

BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

In the Matter of:

DOCKET NO. 110138-EI

PETITION FOR INCREASE IN RATES
BY GULF POWER COMPANY.

_____ /

PROCEEDINGS: COMMISSION CONFERENCE AGENDA
ITEM NO. 6

COMMISSIONERS
PARTICIPATING: CHAIRMAN RONALD A. BRISÉ
COMMISSIONER LISA POLAK EDGAR
COMMISSIONER ART GRAHAM
COMMISSIONER EDUARDO E. BALBIS
COMMISSIONER JULIE I. BROWN

DATE: Tuesday, January 10, 2012

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

REPORTED BY: JANE FAUROT, RPR
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FLORIDA PUBLIC SERVICE COMMISSION

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P R O C E E D I N G S

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2 **CHAIRMAN BRISÉ:** At this time we will move on
3 to Item 6. And I think if everyone recalls, Item 6 was
4 something that we were dealing with in December with
5 respect to Gulf and the hearing, and there was a
6 stipulation. So we will ask staff to tee it up, and
7 then at that point we will come back to the Commission.
8 We expect that it will be primarily a Commissioner
9 discussion. Obviously, the Commissioners will have the
10 opportunity to ask questions if necessary, but we look
11 forward to a robust discussion amongst Commissioners.

12 So, Staff -- I don't know -- Caroline?

13 **MS. KLANCKE:** Caroline Klancke from
14 Commission staff.

15 As you noted, Item 6 addresses Gulf Power
16 Company's motion for approval of partial settlement
17 agreements filed in Docket Number 110138 on
18 December 16th, 2011. This motion is comprised of
19 two partial settlement agreements, namely the
20 stipulation and agreement regarding settlement of
21 certain revenue issues and the stipulation and
22 agreement regarding settlement of certain costs of
23 service and rate design issues. The approval of the
24 motion is contingent upon the approval of both
25 settlement agreements.

1 Staff and the parties are available to
2 answer any questions that you may have.

3 **CHAIRMAN BRISÉ:** Thank you very much.

4 At this time I'm going to open up the
5 board and see if Commissioners have comments or if
6 we are ready to move on to a motion.

7 Commissioner Balbis.

8 **COMMISSIONER BALBIS:** Thank you, Mr.
9 Chairman.

10 And I just have a few comments on this
11 issue, and a lot of my comments I stated previously
12 when we discussed this proposed stipulation. And as
13 before, you know, I want to state I'm always in
14 favor of stipulations. I think that when all
15 parties can come together and agree on an issue or
16 issues, I think we all benefit. But I do have two
17 concerns about this proposed stipulation.

18 You know, in this case I don't believe
19 that we do have all parties that are in favor of the
20 stipulation because some those are conflicted out.
21 I mean, we have the Office of Public Counsel who is
22 charged with representing all customers who both
23 represent the residential customer and even
24 industrial customers that may be impacted
25 differently, so obviously they are conflicted out on

1 this. And I think similarly the Florida Retail
2 Federation which represents small mom and pop
3 commercial customers as well as the large customers.
4 And, again, those will be impacted differently. So
5 obviously they are conflicted out. So the first
6 concern I have is that we do not have all parties
7 that are weighing in on this.

8 The second concern is that I understand
9 this is not the first time that the cost allocation
10 methodology has been proposed to be changed, and
11 this Commission previously, I believe, in 2002
12 denied that methodology after a full review of the
13 record after staff provided the Commission with a
14 recommendation based on briefs by the parties. And
15 there may be compelling arguments that it's time to
16 change the cost allocation methodology, and I'm not
17 stating that it is not, but I am uncomfortable with
18 changing basically what this Commission decided in
19 2002 without a full review of the record, without
20 the parties being given the opportunity to provide
21 briefs and staff providing us with a full
22 recommendation.

23 So I continue to have those concerns. If
24 at the end the day we determine that Gulf's proposed
25 methodology is the best, most accurate allocation of

1 costs, then we should approve it. But before we
2 possibly shift costs to residential and small
3 commercial customers, I want to be assured that it
4 is the most accurately reflection of the costs. So
5 I continue to have concerns about this, and at this
6 point I cannot support approving the stipulations.

7 **CHAIRMAN BRISÉ:** Commissioner Brown.

8 **COMMISSIONER BROWN:** Thank you.

9 And I share a similar sentiment with
10 Commissioner Balbis, but I do have some questions
11 for staff with regard to what is the harm if this
12 Commission does not approve the stipulation today.

