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BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

In the Matter of:

DOCKET NO. 20230001-EI

Fuel and purchased power cost
recovery clause with generating
performance incentive factor. (DEF)

Fuel and purchased power cost
recovery clause with generating
performance incentive factor. (FPL)

Fuel and purchased power cost
recovery clause with generating
performance incentive factor. (TECO)

PROCEEDINGS: COMMISSION CONFERENCE AGENDA
ITEM NOS. 6, 7 & 8

COMMISSIONERS
PARTICIPATING: CHAIRMAN ANDREW GILES FAY
COMMISSIONER ART GRAHAM
COMMISSIONER GARY F. CLARK
COMMISSIONER MIKE LA ROSA
COMMISSIONER GABRIELLA PASSIDOMO

DATE: Tuesday, March 7, 2023

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

REPORTED BY: DEBRA R. KRICK
Court Reporter and
Notary Public in and for
the State of Florida at Large

PREMIER REPORTING
112 W. 5TH AVENUE
TALLAHASSEE, FLORIDA
(850) 894-0828

1 P R O C E E D I N G S

2 CHAIRMAN FAY: All right. Commissioners, I
3 will give our staff a few seconds to get set up
4 here, but next we will be taking up Items No. 6, 7
5 and 8 procedurally together.

6 All right. Commissioners, with that, we will
7 -- I will lay out just some proceed do you
8 remember. We do have an agreement to take up these
9 items together with the parties, and what we plan
10 to do is allow each IOU 10 minutes to make their
11 presentation to the Commission. That essentially
12 can be divided by their opening and closing
13 comments.

14 The order of the presentation this morning
15 will go Duke, FPL and then TECO. For the
16 intervenors, we will allow that same time
17 allocation to each presentation for these items,
18 with the only exception with PCS Phosphate, since
19 they are only speaking to Duke's docket, we will
20 limit them to five minutes in Duke's docket. And
21 the order of presentation we have for them will be
22 OPC, FIPUG, Retail and then PCS Phosphate. Once
23 again, the IOUs with reserve their time.

24 We will take up Item No. 6 first, and let me
25 make sure we've got everybody in the right posture

1 here.

2 Ms. Brownless, anything else that we need to
3 address before we take up the parties?

4 MS. BROWNLESS: We will start with the opening
5 statements and rebuttal, as you indicated --

6 CHAIRMAN FAY: Okay.

7 MS. BROWNLESS: -- and then we will go back
8 and address each item separately, 6, 7 and 8.

9 CHAIRMAN FAY: Okay. So we will first go to
10 the opening statements. You are obviously allowed
11 to reserve time for the end component.

12 We will start with you, Mr. Bernier, for Duke.

13 MR. BERNIER: Thank you, Mr. Chairman. Good
14 morning, Commissioners.

15 Before you today is DEF's amended petition for
16 a midcourse correction. The amended petition
17 accomplishes essentially three things. It places
18 into rates our 2022 actual underrecovery beginning
19 in April -- first billing cycle in April. It
20 proposes a decrease to our 2023 projected fuel
21 expense by approximately \$710 million. And it
22 reduces the 2023 capacity clause projected expense
23 to provide customers the benefit of the reductions
24 provided for in the IIJA, as previously approved by
25 this commission.

1 We urge your approval of our amended petition
2 as filled filed, and I will reserve the remainder
3 of my time for any rebuttal.

4 Thank you.

5 CHAIRMAN FAY: Okay. Thank you, Mr. Bernier.
6 Next we will go to Ms. Moncada.

7 MS. MONCADA: Thank you. Good morning,
8 Commissioners. Thank you for the opportunity to
9 make a few remarks. I will be brief and will
10 reserve the balance of my time for rebuttal
11 comments if it becomes necessary to address the
12 statements made by the intervenors.

13 FPL fully supports the staff recommendation.
14 In last year's fuel proceeding, the Commission
15 approved factors that excluded the pending 2022
16 underrecovery. In entering its order, the
17 Commission pointed to and relied on FPL's
18 testimony, which explained that there were unique
19 circumstances affecting the volatility of the gas
20 markets in 2022.

21 Your order directed the utilities to make a
22 filing to address the underrecovery by January 23rd
23 of this year, which FPL did. In compliance with
24 that order, FPL petitioned to change the fuel
25 factors applicable to customer bills beginning

1 April 1st of this year.

2 When we were last before you, we expected that
3 we would be coming to you today to present a
4 request to increase the fuel -- the amount to be
5 recovered in the fuel factor for FPL by \$2 billion
6 reflecting the underrecovery. Our January 23rd
7 petition ended up looking much different from that.
8 Changes in the gas market since last December
9 allowed us to exercise some creativity, such that
10 instead of asking for \$2 billion more, we are
11 actually asking for a reduction in the fuel factor.
12 And I will quickly describe how that came to be.

13 FPL's total actual underrecovery for 2022 was
14 \$2.1 billion. And as was discussed by FPL witness
15 Scott Bores during last year's hearing, we are
16 asking to recover that over a period of 21 months.
17 And the proportion that will be recovered in the
18 year 2023 from April to December is \$937 million.

19 Second, we separately looked at the gas costs
20 that we expect to incur in the year 2023. And
21 based on a January 3rd NYMEX curve, we calculated a
22 \$1 billion overrecovery. And instead of matching
23 the alignment period with the 2022 amount, we are
24 actually going to blow back the entire \$1 billion
25 change over a period of nine months. And the net

1 effect of not aligning the two recovery periods
2 results in collecting actually \$77 million less
3 than the original projection. On a 1,000 kWh bill
4 this amounts to an 89-cent reduction.

5 We urge the approval of FPL's petition, and
6 again thank staff for the work that it did in
7 coming to its recommendation and fully support it.

8 Thank you.

9 CHAIRMAN FAY: Great. Thank you.

10 Next we will have Mr. Means, TECO.

11 MR. MEANS: Thank you, Mr. Chairman, and good
12 morning, Commissioners.

13 Tampa Electric requests that the Commission
14 approve its February 8th, 2023, midcourse
15 correction petition without modification. If
16 approved, this petition will credit customers with
17 \$170 million of lower projected fuel costs for
18 2023.

