into the 01 docket?

7 MS. FLEMING: I'm not aware of anything.

8 COMMISSIONER EDGAR: Okay. Anything else that
9 anybody would like to bring up at this time? No.

10 Okay. Then we will begin with the first docket,
11 fuel and purchased power cost-recovery clause and
12 generating performance incentive factor.

13 Ms. Fleming, any preliminary matters for this
14 docket?

15 MS. FLEMING: I'm not aware of any preliminary
16 matters. We will note for the record that parties and
17 staff are proposing stipulations of all issues in this
18 docket.

19 COMMISSIONER EDGAR: Anything, Mr. Butler?

20 MR. BUTLER: Nothing.

21 COMMISSIONER EDGAR: Nothing. Anybody else?
22 Ready to go.

23 Okay. Then, as always, what we will do next is
24 proceed through the draft prehearing order section by
25 section. Any changes, any questions, please speak right

1 up, and we will address them.

2 So, first, Section I. Section II. Section III,
3 jurisdiction. Section IV, procedure for handling
4 confidential information. Section V, prefiled testimony
5 and exhibits and witnesses. Section VI, order of
6 witnesses.

7 Ms. Fleming.

8 **MS. FLEMING:** Staff would like to note that
9 there are proposed stipulations of all witnesses, and we
10 have language in here that if no Commissioner assigned to
11 this docket has any questions for those witnesses, those
12 witnesses may be excused. After this prehearing
13 conference, we will advise all the offices and we will let
14 the parties know as soon as possible whether those
15 witnesses are excused.

16 **COMMISSIONER EDGAR:** Okay. So as Ms. Fleming
17 has said, our staff will coordinate with each
18 Commissioner's office individually, and then work with the
19 parties to give you notice.

20 Any questions, any problems with that procedure?

21 **MR. BUTLER:** No questions or problems. We
22 certainly appreciate staff's assistance.

23 **COMMISSIONER EDGAR:** Thank you.

24 Then that brings us to Section VII, basic
25 positions. Section VIII. Section IX.

1 Ms. Fleming.

2 **MS. FLEMING:** Staff will just note that we have
3 prepared a Comprehensive Exhibit List which has been
4 provided to all the parties. That Comprehensive Exhibit
5 List contains staff's stipulated composite exhibits as
6 well as prefiled testimony, or prefiled exhibits. That
7 has been provided to all the parties. I am aware that
8 there are no objections, but we would like to confirm with
9 the parties that that still is the case.

10 **COMMISSIONER EDGAR:** Certainly. So each of the
11 parties have a copy of that list that the staff has
12 prepared. Are there any questions, problems, changes,
13 additions?

14 **MR. BUTLER:** None for FPL.

15 **COMMISSIONER EDGAR:** Okay.

16 **MR. WRIGHT:** None from the Retail Federation.
17 We're agreeable. Thank you.

18 **COMMISSIONER EDGAR:** Thank you.

19 **MR. BECK:** None from OPC.

20 **MS. BRADLEY:** None from the AG.

21 **MS. KAUFMAN:** None from FIPUG.

22 **CAPTAIN JUNGELS:** None from FEA.

23 **COMMISSIONER EDGAR:** All right. Thank you very
24 much.

25 Okay. That brings us to Section X, the proposed

1 stipulations. I understand that we have a couple of
2 different types, and so I will ask Ms. Fleming to describe
3 those different types and give us a status update.

4 **MS. FLEMING:** Certainly, Commissioner.

5 Section X in the proposed stipulation sets forth two types
6 of stipulations; Type B and Type C.

7 Type B stipulations reflect an agreement between
8 the utility, FPL, and staff in which all the other parties
9 are not objecting to the stipulation. Type C stipulations
10 are similar to Type B, but indicate that while FIPUG has
11 concerns about FPL's hedging practices, it takes no
12 position on the issue because it is FIPUG's understanding
13 that the Commission will consider hedging issues on a
14 separate track, and FIPUG will participate in that
15 process. It is my understanding that there are Type C
16 stipulations for Issues 2A, 2B, 8, 9, and 10. The
17 remaining stipulations are Type B Stipulations.

18 **COMMISSIONER EDGAR:** Are there any questions
19 or comments about that description? No.

20 Okay. Then I would like to have it on the
21 record that the stipulations as currently reflected in the
22 prehearing order are the agreed-upon language, and that
23 everybody remains comfortable with that on a --
24 comfortable and committed on go-forward basis, so we will
25 take those up in some groupings. If you have a question,

1 a comment, a proposed change, just speak right up. If I
2 don't hear from you, I'm going to assume that that is
3 agreement with the language as reflected in the draft.

4 So the first grouping is 2A, 2B, 2C, 2D, 2E,
5 company-specific fuel adjustment issues. Seeing no
6 changes. The second grouping, generic fuel adjustment
7 Issues 6 through 16. No changes. Company-specific
8 generating performance incentive factor, 20A. No changes.
9 Generic generating performance incentive factor issues, 21
10 and 22. No changes. Company-specific capacity
11 cost-recovery factor issue, 24A. No changes. And the
12 last one, generic capacity cost-recovery factor issues;
13 27, 28, 30, 31, 32, and 33. No changes. Okay. Great.

14 That brings us then to Section XI, pending
15 motions. And I do understand that there are pending
16 motions for a temporary protective order.

17 Ms. Fleming, can you speak to that?

18 **MS. FLEMING:** Yes, Commissioner.