13 **MS. KLANCKE:** I think that staff believes,
14 and as we specified at the hearing, although we are
15 truly in a posture where we are neither for nor against
16 any of -- we have not taken any positions, and we are
17 still awaiting briefs on all seven of these issues.
18 And we have not formulated opinions on them. We
19 believe that it would be extremely beneficial to the
20 Commission to have the ability to review staff's
21 recommendation on these issues. Because of the highly
22 technical nature of many of the issues, it would be
23 beneficial to have not only all of the evidentiary
24 record consolidated in one document for your review,
25 but also to have the benefit of the briefs in which the

1 parties will provide their arguments with respect to
2 all seven of the issues in the settlement agreements.
3 And staff believes that that is extremely necessary and
4 beneficial in the instant case.

5 **COMMISSIONER BROWN:** Thank you. Actually, I
6 have one more question.

7 Ms. Klancke, since the 2001 Gulf rate
8 case, what change in circumstances has occurred to
9 warrant use of the MDS methodology?

10 **MS. KLANCKE:** That question was posed to the
11 utility in early discovery, in particular in Staff's
12 Fourth Set of Discovery, which is part of Exhibit 89 in
13 the record, and the utility declined to provide
14 instances indicating a change in circumstances in the
15 record.

16 In addition, at the hearing they did not
17 elucidate any additional change in circumstances,
18 but for the downturn in the economy, which was
19 specified by counsel for Gulf. Other than that,
20 staff is bound by the record to advise you with, and
21 staff is unaware of any change in circumstances that
22 would warrant it at this instance that's reflected
23 in the record.

24 **COMMISSIONER BROWN:** Thank you.

25 And other than the CHELCO case, has this

1 Commission considered using the MDS methodology?

2 **MS. KLANCKE:** Since the 1980s, this
3 Commission has considered and contemplated the use of
4 the MDS methodology nine times that I'm aware. And
5 with the sole exception of the CHELCO case, we have
6 declined to adopt it, most articulately analyzed in
7 Gulf's last rate case for a myriad of reasons, but most
8 recently we also analyzed this in the Florida Power and
9 Light case, their last rate case, 080677, and we
10 declined to adopt it in that instance, as well.

11 **COMMISSIONER BROWN:** Thank you.

12 And, Commissioners, if we are going -- in
13 my opinion, if we are going to deviate from this
14 Commission's practice and precedent, I think we need
15 to do it a fully vetted appealable order that gives
16 notice to the parties and others alike of why we are
17 going to either adopt the methodology or not adopt
18 it. So I'm in support of -- I'm not in support of a
19 stipulation.

20 **CHAIRMAN BRISÉ:** Commissioner Graham.

21 **COMMISSIONER GRAHAM:** Thank you, Mr.
22 Chairman.

23 I guess I'm odd man out here. I'm not
24 going to believe, or most of this -- most of what
25 I'm going to have to say was already said before we

1 broke three weeks ago. I'm of the mind-set that,
2 you know, we need to be allocating costs for what
3 they cost. And if they cost a little bit more to
4 deliver it to the residential, then it should cost a
5 little bit more. If it's less to deliver it to the
6 big industrial user or to the military, I think then
7 it should be a little less.

8 I mean, I think our job is to make sure
9 that we're going out there truly allocating the cost
10 of service to who we're providing it for. I know
11 there's some talk about economic development. You
12 can believe those numbers or not believe those
13 numbers, but I'm excited about going down this path.
14 And hopefully even if we don't get done it today
15 that we get it done sometime in the near future, or
16 at least start trying to see if we can make
17 something like this work.

18 I think Gulf being as small as they are
19 and where they are conveniently located, I think
20 they are a great place to get started or at least a
21 good place to test this theory and see how it works.

22 **CHAIRMAN BRISÉ:** Commissioner Edgar.

23 **COMMISSIONER EDGAR:** Thank you Mr. Chairman.

24 And thank you, Commissioners, for your
25 comments and your thoughts.

1 I know that each of us has spent a great
2 deal of time thinking about these issues and
3 reviewing. We certainly did talk it around and
4 around at the end of the hearing that evening and
5 then the next day. And I know I have, and I know
6 each of you have looked at the record and have met
7 and discussed with our staff since that time.

8 I go back to some of the discussion that
9 we had those previous times, and I understand the
10 desire for more information always. Sometimes it's
11 that last bit of information that can make the
12 difference. But I do, once again, have a concern
13 about some of the characterization of what is before
14 us. We are talking about very specific and very
15 narrow revenue issues with a dollar value assigned,
16 as agreed to by the parties that are before us, and
17 about a cost-allocation methodology. And I have to
18 come back to some of the comments I made before
19 about a methodology being a methodology, and no
20 methodology being perfect in every situation.