19 The company complied with the midcourse
20 correction rule last year by filing a letter in the
21 fuel clause docket on April 21st, 2022. This
22 letter notified the Commission and the consumer
23 parties that Tampa Electric projected an
24 underrecovery of more than 10 percent. It also
25 informed the Commission and the consumer parties

1 that, due to market volatility, the company would
2 continue to monitor the market. The company's
3 April 22 notice gave the consumer parties an
4 opportunity to request that the Commission compel
5 Tampa Electric too make a midcourse correction, but
6 none of them did so.

7 Tampa Electric's approach to managing
8 unprecedented fuel price volatility in 2022 was
9 reasonable under the circumstances, and benefited
10 customers by providing them with rate stability.
11 As a result, the Commission should approve the
12 pending petition without modification.

13 Interestingly, Commissioners, we sit here
14 today in a similar posture to last year, except now
15 fuel prices are forecasted to be lower in 2023 than
16 projected last September. As I mentioned the
17 proposed fuel factors included in the petition will
18 give customer the benefit of \$170 million decline
19 in projected fuel costs for 2023. And like last
20 year, Tampa Electric proposes to leave these
21 factors in effect without a second midcourse
22 correction filing. This will allow any 2023
23 monthly over-recoveries to immediately offset the
24 remaining underrecovery balance from 2022, which
25 will both speed up recovery of that true-up balance

1 and reduce interest expense for customers. Company
2 witness Penelope Rusk is with me today to answer
3 questions on that plan if you have any.

4 Thank you for your time. If there are no
5 further questions, Tampa Electric just requests
6 that you approve the company's pending midcourse
7 correction petition as filed. We will reserve the
8 remainder of our time for rebuttal.

9 CHAIRMAN FAY: Okay. Great. Thank you.

10 Next, Mr. Rehwinkel. Mr. Rehwinkel, you got
11 surrounded there in that seat. I don't know how
12 that happened.

13 You are recognized when you are ready.

14 MR. REHWINKEL: Thank you. And we -- we fight
15 in the courtroom, but we are all friends. We are a
16 very small group around the state, so I am happy to
17 be surrounded by these guys and gals.

18 Charles Rehwinkel with Office of Public
19 Counsel.

20 We are not here today to object to the
21 substance of the filings. I want to thank the
22 Commission and the Commission staff for
23 accommodating our request to address you today. In
24 lieu of having hearings and seeking to
25 cross-examine witnesses, we asked the companies to

1 make witnesses available for depositions, and they
2 did so. We held those depositions. We learned
3 things, and we are here to talk about that today.

4 Commissioners, by the time July 27th, 2022,
5 came and June actuals indicated significant
6 underrecovery, two companies asked for recovery in
7 the 2023 factor, FPL did not. By the time of the
8 September 2nd, '22, projection filings, the numbers
9 did not go down as had been hoped, but, in fact,
10 had increased from the summer projections.

11 Even so, all three of the companies sat on the
12 2022 balance, and let interest compound at a
13 spiraling commercial paper rate that tripled from
14 June to January.

15 This is the problem with technology -- okay.

16 Over the fall, the actual under-recoveries
17 increased while the inevitable unavoidable 2022
18 underrecovery expenses awaited a day of reckoning
19 in the future, and we are here at that day of
20 reckoning.

21 No one claimed that they knew in April, July
22 or on September 2nd, that there would be a
23 devastating hurricane, or that they knew that gas
24 prices would -- what gas prices would do, or what
25 inflation would be, or what the commercial paper

1 rates would be. It wouldn't have been relevant had
2 such a claim been offered.

3 Hindsight, as we all know, is 20/20. And in
4 all of my 37 years as a participant in this
5 process, I have been incessantly reminded that the
6 prudence of one's actions cannot be measured in
7 hindsight. Even so, we are being urged to look
8 back now at how things transpired and asked to look
9 at what happened and congratulate ourselves that
10 the companies held off on these filings. It seems
11 that this retrospective view is being offered to
12 justify the companies being allowed to charge
13 customers the tens of millions of dollars in
14 compounded carrying costs incurred to hold the \$3.7
15 billion of 2022 under-recovered natural gas fuel
16 costs until April of 2023.

17 The Public Counsel submits to you that such an
18 after-the-fact hindsight is the wrong inquiry. The
19 fuel cost recovery process and the clause are
20 intended to be an objective process. The entire
21 process is intended to match the actual cost of
22 fuel as closely as possible to the consumption of
23 fuel that generates the electricity used by
24 customers. This has been recognized by
25 Commissioners in recent times, and even by company

1 advocates.

2 The fuel clause is not a source of offsets to
3 smooth bills. It is not a profit center. It
4 should stay objective. So where am I leading with
5 this? Well, the customers do not ever want to see
6 a year where the companies completely fail to
7 true-up the current year's projection. We think
8 the customer -- the Commission should take steps to
9 avoid this ever happening again.

10 We desire a consistent, objective process for
11 collecting fuel costs. For decades, the three-part
12 process of true-up, actual estimate adjustment and
13 projection has worked. In 2022, it completely
14 broke down. In our view, part of the problem is
15 that the midcourse correction petition rule has
16 been interpreted in a way that hands over 100
17 percent of the regulatory of this commission to the
18 companies. It gives them complete discretion to
19 withhold or accelerate recovery of refunds based on
20 completely subjective criteria. This is
21 unacceptable, and we ask for a midcourse correction
22 rule that works objectively.

23 Much has been made behind the notion that the
24 customers could have asked the Commission to force
25 rates to increase under the midcourse correction

1 rule back in 2022. In the absence of such a
2 request, the companies state with mock straight
3 faces that they proceeded in the absence of such
4 request.

5 They have 100 percent of the essential
6 information needed to conduct projections. They
7 are required to objectively bring that information
8 to the Commission and to take action to increase or
9 reduce rates. Customer representatives have zero
10 ability to force a hearing on these matters.

11 In fact, I went and did a little research. In
12 March 25, 2010, 13 years ago, the Commission staff
13 had a recommendation that you considered. The rule
14 was described that was proposed, the midcourse
15 correction rule, as preliminary procedural
16 decision, suggesting that it would likely not be
17 ripe for a hearing.

