

BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

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(Florida Power)
(ny For the Inclusion)
(4 Purchase in Rate)
(n Acquisition)
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~~Docket No. 900796-El~~

Filed: January 9, 1991

COALITION OF LOCAL GOVERNMENTS'

ST-HEARING STATEMENT OF ISSUES AND POSITIONS

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**BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION**

In re: Petition of Florida Power)
and Light Company For the Inclusion)
Scherer Unit No. 4 Purchase in Rate)
Base, Including an Acquisition)
Adjustment.)

Docket No. 900796-EI

Filed: January 9, 1991

**THE COALITION OF LOCAL GOVERNMENTS'
POST-HEARING STATEMENT OF ISSUES AND POSITIONS**

Pursuant to Rule 25-22.056(3)(a), Florida Administrative Code, the Coalition of Local Governments ("CLG") files its Post-Hearing Statement of Issues and Positions. In addition to this Post-Hearing Statement, CLG is contemporaneously filing a post-hearing brief, providing the argument of CLG in more detail.

SUMMARY OF CLG's POSITION

The purpose of this proceeding is to address the petition of Florida Power & Light Company ("FPL") to include the purchase price of Scherer Unit 4 in rate base, including a portion of the price which exceeds the depreciated original cost of that unit. This matter went to hearing without the presentation by FPL of the definitive agreements on which the sale of the unit would be consummated.

The Commission should either take no action on the petition of FPL in this matter, or, in the alternative, in the event the Commission deems it necessary to rule one way or the other in this matter, the Commission should deny the petition. In light of the fact that the Commission would be required to make its determination without the benefit of the final documents of sale before it, the Commission would be required to enter its order supported only by supposition

or speculation. The number of changes presented by FPL during the hearing itself demonstrated clearly the dynamic nature of the negotiations between FPL and Georgia Power Company ("GPC"). It cannot be safely assumed that the information presented to the Commission during the hearing accurately describes the transaction that will ultimately be agreed to by FPL and GPC.

The Commission's approval prior to the actual acquisition of Scherer 4 is not a legal requirement. FPL admitted candidly in the hearings that the Commission's approval has been requested by FPL, and that condition could be waived by FPL in its negotiations with GPC. Additionally, there is no urgency in this matter that should encourage the Commission to proceed on an incomplete or hurried record. FPL has until the end of June, 1991 during which to commit to the purchase of the unit. The need for this hurried proceeding in this case has not been demonstrated.

FPL's presentation in this matter was composed of error-laden data generated from studies containing so much bias that they appear intended to reach a result that would indicate that the purchase of Scherer 4 is the best alternative for FPL's rate payers. Fortunately, many of the errors (although probably not all of the errors) found in the FPL model work and analyses have been found. The result is that it is not at all clear that the Scherer 4 purchase is FPL's best alternative. At this time it appears that the Scherer UPS alternative offers the best option for FPL. We hasten to add, however, that the biased study of all of the options available to FPL has demonstrated that the information on what option is best for FPL may not yet have been provided. Fair and unbiased studies of the various options ought to be ordered by the Commission before the Commission reaches a decision on how best to proceed in this matter.

FPL's actions in this docket have brought into serious question whether the information it has generated is candid and reliable. We believe that the record demonstrates that the

information is so biased and unreliable that the Commission should ignore the studies offered by FPL, order independent work performed on this matter, and deny the petition of FPL. To do otherwise in the face of this record would require the Commission to act on supposition regarding how Scherer 4 would be operated, the cost of fuel, and other equally important issues that cannot be resolved until such time as the Commission can review the necessary facts in this case to permit it to reach a studied position in this matter.

STATEMENT OF ISSUES AND POSITIONS

FACTUAL ISSUES

Issue 1:

Should the difference between FPL's purchase price and Georgia Power's net original cost of Scherer Unit 4 be given rate base treatment as an acquisition adjustment on a pro rata basis consistent with the phased purchase of the unit?

CLG Position:

No. The position taken by CLG in this issue has nothing to do with the concept of acquisition adjustments. CLG believes that this issue should not even be reached by the Commission when reviewing this matter for the reason that the facts in this docket reveal that FPL has not presented any credible evidence to support the position it has taken that its acquisition of Scherer Unit 4 should be encouraged or authorized by the Commission. The data used by FPL to support its position is unreliable and untrustworthy. FPL has not carried the burden of demonstrating that the proposed acquisition of Scherer is reasonable and prudent. Therefore, this issue should be left undecided as not ripe for decision by this Commission.

Issue 2: Does FPL, as an individual utility interconnected with the statewide grid, exhibit a need for the additional capacity provided by Scherer Unit 4?

CLG Position: No position.

Issue 3: Is the capacity to be provided by the purchase of Scherer Unit 4 reasonably consistent with the needs of Peninsular Florida, taking into consideration timing, impacts on the reliability and integrity of the Peninsular Florida grid, cost, fuel diversity and other relevant factors?