19 There are three motions for temporary protective
20 order. Staff intends to confer with the utility and
21 discuss whether those motions for temporary protective
22 order are still necessary or whether they can be
23 withdrawn. So we will discuss that with them after the
24 prehearing conference.

25 **COMMISSIONER EDGAR:** Okay. And it is my

1 preference to address those one way or the other before
2 the hearing, if that is possible; Mr. Butler.

3 **MR. BUTLER:** Thank you. I will confer with
4 Mr. Beck and we will see what we can do about minimizing
5 them, if possible.

6 **COMMISSIONER EDGAR:** Mr. Beck, does that work
7 for you?

8 **MR. BECK:** Certainly.

9 **COMMISSIONER EDGAR:** Okay. Great. Thank you.

10 And that brings us to Section XII, pending
11 confidentiality matters. And I do understand that there
12 are many pending confidentiality requests. I know that a
13 few draft orders have just come to my office, so I will
14 address those. And I know that there are many others in
15 process and that that does take awhile. Are there any
16 comments, questions, anything that needs to be dealt with
17 today or prior to the hearing?

18 **MR. BUTLER:** No.

19 **COMMISSIONER EDGAR:** Okay. Ms. Fleming,
20 anything else on that one?

21 **MS. FLEMING:** No, Commissioner. As you just
22 stated, we will be providing you additional orders within
23 the next few days, as well.

24 **COMMISSIONER EDGAR:** Okay. That brings us to
25 Section XIII, post-hearing procedures. As we are all

1 familiar with, often this docket results in a bench
2 decision. I do see that as a possibility in this, but
3 certainly I'm not in a position to speak for where we will
4 be at the close of the hearing. Are there any questions
5 or concerns about the description in the draft prehearing
6 order regarding post-hearing briefs should they be
7 necessary?

8 **MR. BUTLER:** No.

9 **COMMISSIONER EDGAR:** Okay. Section XIV dealing
10 with opening statements. I am a fan of opening statements
11 myself, but I will leave that, of course, to each of you
12 counsel as to whether that is something that you would
13 like to take advantage of. And as noted in the draft
14 order, if any party would like to, it should not exceed
15 five minutes per party.

16 Any other matters in this particular docket?
17 Yes, Mr. Wright.

18 **MR. WRIGHT:** Thank you, Madam Chairman.

19 Since we, all parties this is, have agreed that
20 the testimony and exhibits may be entered and that the
21 witnesses excused subject to Commission approval, if the
22 witness excusal holds up, I would just ask would it be
23 possible for counsel for the parties to be excused from
24 appearance at the final hearing, since it appears that it
25 will be a very quick stipulated proceeding.

1 **COMMISSIONER EDGAR:** Staff, do you have any
2 concerns with that request?

3 **MS. FLEMING:** At the moment I don't have any
4 concerns. We have had this issue arise in the past where
5 we have had stipulated dockets where certain parties would
6 ask to be excused and that has been granted. I would
7 just -- as Mr. Wright has suggested, we should wait until
8 we hear from all the Commissioners whether those witnesses
9 can be excused.

10 **COMMISSIONER EDGAR:** Any concerns from any of
11 the other parties, if there is a party that would like to
12 be excused prior to the hearing?

13 **MS. KAUFMAN:** Commissioner Edgar --

14 **COMMISSIONER EDGAR:** Yes, ma'am.

15 **MS. KAUFMAN:** I would like to make the same
16 request on behalf of FIPUG.

17 **MR. WIGGINS:** Likewise for our firm.

18 **COMMISSIONER EDGAR:** Mr. Wiggins. Okay.

19 Mr. Butler, any concerns?

20 **MR. BUTLER:** No concerns.

21 **COMMISSIONER EDGAR:** Okay. I do not have any
22 concerns. What I would like is to ask each of the parties
23 if that is something that you would like to avail
24 yourselves of, coordinate with our staff. Please be sure
25 to let them know in advance of the hearing, and I will ask

1 our staff to communicate that directly to the Chairman and
2 to his office.

3 MS. FLEMING: We will, Commissioner.

4 MR. WRIGHT: Thank you.

5 COMMISSIONER EDGAR: Thank you.

6 Any other matters on this particular docket?
7 Anything from staff?

8 MS. FLEMING: I'm not aware of any other
9 matters.

10 COMMISSIONER EDGAR: Okay. Then we can adjourn
11 the 01 docket.

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1 STATE OF FLORIDA)

2 : CERTIFICATE OF REPORTER

3 COUNTY OF LEON)

4

5 I, JANE FAUROT, RPR, Chief, Hearing Reporter Services
6 Section, FPSC Division of Commission Clerk, do hereby
7 certify that the foregoing proceeding was heard at the time
8 and place herein stated.

9

10 IT IS FURTHER CERTIFIED that I
11 stenographically reported the said proceedings; that the
12 same has been transcribed under my direct supervision; and
13 that this transcript constitutes a true transcription of my
14 notes of said proceedings.

15

16 I FURTHER CERTIFY that I am not a relative, employee,
17 attorney or counsel of any of the parties, nor am I a
18 relative or employee of any of the parties' attorney or
19 counsel connected with the action, nor am I financially
20 interested in the action.

21

DATED THIS 20th day of January, 2011.

22

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24

JANE FAUROT, RPR
Official FPSC Hearings Reporter
(850) 413-6732

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