18 The only reason this rule was adopted was to
19 meet the JAPC requirement that petitions for rate
20 changes must be in a rule regardless of the fuel
21 clauses exemption from rulemaking. This rule was
22 not adopted to give the companies an opportunity to
23 take a pass on a midcourse correction, or to
24 true-up the fuel clause, that middle part of the
25 fuel clause that they all skipped in 2022. This

1 was an abuse of the rule. And we think it's a
2 disingenuous to suggest that the customers have a
3 responsibility to enforce that rule.

4 I think the rule was misused in 2022, and we
5 hope that it never done before, and if the
6 Commission needs to fix it, it ought to be fixed.

7 The second concern that we have with the
8 process is that it -- was how it was used to
9 generate projected fuel crisis -- prices for Duke.
10 Right out of the gate, in their projected filing in
11 September, they missed the mark by 20 percent on
12 the 2023 natural gas prices. Unfortunately,
13 because we were preoccupied with the '22
14 underrecovery, no one seemed to notice. So the
15 January 23rd showing -- filing showed a nice drop
16 in the price of fuel compared to the way they
17 projected it in September of 2022, but that
18 projection was based on a June forecast for 2023.

19 FPL and Duke came in with much lower numbers.
20 Duke was -- FPL and TECO came in with much lower
21 numbers, and Duke was high. That should have been
22 fixed at the time of the filing, or by the time of
23 the hearing. And we think it's unforgivable by
24 that by November 17th duke did not fix its 2023
25 projections based on a June 23 forecast.

1 We think the ball was dropped on this forecast
2 and -- by Duke and by the Commission, and perhaps
3 by us, but you can't over-project fuel prices and
4 then skip the mid -- the midyear true-up, but
5 that's what happened.

6 We think it's especially troubling that
7 throughout the fall, the Commission and the
8 customers were being told consistently that the
9 market was volatile as justification for letting
10 the 2022 underrecovery pile up. As a part of this
11 rhetoric, we were told that market conditions would
12 be monitored. That's what everybody said in their
13 April and March letters. This was the theme of the
14 spring, all the while for 2023, Duke maintained a
15 stale forecast from way back in June. That
16 forecast was contemporaneous with the forecast that
17 was used to estimate the 2022 underrecovery that
18 was not implemented due to volatility. The result
19 was that on September 2nd, Duke filed natural gas
20 projections that were 20 percent higher than those
21 filed by FPL and Tampa Electric.

22 We want to avoid this problem in the future,
23 because customers ended up overpaying for the first
24 three months of this -- of the year just based on
25 that. In the past 60 days, we've seen numerous

1 revisions and reforecasts done and tariffs changed
2 on very short notice. If this can be done now, it
3 could have been done back in the fall.

4 The customers ask you for three things. We
5 want to ensure that the fuel process is returned to
6 the standard objective process. What happened in
7 '22 should never, ever happen again. We ask you to
8 fix the midcourse correction rule and ensure that
9 it is not used as a way to manipulate the
10 three-part fuel clause process that should be
11 objective. We ask that you put in a process to
12 ensure that projected prices are never allowed to
13 get that far out of sync as was occurred in the
14 2020 Duke projections. We ask that future year
15 projections be made as accurate as possible, and
16 that corrections are -- so that corrections are not
17 needed, and customer bills can be accurate.

18 Thank you for the opportunity to speak, and at
19 the end of the day, we do support the plans filed
20 by the company.

21 CHAIRMAN FAY: Okay. Thank you, Mr.
22 Rehwinkel.

23 Next we will move to Mr. Moyle, FIPUG.

24 MR. MOYLE: Thank you. Thank you, Mr.
25 Chairman.

1 Let me just start and preface my remarks by
2 saying this is a little bit of an unusual
3 proceeding, where you are going to hear from the
4 consumers some, I would characterize it as
5 constructive criticism about the path that we have
6 been on, and I think that's good. I think it's
7 healthy, but I don't think anyone is going to say
8 we want you to vote no. I think this has been set
9 up more as an opportunity for a sharing of
10 thoughts, experiences of a path that we just
11 traveled down for quite some time that was bumpy,
12 and not a lot of fun, and we didn't like it, and we
13 don't want to go through it again. So that is kind
14 of a -- kind of a preface to my remarks.

15 I was thinking of a nice way to succinctly say
16 what's the point, and I believe the phrase "there
17 is a lot of room for improvement" captures it,
18 because the fuel clause, and the way I understand
19 regulations are supposed to work, and rules are
20 supposed to work, is they are supposed to inject
21 some predictability into how things are going to be
22 handled, and how they are going to happen. And the
23 fuel clause rule and process really does not do
24 that well, and I think there is evidence of that
25 before you today. You have -- you have three

1 utilities that are in asking for adjustments on
2 fuel, and all of them are asking for different
3 things.

4 I mean, TECO is in and saying, you know, we
5 are a little high, but this will help us so we are
6 not -- we are not receipt I going to be coming in
7 and asking for an adjustment like FPL and Duke has
8 done recently. You know, Duke make made a filing,
9 I think last week or a week before, to make an
10 adjustment. So they are, you know, they are all
11 coming at it from slightly different ways.

12 They did provide us an opportunity to take
13 some depositions, and I think those were
14 instructive to the consumer parties. I think they
15 also pointed out that there is a great deal of
16 discretion as to how to handle an underrecovery,
17 but we didn't talk that much about over-recoveries,
18 but I think the same case can be made for
19 over-recoveries.

20 I, you know, thought and hypothetically asked
21 to say, well, what happens if the utilities have
22 greatly over-recovered in the rule, how would you
23 determine that, particularly if all of the economic
24 metrics were suggesting that there were really
25 tough economic winds in the future, could the

1 utility just say, yeah, we are over --
2 over-recovered, we got a lot of cash that,
3 according to the rule, we could flow back, but we
4 really think there is going to be some tough times
5 ahead, so, you know, we are going -- we are going
6 to hold on to that. And the only thing that's
7 required is that a letter be filed saying we are
8 over the 10 percent range, but we are not going to
9 come in. The letters that you saw last time cited
10 volatility and a number of world events.

