



STATE OF FLORIDA
OFFICE OF PUBLIC COUNSEL

c/o THE FLORIDA LEGISLATURE
111 WEST MADISON ST.
ROOM 812
TALLAHASSEE, FLORIDA 32399-1400
1-800-342-0222

EMAIL: OPC_WEBSITE@LEG.STATE.FL.US
WWW.FLORIDAOPC.GOV



WILL WEATHERFORD
*Speaker of the House of
Representatives*

DON GAETZ
President of the Senate

J.R. Kelly
Public Counsel

October 8, 2013

Anne Cole, Director
Office of Commission Clerk
Florida Office of Public Service Commission
2540 Shumard Oak Blvd
Tallahassee, FL 32399-0850

Re: Docket No. 130001-EI; Fuel and purchased power cost recovery clause with generating performance incentive factor.

Dear Ms. Cole:

Due to a Scrivener's error in the Office of Public Counsel's Basic Position, we inadvertently omitted the words "**fail to**" in the following sentence:

Moreover, FPL's attempts to find parallels with the truly extraordinary treatment of nuclear security costs **fail to** justify this initiative to increase customers' bills and to shield FPL's earnings from the effects of increased costs.

Therefore, we are submitting an amended statement to correct the Basic Position.

Yours truly,

A handwritten signature in blue ink that reads "Joe McGlothlin".

Joseph A. McGlothlin
Associate Public Counsel

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Fuel and Purchased Power
Cost Recovery Clause with
Generating Performance Incentive
Factor

DOCKET NO. 130001-EI

FILED: October 8, 2013

AMENDED PREHEARING STATEMENT OF THE OFFICE OF PUBLIC COUNSEL

The Citizens of the State of Florida, through the Office of Public Counsel, pursuant to the Order Establishing Procedure in this docket, Order No. PSC-13-0069-PCO-EI, issued February 4, 2013, Order No. PSC-13-0104-PCO-PU, issued February 27, 2013, Order No. PSC-13-0115-PCO-PU, issued March 7, 2013 and Order No. PSC-13-0165-PCO-EI, issued April 22, 2013, submit this Amended Prehearing Statement.

APPEARANCES:

PATRICIA A. CHRISTENSEN, Esquire
Associate Public Counsel
JOSEPH A. McGLOTHLIN, Esquire
Associate Public Counsel
CHARLES REHWINKEL, Esquire
Deputy Public Counsel
ERIK L. SAYLER, Esquire
Associate Public Counsel
Office of Public Counsel
c/o The Florida Legislature
111 West Madison Street, Room 812
Tallahassee, Florida 32399-1400
On behalf of the Citizens of the State of Florida.

1. **WITNESSES:**

None

2. EXHIBITS:

None

3. STATEMENT OF BASIC POSITION

From time to time, the Commission is called on to protect customers by guarding the entrance to a cost recovery clause from utilities' efforts to crash the gates. Utilities naturally prefer to collect costs through a clause rather than through base rates, because (a) the costs so collected do not reduce earnings achieved through base rates and (b) the true-up feature of the clause eliminates all risk of non-recovery. However, cost recovery clauses are still exceptions to traditional ratemaking. Because they impact the customers' bills directly, they must be limited to their intended purposes and guarded against abuse.

In this proceeding, FPL seeks to collect current and future costs associated with NRC requirements stemming from the Fukushima incident through the capacity cost recovery clause, despite the fact that such costs were incorporated in FPL's test year base rate revenue requirements submission in FPL's most recent rate case. There can be no better proof that a category of costs belongs in base rates than a utility witness' testimony that they were included in its MFRs, as is the case here. That such costs will vary between rate cases does not distinguish them from any other category that is base rate-related. Moreover, FPL's attempts to find parallels with the truly extraordinary treatment of nuclear security costs fail to justify this initiative to increase customers' bills and to shield FPL's earnings from the effects of increased costs.