CLG Position: No. The purchase of Scherer Unit 4 has not been demonstrated to be the most cost effective means of providing capacity to FPL rate payers. While additional capacity may be warranted, the question of which is the best method by which the capacity should be acquired remains unanswered. The purchase of Scherer Unit 4 is not shown to be the best method for meeting this capacity requirement, which might be more effectively met by in-state facilities such as Nassau's plant near Jacksonville, the Martin IGCC unit or the purchase of power under a UPS with Southern Company Services. Unfortunately, the very flawed analysis by FPL has not demonstrated which of the alternatives should be selected. The most credible analysis performed in this matter reveals that the purchase of Scherer 4 is not the most cost effective method based on the incomplete information available to the Commission today.

Issue 4: How will the proposed purchase of Scherer Unit 4 affect the reliability and integrity of FPL's electric system?

CLG Position: When a company purchases large quantities of power from a neighboring system, the purchase decreases the amount of power that might otherwise be available during times of emergency in the future. The proposed acquisition of Scherer 4 has not been shown by credible and sufficient evidence to improve the reliability and integrity of FPL's electric system. In fact, the West Coast 500 kV line, which will improve these factors, was shown to be unrelated to and not contingent upon the current consideration by FPL to purchase Scherer 4.

Issue 5: How will the proposed purchase of Scherer Unit 4 affect the adequacy of the fuel diversity for FPL's system?

CLG Position: The proposed purchase of Scherer Unit 4 will provide no better fuel diversity for FPL than several of the other options under consideration by FPL, including the Scherer 4 UPS and the Martin option. Therefore, there would be no improvement realized by this proposed acquisition that would not otherwise be experienced in some other option by which FPL secured coal fired power. Despite the fact that FPL lists "coal by wire" purchases of power under the heading of purchased power, the power being purchased (such as the Scherer UPS) improves the effective fuel diversity of FPL as well as would the purchase of Scherer 4, and apparently at a lower cost to the FPL rate payer.

Issue 6: Has FPL reasonably considered alternative supply side sources of capacity?

CLG Position: No. The proposed purchase is not the best cost alternative for meeting the generation requirements of FPL. The studies performed by the company to determine the best cost alternative are flawed. When corrected for error, the studies demonstrate

that the purchase of Scherer Unit 4 is not the best cost supply side option. Taking into account the bias found in the studies of the alternative sources for power, it is simply not clear at this time what is the best option for FPL. Only after carefully correcting the type of study performed by FPL for such obvious biasing assumptions as the fuel escalation, depreciation, O & M escalation and basic fuel costs could this Commission be presented with sufficient facts to come to a conclusion as to which of the options available to FPL is the most cost effective. However, because of the bias found in the analysis presented by FPL, the Commission should consider calling in alternative analysts, such as an independent consulting firm selected by the Commission, to perform an unbiased and reasonable analysis of the options available to FPL.

Issue 7:

Does FPL's power supply plan reasonably consider the ability of conservation or other demand side alternatives to mitigate the need for the capacity represented by the purchase of Scherer Unit 4?

CLG Position:

No. FPL has not yet initiated sufficient incentives or demand side management toward shaping its load curves, both from a demand and energy perspective. Such incentives could include off-peak load incentives, such as off-peak thermal storage and other similar measures that would reduce FPL's peak load. The record in this case does not demonstrate adequate efforts on the part of FPL in this area.

Issue 8:

Is the purchase of Scherer Unit 4 the most cost-effective means of meeting FPL's capacity needs, taking into account risk factors that are part of the cost-effectiveness analysis?

CLG Position:

No. While it is not entirely clear from the record before the Commission just what is the best alternative for FPL to meet its capacity needs, the record before the Commission in this matter does clearly indicate that the best alternative is not the purchase of Scherer Unit 4. After correcting for errors in the studies provided by FPL, the best known alternative at this time is the Scherer UPS option by some \$20,000,000. The risk factors cannot even be analyzed at this time since the purchase agreement has not been completed. The Commission cannot tell from the record what risks FPL faces on the issues of fuel acquisition (since it will have a minority position relative to fuel procurement votes among the five or six owners of Plant Scherer). Other similar risk factors are simply unknown at this time. Because of this uncertainty the Commission's decision on the petition of FPL should be to deny it at this time.

Issue 9:

Will FPL be able to deliver electricity from Scherer Unit No. 4 to its load centers in the same time frames in which it is proposing to add investment to rate base?

CLG Position:

No position.

Issue 10:

If any transmission facilities and/or upgrades are required to accommodate the purchases of energy and capacity already under contract to FPL and the proposed Scherer purchase, what is the cost of such transmission facilities and/or upgrades and who will bear such cost?

CLG Position:

No position.

Issue 11:

Are the fuel supply and transportation costs presented in FPL's economic analysis for Scherer Unit 4 reasonable and prudent?