11 I maintain, when we've talked before, that I
12 think, in the natural gas market, volatility is
13 part and parcel of the natural gas market. And I
14 think the conditions that were cited to by the
15 utilities when they put their letters together,
16 Ukraine, a war in Ukraine. Today, there is still a
17 war in Ukraine. They cited that there was LNG -- a
18 lot of the LNG, natural gas was going overseas.
19 There was a ripe market for that. I think today
20 that's -- that's still the case. They cited
21 inflation and interest rates going up. As we sit
22 here today, I think those points are also something
23 that could be put in a letter.

24 So I share that, I think hopefully to
25 underscore that we believe that there is -- that

1 there is room for improvement in the fuel clause --
2 in the fuel clause rule, per se.

3 I will share, you know, rulemaking, you do
4 have a rule. You are free to go back in and
5 tighten it up or do some things. You had an
6 earlier proceeding today about the energy
7 efficiency, and you looked at that and said, well,
8 we could make some changes, your staff did. I
9 think you heard OPC say we ought to take a look at
10 that. It's worth considering.

11 I know there is an exemption. Mr. Chair, I
12 know the APA is something that you are quite
13 familiar is. There is an exemption for the fuel
14 clause, but there is nothing that I can see that
15 precludes you from doing rulemaking. You already
16 have a rule in place. I think if you were so
17 inclined, you could open that up and consider it.

18 I want to just spend a moment and talk about
19 an idea that was surfaced by Commissioner Clark
20 when we had, after the hearing, where it was a
21 good, creative idea that I think got a lot of
22 people thinking and some discussions, and I will
23 try to characterize it the way I understood it. I
24 may not have it exactly right, but, you know,
25 again, making the point of variability.

1 One of the filings, one utility came in and
2 said we want to recover, you know, at 12 months,
3 and the others came in and said we will recover at
4 21 months. There have been discussion about
5 interest rates. So, again, those are all things
6 that are indicia of ambiguity or lack of clarity.
7 But Commissioner Clark said, well, what if we
8 considered a way, because the different customers
9 have different views about paying back the monies,
10 what if we had some optionality associated with
11 that, could that be something that would be done?

12 And I think in the depositions I asked a lot
13 of questions about that. I think it got confusing
14 in some respects because it was customer class --
15 the whole customer class had to do it, or could you
16 break that out and have, you know, a smaller group?
17 And I used the analogy of budget billing for
18 residential customers. The Commission has put in
19 place, and they recognize the cash flow and issues
20 take place, and they came up with a solution to say
21 you can -- you can budget bill.

22 I don't understand it exactly, but residential
23 customers have the ability to alter cash flow and
24 do some things, so -- so why not look at that and
25 consider that with respect to situations when you

1 have vastly unexpected changes in things like the
2 fuel clause?

3 And the utilities did not -- thought it was
4 complicated. It would cost money. And all of
5 those are right, and it's not something that's been
6 done. It, you know, may -- you know, the
7 regulatory compact. But it's different. But
8 change -- change always brings those -- those
9 concerns to the -- to the table.

10 So if you all decide today, which I would
11 encourage you to do, to continue to have a
12 discussion about the fuel clause, not in the
13 context of an emergency, like, oh, my gosh, you
14 know, the fuel has gone up, but to do it in a more
15 relaxed setting where thoughtful ideas can be
16 exchanged, I would continue to encourage you to
17 look at that and provide some way that customers
18 might have some variability, you know, to meet
19 their own individual needs as compared to be
20 saying, here's how it has to be done.

21 So at the -- at the end of the day, we -- we
22 similarly, as the others, do not oppose the
23 recommendation, but we do think that there is room
24 for improvement in how the Commission, in how the
25 utilities, and, candidly, in how the -- how the

1 consumers are all interacting and involved in this
2 fuel clause. I mean, there is some fundamental
3 policies. You don't make money on fuel. That's
4 never been a profit center, but we can, I think, do
5 a better job of planning for it moving forward.

6 So thank you for indulging me. I may have
7 gotten close to my allocated time, and I would
8 conclude. Those are FIPUG's remarks, Mr. Chair.

9 And I did, as a courtesy to Jay Brew, who
10 represents PCS Phosphate, he had three or four
11 paragraphs that he wanted to present. I suggested
12 that I would be happy to do that for him, save him
13 a trip from DC to do that. So with your
14 permission, if I could read a brief statement on
15 behalf of PCS, I would appreciate it.

16 CHAIRMAN FAY: Okay. I am okay with that.
17 And you are within your time, Mr. Moyle.

18 MR. MOYLE: Okay. Thank you.

19 CHAIRMAN FAY: Go ahead.

20 MR. MOYLE: Thank you.

21 This is a PCS Phosphate statement regarding
22 Duke Energy Florida proposed fuel midcourse
23 correction, and that's in Docket 20230001-EI.

24 PCS Phosphate does not oppose Duke Energy's
25 February 27th, 2023, amended petition for a

1 midcourse correction. Duke's 2022 fuel cost
2 recovery deficit is an inescapable consumer
3 liability, and the utility's January petition and
4 February update reflect declines in its 2023 fuel
5 forecast that substantially offset that deficit
6 when reestablishing fuel cost recovery factors for
7 the next 12 months.

8 With that said, the fortuitous developments
9 that led to substantially lower natural gas prices
10 that are mitigating the consumer impact of the
11 midcourse correction, paren, a generally mild
12 winter and reduced LNG exports, does not excuse a
13 chaotic process that has left consumers up in the
14 air for nearly nine months over what they actually
15 can expect their power bills to look like this
16 year.

17 Notably, the midcourse correction has been
18 unnecessarily delayed since Duke notified the
19 Commission of a likely billion dollar deficiency
20 last July.

21 Duke's amended petition was filed last Monday,
22 allowing Commission staff, intervenors and other
23 stakeholders no time to explore the underpinnings
24 of Duke's latest assumptions and forecasts. The
25 fact that the amendment further lowered the 2023

1 cost forecast does not remedy a patently false -- a
2 patently faulty process.

3 The volatility in fuel prices experienced in
4 the last year has exposed the vulnerability of
5 utilities such as Duke that are heavily reliant on
6 gas-fired generation, as well as the need to
7 establish a more predictable and transparent
8 process for correcting utility fuel factors.