21 I don't think the methodology that has
22 been used in other cases is perfect in every
23 instance for every cost for every customer in every
24 geographic distribution, you know, the best that
25 could be done. And I think the same of the

1 methodology that is before us, probably not perfect
2 in every instance, but a rational design that has
3 been supported by, I believe, three expert witnesses
4 that have come before us on the record in this
5 specific case.

6 And I also do believe, and I am repeating
7 myself I know, but I do believe that the panhandle
8 of Florida and the territory that Gulf serves is
9 somewhat different than other areas of the state.
10 And as a statewide body, I believe that it is very
11 much within our authority and our responsibility to
12 take some of those regional and customer-based
13 distinctions into account. I also do believe that
14 the western panhandle of Florida does compete
15 economically more with other southeastern states
16 than, say, does south or central Florida.

17 And with that, I do think that it is our
18 responsibility to take all of those things into
19 account. I understand, again, the desire for much
20 of the technical information to be detailed. But,
21 Commissioners, I have great respect and belief in
22 the ability of our staff to write out a specific
23 order per our decision and our direction from the
24 record and the transcripts of the discussion that we
25 have had to date and that we will have again.

1 And I do believe, and I know that we have
2 done that before, and I do believe that if this
3 Commission, a majority of us were to decide to
4 support the stipulation, that the discussion that we
5 have had would absolutely provide for a full and
6 thorough order that absolutely, should it need to be
7 appealed or should somebody desire to, would provide
8 the basis for that and for any parties to
9 participate and for it to be clear and for the
10 background to be there.

11 I have a great deal of respect for
12 precedent. I think that if you were to look over my
13 voting record in the seven years I have been here
14 that that would be clear, but I also believe that it
15 is the responsibility of the five of us, with the
16 information that we have, and recognizing that
17 things do change over time, to make a decision in
18 every issue with the best information that we have
19 before us.

20 So the point that it would be a change in
21 methodology, as has been pointed out, I recognize
22 that change in methodology, but I believe that
23 precedent should be persuasive, but that every
24 situation should, of course, be examined for its
25 unique circumstances. And I think that the

1 agreement that has been posed to us is a reflection
2 of some of those changed circumstances and the
3 expert witness testimony that we have in the record
4 before us.

5 So with that, I would ask that we, again,
6 as we are here, we have all day, not that we need
7 all day and we all have other things to do and
8 things going on downtown that I know we are
9 interested in, but while we are gathered together, I
10 think that the five of us can make a good solid
11 strong decision, and there may not be a need to just
12 keep kicking this can further and further down the
13 road.

14 Thank you.

15 **CHAIRMAN BRISÉ:** Thank you.

16 I have a question for FEA. During my time
17 here FEA intervenes, but seldomly is there a strong
18 intervention as there is this time. So if you can
19 talk to me a little bit about the benefit that this
20 particular stipulation would have for the military
21 in that region, and talk about the impact of this
22 stipulation with respect to the military in that
23 region and what that means more globally from your
24 perspective to the region.

25 **MAJOR THOMPSON:** Yes, Mr. Chairman.

1 Northwest Florida has six of the largest
2 bases in Florida that are represented by Tyndall,
3 Eglin, Hurlburt, and then the Navy bases are
4 Eglin -- or, I'm sorry, the navy bases are
5 Pensacola, Whiting, and then Panama City. So we
6 have six very large bases represented within
7 Northwest Florida, and those bases do all their own
8 distribution. However, we still pay for the
9 distribution costs that are associated with the
10 nonMDS system. So that is one of the big issues.

11 The other issue is the cost of service,
12 the distribution service, that the MDS would save
13 thousands and probably tens of thousands of dollars
14 for mission responsibilities for each base, and this
15 would be very supportive for the bases in this
16 region to increase the mission, increase the
17 sustainability of the bases in this Northwest
18 Florida and to increase the population of troops in
19 that area, as well, which would help economically in
20 that region.

21 **CHAIRMAN BRISÉ:** Thank you, Major Thompson.

22 **MAJOR THOMPSON:** You're welcome.

23 **CHAIRMAN BRISÉ:** This one for me is
24 particularly challenging. I think that there is some
25 real benefit potentially in accepting the stipulation.