CLG Position:

No. The assumptions developed by FPL in presenting its economic analysis have been shown to be unreliable and biased. The costs assumed by FPL in its analyses of the various options, including the Scherer purchase option, the Martin IGCC option and the Scherer UPS option are not supportable and have introduced a significant and damaging bias into the entire analysis. Nearly every assumption relating to fuel and transportation made by FPL is clearly intended to improperly bias the FPL study against every option other than the Scherer 4 purchase option. The fuel escalation methodologies are inconsistent and therefore biased, apparently overstating the expense of fuel for one of the options by some \$500,000,000. The full extent of the error and bias can only be estimated at this time, but FPL has demonstrated that it is unwilling or unable to fairly present fuel and transportation costs for the various options in a reliable manner. The Commission should order this work performed by an independent consultant.

Issue 12:

Does the schedule being following by the Commission in this case afford all interested parties adequate opportunity to protect their interests?

CLG Position:

No. The schedule did not afford a reasonable period of time to review the material provided by FPL in response to the data inquiries of the parties in this extremely important potential procurement. What little discovery was attainable during this short period was available within only days (and for some items only hours) before the hearings commenced, leaving no reasonable time period for parties and their experts and attorneys to prepare for the hearings. The intervenors were unable to fully assimilate the data made available by the time the hearings took place in this docket. FPL has had an advantageous opportunity to review carefully how it would analyze this opportunity to purchase Scherer 4, and has had a far superior opportunity to evaluate the data that is available. On the other hand, parties such as CLG have had an unreasonably short time to evaluate the data from discovery of other parties, and have had no opportunity to follow up on its initial discovery requests with supplemental requests for information that has come to light during recent depositions and review of discovery documents made available to other parties in this docket. This schedule has been damaging and prejudicial to the intervenors.

Issue 13:

What effect, if any, does the Scherer Unit 4 purchase have on the Southern/Florida interface?

CLG Position:

The proposed acquisition has not been shown by competent evidence to provide any improvement to the Southern/Florida interface other than what would result with or without the purchase of Scherer 4.

Issue 14:

Under what circumstances should the portion of the purchase price of assets in excess of book value (the "acquisition adjustment") be given "rate base treatment," such that amortization may be included in operating expenses and the unamortized acquisition adjustment may be included in rate base?

CLG Position:

FPL has not demonstrated that the purchase of Scherer 4 will provide power into Florida less expensively than the alternatives. In fact, the best evidence before the Commission at this time is that the purchase of Scherer 4 would provide power to FPL's rate payers at higher, rather than lower, total costs. Under the circumstances, it is not demonstrated that any amount above book value is appropriate for rate base treatment, and the petition should be denied.

LEGAL ISSUE

Issue 15:

Should the Commission address in this docket transmission access disputes that may arise from the Scherer Unit 4 purchase?

CLG Position:

No position.

ULTIMATE ISSUES

Issue 16:

Is the purchase of an undivided ownership interest in Scherer Unit 4 a reasonable and prudent investment necessary to enable FPL to meet its forecast 1996 system load requirements?

CLG Position:

No. FPL has not provided sufficient credible evidence to support its contention that the petition should be granted. The studies which FPL would have the

Commission rely upon have been demonstrated to contain both errors and intentional bias, causing the studies and all resulting analyses to be without credibility.. Additionally, there is no reason for the Commission to proceed in this matter before seeing the final documents agreed to by and between FPL and GPC. The Commission is aware of the several changes that were required to the documents originally sponsored by FPL's Mr. Waters as a result of the changes in the pending deal which resulted during the negotiations that have been on-going between FPL and GPC. In order to reach a decision in this matter at this time, the Commission would be required to enter its order on supposition and speculation, and this should be avoided.

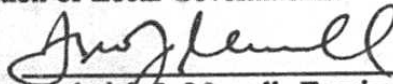
Issue 17: Should FPL be authorized to include the purchase of price of its undivided share of Scherer Unit 4, including the acquisition adjustment, in rate base?

CLG Position: No. FPL should not be encouraged in any manner to purchase Scherer Unit 4. It stands to reason, therefore, that the Commission should not reach this issue, and should instead find that FPL failed to provide sufficient credible evidence to support the petition of FPL, which should be denied.

Issue 18: In the event FPL's petition is approved, should the Commission impose guarantee requirements on the electrical output of the unit and delivery to FPL and limit the amount of total investment, operation and maintenance expenses and fuel costs that will be allowed for recovery through rates?

CLG Position: Yes. CLG supports the position of Public Counsel in this matter on this issue, and incorporates by reference the reasoning used by Public Counsel on this Issue 18.

Respectfully submitted on behalf of Coalition of Local Governments.

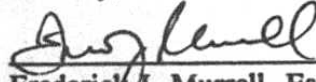


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CERTIFICATE OF SERVICE

I, Frederick J. Murrell, hereby certify that I have this day served the foregoing Coalition of Local Governments' Post-Hearing Statement of Issues and Positions by hand delivery or mailing it first-class, postage prepaid to parties on the service list shown below.

Dated at Bradenton, Florida this 8th day of January, 1991.



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