9 PCS recommends that the Commission assess the
10 lessons to be learned from the recent activity in
11 this docket and initiate workshops to consider
12 whether a rule change or other actions are
13 warranted to improve the process and better protect
14 Florida utility customers.

15 Thank you.

16 CHAIRMAN FAY: Okay. Thank you, Mr. Moyle.

17 All right. Commissioners, what I would like
18 to do next is we will just take a quick five-minute
19 recess. I want to give the court --

20 MR. WRIGHT: Mr. chairman.

21 CHAIRMAN FAY: Oh, Mr. Wright, I apologize. I
22 forgot about you. Come on, grab a seat.

23 MR. WRIGHT: Thank you.

24 CHAIRMAN FAY: Mr. Wright, you are recognized
25 whenever you are ready.

1 MR. WRIGHT: Thank you. I thought you might
2 would rather get me out of the way before you take
3 a break.

4 Good morning, Commissioners. I am Schef
5 Wright, and on behalf of the Florida Retail
6 Federation I want to thank you for the opportunity
7 to address you today.

8 Before I continue, I want to say simply that
9 the Retail Federation agrees with and supports the
10 remarks made by Mr. Rehwinkel on behalf of the
11 Public Counsel, Mr. Moyle on behalf of the Florida
12 Industrial Power Users Group, and also the comments
13 that Jon read on behalf of PCS Phosphate.

14 As you know, the Florida Retail Federation,
15 like other consumers, and like the Commission
16 itself, has long supported the use of the matching
17 principle in setting rates, including the IOUs'
18 fuel cost recovery charges. Using the vernacular
19 we sometimes refer to this point, or principle, as
20 pay at the pump. We oppose the IOUs sitting on
21 large under-recoveries and, thus, allowing the
22 carrying costs that the utilities expect us to pay
23 to continue to accrue and pointing toward future
24 rate impacts.

25 It's obvious that that horse, the 2022

1 underrecovery, has left the barn, and we are here
2 today to talk about what is really presently before
3 us. Specifically, I would like to address the
4 IOUs' differing recovery proposals.

5 As a general policy matter, we believe that
6 the utilities should follow the matching principle
7 to the maximum extent practicable. As presented,
8 FPL's and Tampa Electric's proposals would recover
9 their 2022 under-recoveries from April '23 through
10 December of 2024. This will have customers in fall
11 and early winter of 2024 paying for costs that were
12 incurred in early 2022. All the utilities admitted
13 at the hearing they were under-recovered every
14 month of 2022. This violates the matching
15 principle.

16 At least as between Tampa Electric and FPL,
17 Tampa Electric is proposing not to further reduce
18 its 2023 fuel charges by the additional 2023
19 overrecovery that it has recently estimated. And
20 at least Tampa Electric has expressed to us in
21 depositions last week a willingness to consider
22 recovering the remaining balance of its 2022
23 underrecovery over a shorter period in 2024.

24 And, yes, the whole deal here will result in
25 Tampa Electric's customers paying this year more

1 than their 2023 fuel costs incurred to serve them
2 this year, but it comes significantly closer to
3 getting the entire pot right for TECO's customers.

4 From where we stand and sit today, Duke's
5 proposal stands out as the best. Although, even
6 Duke's proposal has customers in the first three
7 months of 2024 paying costs that were incurred in
8 2022. It comes much closer to following the
9 matching principle in getting the overall pot
10 right.

11 Duke's rationale for its proposal is, in my
12 view, entirely sound. As characterized by Duke,
13 its proposal balances the recovery of DCF -- DEF's
14 -- sorry -- midcourse correction, with impacts on
15 customers '23 bills. It minimizes the risk of
16 pancaking. It ties in favorably with DEF's
17 proposed storm recovery charges, and it reduces the
18 total interest expense paid by Duke's customers and
19 concomitantly, the total interest expense incurred
20 by DEF.

21 In closing, the Retail Federation asks that
22 the customers impose no interest costs on customers
23 for the amounts that the utilities incurred last
24 year. We ask that you approve Duke's proposal
25 because it is the best on the table, and it's the

1 best on the table because it comes closest to
2 following the matching principle.

3 Finally, we ask that you continue your
4 longstanding adoption and following of the matching
5 principle, and at least direct FPL and Tampa
6 Electric to work toward recovery of their remaining
7 2022 fuel cost under-recoveries sooner than
8 December of 2024.

9 Thank you very much.

10 CHAIRMAN FAY: Okay. Great. Thank you, Mr.
11 Wright.

12 I will go to the utilities before we -- we
13 take a real quick break and make sure, for purposes
14 of closing, if you have anything that you would
15 like to address. Mr. Bernier, you had nine
16 minutes, Ms. Moncada seven, and Mr. Means eight.
17 If you would like to use some portion or all of
18 that time, you are welcome to do so now.

19 MR. BERNIER: Is there any chance, Mr.
20 Chairman, we could use what portion of time is left
21 after we take a quick break? I would like to kind
22 of digest what I heard and maybe confer with my
23 client before.

24 CHAIRMAN FAY: Yeah. That's fine. I will
25 give a quick break for the court reporter and our

1 folks. And then to your point, Mr. Bernier, when
2 we come back, I will make sure Mr. Higgins, we are
3 going to go to you after we have processed some of
4 this. I know they will have a few additional
5 comments. And then, Commissioners, we will have
6 either questions or debate for you at that point in
7 time.

8 So with that, we will take a quick -- we will
9 say we will start back at 11:30.

10 MR. BERNIER: Thank you.

11 CHAIRMAN FAY: Thank you.

12 (Brief recess.)

13 CHAIRMAN FAY: All right. If everyone could
14 grab your seats.

15 All right. Commissioners, the plan is to
16 allow for the utilities to provide their closing
17 comments for each of them. You have the time
18 allotted to you. You obviously don't need all of
19 that time. And then, Mr. Higgins, we will come to
20 you for your recommendations on those.

21 So with that, we will go back to you first,
22 Mr. Bernier, you are recognized.

23 MR. BERNIER: Thank you, Mr. Chairman. I
24 appreciate the additional time. I promise I will
25 not use my nine minutes.