1 And I think I have some caution in me that I'm a bit
2 concerned about, as some of my fellow Commissioners
3 have expressed, with respect to having a completely
4 articulated recommendation coming from staff and
5 looking at the pros and cons of MDS in this particular
6 case.

7 But I'm not sure if, with more time, if
8 staff would get us to a different position with
9 respect to the information that is there than we are
10 today. And maybe staff can clarify that for me.

11 **MR. WILLIS:** Commissioner, with my
12 discussions with my staff, you're aware of certain
13 areas of the MDS methodology which we think there may
14 be some flaws with. But within the record, there's
15 nothing that I know of to resolve the flaws that we saw
16 in that that we would outline in a recommendation, if
17 that answers your question.

18 **CHAIRMAN BRISÉ:** So to be clear, even if we
19 were to get a fully vetted recommendation from staff,
20 there would be nothing new in the record and whatever
21 issues that exist today would still exist a few months
22 from now. So we would have to work through those
23 issues anyway, if we were to sort of backtrack into it.

24 **MR. WILLIS:** That is correct. The only
25 difference between what you have today and a

1 recommendation is you would be able to look at the
2 recommendation and decide for yourselves whether those
3 are material enough for you to say no to the MDS
4 methodology. And that's a decision you have to make
5 when you have got a fully vetted recommendation is
6 whether or not that was something that was material
7 enough for you to say no. If it wasn't, then you would
8 go ahead and adopt the MDS methodology.

9 **CHAIRMAN BRISÉ:** Okay. So, therefore, it's
10 really -- the decision boils down to are you confident
11 in the information that you have before you right now
12 versus having a more synthesized set of information
13 presented before you? And then it becomes a decision
14 of whether you agree with the methodology or not for
15 this particular case. Would that accurately describe
16 the situation that we are in right now?

17 **MR. WILLIS:** I believe so. It comes down to
18 whether or not you, as a Commissioner, all five of you
19 have enough information in the record now to make that
20 decision.

21 **CHAIRMAN BRISÉ:** Thank you. All right.

22 Commissioner Graham.

23 **COMMISSIONER GRAHAM:** Well, since we've heard
24 from everybody, I think we can get it started. And I
25 will make the motion to approve the stipulation in its

1 entirety as stated in front of us.

2 **CHAIRMAN BRISÉ:** Just to let the
3 Commissioners know, I will not make it a practice to
4 second. So if a second is required, somebody else will
5 have to second it.

6 Commissioner Edgar.

7 **COMMISSIONER EDGAR:** Mr. Chairman, all those
8 buttons up there --

9 **CHAIRMAN BRISÉ:** I know.

10 (Laughter.)

11 **COMMISSIONER EDGAR:** I will second the
12 motion. You know, I understand and respect the caution
13 that some of my fellow Commissioners have expressed,
14 but I do believe for myself that with the past couple
15 of weeks that we have the additional time to meet with
16 our staff, to review the record, and I have gone back
17 over some, not all, some pieces of the transcript from
18 discussion and questions and answers from the parties
19 and from our staff. And from all of that information,
20 I am comfortable that we have had good information,
21 good discussion, that we understand the issue that is
22 before us. And so with that, Mr. Chairman, I will
23 second, which would have the effect of supporting that
24 we adopt the two stipulations that are before us.

25 **CHAIRMAN BRISÉ:** Okay. Now we are in the

1 comment section.

2 Commissioner Balbis.

3 **COMMISSIONER BALBIS:** Thank you, Mr.
4 Chairman. And, thank you, Commissioners. And, you
5 know, I just want to stay few things.

6 First all, I agree with a lot of the
7 comments that Commissioners Graham and Edgar have
8 made, and specifically that there is no perfect
9 methodology, and I recognize that and I agree with
10 that. And also, Commissioner Edgar, about the fact
11 that precedence does not always bind our hands, and
12 I think that this Commission specifically has gone
13 against precedence. But, again, for me personally,
14 I'm comfortable with doing that when I have enough
15 information to be comfortable that if we are going
16 against previous decisions that we have the same
17 amount of information that the previous Commission
18 did.

19 But just to follow up with, Mr. Chairman,
20 the question you asked staff. One of the things
21 that I would like to see in a full recommendation
22 that would help me make a decision on this
23 methodology is specifically, you know, what are the
24 effects on each customer class. I mean, we have
25 heard from industrial, we have heard from the

1 executive agencies and the military, but to
2 Commissioner Graham's comments on economic
3 development, you know, what is the effect on small
4 commercial customers? Is that the bulk of the
5 customers? And, you know, I know that the majority
6 of jobs in this country are mom and pop small
7 businesses. You know, what will the effect on those
8 be? And if we are going to take into account
9 economic development, I would like to be more
10 comfortable with the full effect of this from that
11 standpoint.