1 We heard a lot of comments today from
2 intervenor groups about the process last year, and
3 specifically about our projection cost and
4 everything. I don't think any of that -- we do not
5 agree with those comments, and, you know, by my any
6 means, but I don't think anything is going to be
7 gained by getting into them today.

8 I also heard my friend say that they supported
9 our petition. We welcome their support, and we
10 urge you to approve it as filed.

11 Thank you.

12 CHAIRMAN FAY: Great. Thank you.

13 Ms. Moncada.

14 MS. MONCADA: FPL also supports the position
15 of the intervenors to support the staff
16 recommendation.

17 I just have a few things to say, but first I
18 will start with very important, regulation lies
19 solely with the Commission.

20 There are still statements being made today
21 that were made in December, they were made in
22 November, they were made in October, that we should
23 have done something differently with respect to the
24 midcourse correction rule, or should have taken
25 some other action with respect to our actual

1 estimated calculation. These comments today ignore
2 that this issue was considered by you. There was a
3 lot of evidence presented about it, and your order
4 made an expressed determination that we complied
5 with the rule and that deferral of the 2022
6 underrecovery was, quote, "reasonable."

7 It was not based on hindsight. We were
8 reacting to realtime events as they were happening.
9 We were reacting to reduced storage levels, strong
10 LNG exports, the war in Ukraine, and an extremely
11 hot summer. All of this you heard evidence on last
12 November.

13 There is comments made about how there was too
14 much discretion exercised with respect to the
15 midcourse correction and the underrecovery. And in
16 short, how I took that is they want to take away
17 flexibility, but it's that very flexibility that
18 put us in the posture that we are in today, which
19 is seeking a reduction as opposed to a \$2 billion
20 increase to the fuel charge that was expected last
21 year. It doesn't allow the utility to take a
22 holistic view of the circumstances, which is what
23 halls FPL strives to do, to look at overall bills
24 when it's appropriate, and other circumstances that
25 may exist in the environment at the time.

1 There are few comments made about how deferral
2 led to higher interest charges, and Mr. Wright
3 makes comments regarding consistency with the
4 matching principle. And I would just say that, to
5 put it lightly, the comments about increased
6 interest charges, it just -- it really lacks
7 perspective when we think about how that contrast
8 with the potential bill increases that would have
9 occurred if recovery had started sooner. Let me
10 give you have just a few points here.

11 If we had chosen to start recovery at the time
12 of our April 15th midcourse correction, that would
13 have resulted in recovering \$1 billion over seven
14 months. That would have been an increase of \$12.50
15 per commercial customers, or up to 20 percent -- I
16 am sorry, for residential customers, and about 20
17 percent for commercial customers.

18 Had FPL chosen to start recovery of the amount
19 we reported in our actual estimated filing
20 beginning in August, that would have meant
21 recovering \$1.6 billion over five months, or an
22 increase of \$30 for residential customers. For
23 commercial customers, that would have been 25 to
24 50 percent.

25 FPL does recognize that the commercial paper

1 rate increased, but we kept our eye on that
2 throughout the year. And there was never a point
3 in time when we believed that starting recovery
4 sooner was the better option. We were looking at a
5 year in which interest rates were not only -- it
6 wasn't just interest rates, but inflation was at an
7 all-time high. Grocery bills were at amounts that
8 people had never seen before. And people,
9 especially during, I believe it was the summertime,
10 were feeling a lot of pain at the gas pump. We
11 balanced all of those things when we made our
12 decision, and we brought it before the Commission.
13 The Commissioner considered it. It made a decision
14 that we were reasonable in the actions that we
15 took.

16 Thank you.

17 Oh, I would be remiss, too, if I didn't
18 mention that FPL has a very robust outreach program
19 with respect to its customers. We have executive
20 teams that meet with -- one-on-one with customers
21 who are focused on their energy bills, and we have
22 not heard one customer say to us, make a specific
23 request that their bill, that they would have
24 preferred for the recovery to start sooner, or that
25 they would prefer for the recovery to be made over

1 a shorter period of time.

2 Thank you. Thank you, Commissioners.

3 CHAIRMAN FAY: Okay. Great. Thank you.

4 Next Mr. Means.

5 MR. MEANS: Thank you, Mr. Chairman.

6 We listened carefully to the comments from the
7 consumer parties this morning, and the most
8 important thing we heard is that there are no
9 specific objections to the petition that is before
10 you for Tampa Electric, so we would urge you to
11 approve that without modification.

12 Also, we, you know, we are happy to continue
13 the discussion about process and procedure if the
14 Commission would like do that in the future.

15 So that's all. Thank you.

16 CHAIRMAN FAY: Okay. Great. Thank you.

17 All right. Commissioners, with that, we will
18 move to Mr. Higgins.

19 Mr. Higgins, I think, if appropriate, what we
20 would do is take up the recommendation on Item 6,
21 and then the Commission can deliberate if they have
22 questions for you, and we will vote on that, and
23 then we will move to the next one, so you are
24 recognized.

25 MR. HIGGINS: Thank you, Commissioner. Devlin

1 Higgins with Commission staff.

2 Duke Energy Florida -- excuse me. Duke Energy
3 Florida -- is it -- is it coming through?

4 CHAIRMAN FAY: Yep. You are fine.

5 MR. HIGGINS: Duke Energy Florida filed a
6 petition for a midcourse correction of it's
7 currently approved fuel and capacity charges on
8 January 23rd. This petition was later amended on
9 February 27th. The revised recommendation
10 addresses DEF's amended petition.

11 The primary reason for the company's fuel
12 midcourse correction is natural gas costs being
13 greater than originally stated.

14 Staff's recommendation is for the company's
15 fuel cost recovery factors to be adjusted to
16 encompass the underrecovery amount identified in
17 Issue 1 beginning in April 2023.

18 Further, staff recommends the company's
19 capacity cost recovery factors to be adjusted to
20 incorporate a refund related to the federal tax
21 savings associated with the Inflation Reduction Act
22 of 2022.

23 Thank you, Commissioners. Staff is prepared
24 to address any questions.

25 CHAIRMAN FAY: Okay. Great. Thank you.

1 Commissioners, any questions for Mr. Higgins?

2 Commissioner Clark.

3 COMMISSIONER CLARK: I don't have any
4 questions, Mr. Chairman. I have a couple of just
5 broad comments I would like to make in regard to
6 all three of our upcoming issues, and I think I can
7 cover it in just a second.

8 CHAIRMAN FAY: Okay. Great. Seeing no
9 questions, go ahead, Commissioner Clark.

10 COMMISSIONER CLARK: The old saying that
11 difficult times often call for extraordinary
12 measures I think we may can look back and say apply
13 to this situation.

14 It goes without saying that, in my opinion,
15 that the ultimate decision on how this case was
16 handled relied with this commission. I have heard
17 a lot of discussion here today regarding the need
18 to somehow go back and take a look at the rule, or
19 somehow go back and reflect on the midcourse
20 correction process and procedure.

21 As a commissioner, sitting here, I take full
22 responsibility for the decision that we made to
23 postpone bringing any of the utilities in for that
24 midcourse correction at that time. And I think
25 that as just a reminder, we have the right to bring

1 any utility in at any time and ask them to make
2 those adjustments, and we have the parameters set,
3 I know for the 10 percent differentiation, but at
4 any point in time, we can call a utility company
5 in. And so for anyone to imply that we somehow
6 just turned our back and let this thing happen and
7 go on I think is just erroneous. So I want to be
8 very clear and on the record about that.

9 Yeah, we may have gotten lucky with the
10 decision we made. I can't describe it any other
11 way. I don't think anyone could see that gas
12 prices were going to come down as much as they did.
13 But personally, from the decision-making
14 perspective and parameters that I was using to make
15 a decision at that time, it mostly reflected on how
16 this was going to affect the consumers. And I
17 think that in the bulk of the consumer classes,
18 especially the residential class -- Ms. Moncada
19 pointed out, made a very great observation, I don't
20 think anyone wanted to see their bills going up at
21 a time that money was pretty tight in most
22 households.

23 Now, we have classes of customers that can
24 afford to pay for things as they come along. And,
25 Mr. Wright, I certainly support and understand the

1 matching principle as well. But I just don't think
2 it is completely the right application at all
3 times.

4 And so I am very much in support of the
5 decision this commission made, and I am grateful
6 that things turned out as good as they did. We
7 could be here today facing a totally different set
8 of circumstances. If gas prices had continued
9 rising, we would probably all have tears in our
10 eyes today based on the corrections that we would
11 be having to make.

12 I can't say that we -- I can't say how it
13 happened. I am thankful that it happened today.
14 And, you know, we talked about is it a prudence
15 review going back and looking at what happened?
16 No, it's not. But I am certainly grateful for
17 where we ended up today. And thank you to the
18 staff and to the utilities for the work that you
19 did in getting us to this point today.

20 I am also very supportive of the extended
21 recovery time period. Again, I understand
22 completely the matching principle, but I think that
23 this all boils down to how can we best help
24 customers during a time of rapid inflation, during
25 a time that interest rates are rising?

1 I know we also have interest cost on dollars
2 that are associated with the under-recoveries that
3 is carried on to the consumers, but I think you can
4 go ask any consumer on the street right now in this
5 particular environment, and they would prefer to
6 defer paying back as long as they could.

7 I will say that I do want to make a point
8 about the suggestion that we threw out at the last
9 meeting regarding the recovery period -- potential
10 staggered recovery periods for different classes of
11 customers. I understand that there have been
12 discussions between the parties and the utilities,
13 and I am disappointed that you can't reach a little
14 bit better conclusion regarding.

15 I think that a lot of times utilities come in
16 and ask us to do things, and you are going to treat
17 different classes, and it seems to be an
18 insignificant cost, and we are asking for something
19 here that I don't believe is a significant cost in
20 figuring out how to -- you know, I ran a billing
21 system for a utility company. I understand how
22 class codes work, and how you can impose a charge
23 on a single class code. Unless that's changed
24 dramatically in the last few years, it can't be
25 that complicated of a process to adjust a

1 particular cost for one class of customer. So I am
2 disappointed that that conclusion could not be
3 reached.

4 But, Mr. Chairman, I appreciate, again, the
5 work that staff and the parties did in bringing
6 this to a conclusion, and I support staff's
7 recommendation on all three of the items as
8 presented.

9 CHAIRMAN FAY: Okay. Great. Thank you,
10 Commissioner Clark.

11 Any other questions or comments for our staff?

12 I -- that's a hard act to follow, Commissioner
13 Clark. A lot said there. I know you are
14 passionate about this issue, and I agree with you
15 that -- I don't know if luck is the right word, but
16 the posture that we are in, we are fortunate that
17 the prices have done what they've done. But there
18 is a lot of uncertainty to that, and I take what
19 the parties say about moving forward in that
20 midcourse correction component very seriously.

21 I know -- I won't -- I won't recognize how
22 long some of us have been practicing in the PSC,
23 but this clause has evolved over time from
24 different dates that we've come forward, and in
25 going back to read the history of it, it's changed

1 significantly. And so I don't think it's out of
2 the realm of possibilities that if it's not
3 working, which we have seen before in different
4 time periods, that we make adjustments for that.
5 And I think that's one reason we have it set up the
6 way that it is today. I believe it's gone all the
7 way from every few years to monthly at some point.
8 So I think if we need to relook at that, we can do
9 so.

10 I will also say that I understand the matching
11 principle argument, and Commissioner Clark's point
12 about trying to recognize where rates -- certain
13 types of rates can maybe be paid out differently
14 than -- or certain classes could be paid out
15 differently.

16 I -- I have to weigh that with rate impact for
17 customers. I -- and I think that it doesn't
18 invalidate the significance of it or the policy
19 itself. It just means that I give greater weight
20 to that rate impact when I look at the -- the
21 recommendation before us and the comparison of pay
22 \$25 to 1,000-kilowatt rate impact compared to a \$6
23 rate impact. I -- that's persuasive to me that we
24 need to give great weight to that -- that longer
25 recovery time period.

1 So I think, Commissioner Clark, had said you
2 were supportive of that, for clarity, also
3 supportive of the recommendation, but I think you
4 were leaning towards that longer period. I agree
5 with that and I think that's probably the right
6 thing to do here.

7 So with that, I would, you know, support that
8 put forward. And if any other Commissioners have
9 any comments or questions, I will entertain a
10 motion on Item 6.