12 You know, so recommendations should
13 include information on the effect on all customer
14 classes. More technical issues. What is the effect
15 of using average pole sizes versus the smallest pole
16 size in determining the minimum distribution cost?
17 I mean, that's the type of information that I would
18 need in order to support a change.

19 And, again, I have not made a decision on
20 the methodology. I always want to get a more
21 accurate methodology, as Commissioner Graham said, I
22 mean, however it plays out. If that is a more
23 accurate way and increases here and lowers there,
24 that's fine, and let's have the cost-causers pay
25 more. But I need that information in the

1 recommendation in order to make that decision, so
2 with that I cannot support this motion.

3 **CHAIRMAN BRISÉ:** Thank you.

4 Commissioners, any further comments?

5 Okay. At this time we will --

6 Commissioner Edgar.

7 **COMMISSIONER EDGAR:** Thank you, Mr. Chairman.

8 I'm still trying to get back used to buttons myself.

9 One of the reasons that, for my own
10 analysis, I was not convinced and remain unconvinced
11 that a more detailed written recommendation will
12 really provide us with more information than we
13 already have is because of the interrelatedness of
14 every issue. When we are looking at potential
15 cost-recovery, past, current, and future, and are
16 trying to set those correct and accurate revenue
17 numbers, every discreet issue impacts all of the
18 other issues when it comes down to the numbers. And
19 to try to synthesize that thought, there are, you
20 know, other issues, those that we will take on some
21 of the other hundred-plus issues that are part of
22 this case that will impact the cost impact of any
23 one decision or of any one issue. And other issues
24 and decisions that we will make when the rest of
25 this docket comes before us, I believe have a great

1 likelihood of mitigating any impact that this
2 methodology would have on some of those other
3 service consumer groups.

4 So when we try to parse out the individual
5 impact and say a dollar amount, I think that that is
6 somewhat of a hypothetical construct until we know
7 and we make all of those other votes. And I know
8 that this Commission and our staff will look very,
9 very, very carefully and will scrub all of those
10 numbers. And that probably there is a great
11 likelihood that there will be an impact on some of
12 the revenue requests that have been made. In other
13 words, we will probably reduce or disallow many of
14 the requests.

15 And with that in mind, again, I remain
16 unconvinced that a full -- you know, we had the
17 opportunity to ask for a written recommendation the
18 last time we were here, and we decided to bring it
19 back before us without one. I think sometimes -- I
20 think, again, that each individual issue, to assign
21 a dollar value on that, not knowing the larger
22 picture, could perhaps be somewhat misleading. And
23 I do believe that there is a great likelihood that
24 any impact might be mitigated.

25 And thank you for letting me work that

1 out.

2 **CHAIRMAN BRISÉ:** Commissioner Graham.

3 **COMMISSIONER GRAHAM:** I couldn't say it any
4 more eloquent than she said it, so I'm just going to
5 say ditto. You know, I think it's the best thing
6 moving forward approving the stipulation, and staff
7 can -- as staff writes the recommendation, the details
8 that the other Commissioners are still looking for will
9 be in that recommendation. And I think they can make
10 even that much more of an informed decision as we move
11 forward. So hopefully we can get the vote for this and
12 we can put this to bed and we can move forward with
13 life.

14 **CHAIRMAN BRISÉ:** Thank you, Commissioner
15 Graham.

16 So at this time, if there are no further
17 comments, we will take a vote. All in favor say
18 aye.

19 Aye.

20 **COMMISSIONER EDGAR:** Aye.

21 **COMMISSIONER GRAHAM:** Aye.

22 **CHAIRMAN BRISÉ:** All opposed, nay.

23 **COMMISSIONER BROWN:** Nay.

24 **COMMISSIONER BALBIS:** Nay.

25 **CHAIRMAN BRISÉ:** Okay. All right. So the

1 stipulation passes three to two. And that deals with
2 Items 1 through 6.
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STATE OF FLORIDA)

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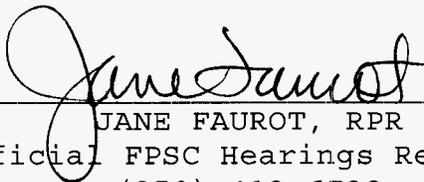
COUNTY OF LEON)

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

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

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

DATED THIS 12th day of January, 2012.



JANE FAUROT, RPR
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