11 COMMISSIONER CLARK: Move approval of Item No.
12 6, Mr. Chairman.

13 COMMISSIONER GRAHAM: Second.

14 CHAIRMAN FAY: Okay. We have a second for
15 approval on Item 6 with the -- the 21-month
16 recovery period, is that correct, Commissioner
17 Clark? Yep?

18 COMMISSIONER CLARK: Absolutely.

19 CHAIRMAN FAY: Okay. And a second for that,
20 Commissioner Graham?

21 COMMISSIONER GRAHAM: Yes.

22 CHAIRMAN FAY: Okay. With that, we have a
23 motion and second.

24 All that support that motion say aye.

25 (Chorus of ayes.)

1 CHAIRMAN FAY: Showing all in support of that
2 motion, Item 6 passes unanimously.

3 Thank you, Commissioners.

4 MS. BROWNLESS: Excuse me --

5 CHAIRMAN FAY: Oh, yes, Ms. Brownless.

6 MS. BROWNLESS: -- you would also, if you are
7 going to change it to 21 months -- extend it to 21
8 months, give the staff the authority to review
9 amended tariffs to reflect your vote.

10 CHAIRMAN FAY: Okay. So for purposes of the
11 record, we grant that administrative authority to
12 amend -- to allow the utilities to amend the
13 tariffs and submit them, is that --

14 MS. BROWNLESS: Okay. Thank you.

15 CHAIRMAN FAY: Great. Any objection?

16 COMMISSIONER CLARK: No. And just for
17 clarification. When I got the item yesterday, and
18 I just replaced the old one with this one. I had
19 just assumed this was the new recommendation, but
20 this was presented as an alternative now I
21 understand, is that right? It was an alternative
22 recommendation?

23 MR. FUTRELL: Yes, sir.

24 COMMISSIONER CLARK: Okay.

25 MR. FUTRELL: Yes, sir, the staff's

1 recommendation was on the 12-month recovery period.
2 We presented the optional 21-month recovery period
3 and information in Table 1.2.

4 COMMISSIONER CLARK: I am sorry, I pulled out
5 the 12-month one and inserted the 21-month one, so
6 that was my fault. That was my intention, yes.

7 CHAIRMAN FAY: Just for clarity, I think, of
8 the record, we are supporting the 21-month.

9 MS. BROWNLESS: Recovery over 21 months?

10 CHAIRMAN FAY: Yes.

11 MS. BROWNLESS: And giving the staff the
12 ability to make sure that the tariffs are filed are
13 consistent with your decision?

14 CHAIRMAN FAY: Correct. Yep. No objections?
15 Okay, with that, show Item 6 completed.

16 We will next move to Item No. 7. Mr. Higgins,
17 when you are ready.

18 MR. HIGGINS: Good morning, again,
19 Commissioners. Devlin Higgins with Commission
20 staff.

21 Item No. 7 is staff's recommendation
22 concerning Florida Power & Light's petition for a
23 midcourse correction of its currently approved fuel
24 charges. The primary reason for the company's
25 midcourse correction is 2022 natural gas costs

1 being greater than originally estimated.

2 Staff's recommendation is for the company's
3 fuel cost recovery factors to be adjusted to
4 encompass a portion of the 2022 underrecovery of
5 fuel costs beginning with the April 2023 billing
6 cycle.

7 As discussed in staff's recommendation, the
8 effect of this accounting treatment results in a
9 current period fuel charge decrease for FPL's
10 customers.

11 Thank you, Commissioners. Staff is prepared
12 to address any questions you may have.

13 CHAIRMAN FAY: Okay. Great. Thank you.

14 Commissioners, any questions or comments on
15 Item No. 7?

16 Seeing none, I will take a motion on Item 7.

17 COMMISSIONER CLARK: Move staff recommendation
18 on Item No. 7, Mr. Chairman.

19 COMMISSIONER GRAHAM: Second.

20 CHAIRMAN FAY: Okay. We have a motion and a
21 second.

22 All that support say aye.

23 (Chorus of ayes.)

24 CHAIRMAN FAY: Showing none opposed, Item 7
25 passes unanimously.

1 Thank you.

2 Next, Mr. Higgins, we will take up Item No. 8.

3 MR. HIGGINS: Once again, good morning,
4 Commissioners, Devlin Higgins with Commission
5 staff.

6 Item 8 is staff's recommendation concerning
7 Tampa Electric Company's petition for a midcourse
8 correction of its currently approved fuel charges.
9 The primary reason for the company's midcourse
10 correction is natural gas costs being greater than
11 originally estimated.

12 Staff's recommendation is for the company's
13 fuel cost recovery factors to be adjusted to
14 encompass a portion of its 2022 underrecovery of
15 fuel costs beginning with the April 2023 billing
16 cycle.

17 Thank you, Commissioners. Staff is prepared
18 to answer any questions you may have.

19 CHAIRMAN FAY: Great. Thank you, Mr. Higgins.

20 Commissioners, we will take up any questions
21 or comments on Item No. 8.

22 With that, we will take up a motion on Item
23 No. 8.

24 COMMISSIONER PASSIDOMO: Move approval of
25 staff recommendation.

1 COMMISSIONER GRAHAM: Second.

2 CHAIRMAN FAY: We have a motion and a second
3 to move for staff recommendation -- approval of
4 staff recommendation on Item 8.

5 All that support say aye.

6 (Chorus of ayes.)

7 CHAIRMAN FAY: Showing none opposed, Item 8
8 passes unanimously.

9 With that, Commissioners, that concludes our
10 agenda for today. Thank you so much. Have a good
11 day.

12 (Agenda item concluded.)

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CERTIFICATE OF REPORTER

STATE OF FLORIDA)
COUNTY OF LEON)

I, DEBRA KRICK, Court Reporter, do hereby
certify that the foregoing proceeding was heard at the
time and place herein stated.

IT IS FURTHER CERTIFIED that I
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same has been transcribed under my direct supervision;
and that this transcript constitutes a true
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I FURTHER CERTIFY that I am not a relative,
employee, attorney or counsel of any of the parties, nor
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attorney or counsel connected with the action, nor am I
financially interested in the action.

DATED this 21st day of March, 2023.



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