Further, Duke Energy Florida (DEF) has the burden of demonstrating that it has complied with the refund and net insurance proceeds provisions of the 2012 settlement agreement approved in Order No. PSC-121-0104-FOF-EI and/or the Revised and Restated Stipulation and Settlement Agreement filed on August 1, 2013. The Commission retains jurisdiction to make sure that all of the required refunds (\$139 million for 2014) and required net insurance proceeds credits (\$163 million for 2014) are made and flowed through to customers to the maximum extent possible in the years prescribed and that

these benefits and all refunds from 2013 trued-up as needed in the current and subsequent Fuel Adjustment Clause proceedings.

4. STATEMENT OF FACTUAL ISSUES AND POSITIONS

I. FUEL ISSUES

COMPANY-SPECIFIC FUEL ADJUSTMENT ISSUES

Duke Energy Florida, Inc.

ISSUE 1A: Should the Commission approve as prudent, DEF's actions to mitigate the volatility of natural gas, residual oil, and purchased power prices, as reported in DEF's April 2013 and August 2013 hedging reports?

OPC: No position at this time.

ISSUE 1B: Should the Commission approve DEF's 2014 Risk Management Plan?

OPC: No position at this time.

ISSUE 1C: Has DEF correctly reflected necessary refunds and adjustments pursuant to either the Settlement approved in Order No. PSC-12-0104-FOF-EI or the Revised and Restated Stipulation and Settlement Agreement filed in Docket 130208, as appropriate, in the calculation of the 2014 factors?

OPC: Duke Energy Florida (DEF) has the burden of demonstrating that it has complied with the refund and net insurance proceeds provisions of the 2012 settlement agreement approved in Order No. PSC-121-0104-FOF-EI and/or the Revised and Restated Stipulation and Settlement Agreement filed on August 1, 2013. The Commission retains jurisdiction to make sure that all of the required refunds (\$139 million for 2014) and required net insurance proceeds credits (\$163 million for 2014) are made and flowed through to customers to the maximum extent

possible in the years prescribed and that these benefits and all refunds from 2013 trued-up as needed in the current and subsequent Fuel Adjustment Clause proceedings.

Florida Power & Light Company

ISSUE 2A: Should the Commission approve as prudent, FPL's actions to mitigate the volatility of natural gas, residual oil, and purchased power prices, as reported in FPL's April 2013 and August 2013 hedging reports?

OPC: No position at this time.

ISSUE 2B: Should the Commission approve FPL's 2014 Risk Management Plan?

OPC: No position at this time.

ISSUE 2C: What is the appropriate amount of Incremental Optimization Costs for Personnel, Software, and Hardware Costs that FPL should be allowed to recover through the Fuel Clause?

OPC: The "asset optimization" program of FPL was approved in Order No. PSC-13-0023-S-EI and so is subject to the disposition of OPC's appeal of the order, which is currently pending before the Florida Supreme Court.

ISSUE 2D: What is the appropriate amount of Incremental Optimization Costs for Variable Power Plant Operations and Maintenance Costs over the 514 Megawatt Threshold that FPL should be allowed to recover through the Fuel Clause?

OPC: The "asset optimization" program of FPL was approved in Order No. PSC-13-0023-S-EI and so is subject to the disposition of OPC's appeal of the order, which is currently pending before the Florida Supreme Court.

Florida Public Utilities Company

ISSUE 3A: Is FPUC's proposed method to allocate transmission costs appropriate?

OPC: No position at this time.

ISSUE 3B: How should the lump sum payment made by Gulf Power Company (Gulf) to Florida Public Utilities Company (FPUC) to true-up capacity payments upon the reinstatement of Amendment No. 1 to FPUC's Agreement for Generation Services with Gulf be addressed?

OPC: Pursuant to the Stipulation filed on September 3, 2013, in Docket No. 130233-EI, and submitted for approval by the Commission at the October 24, 2013, the lump sum payment will be applied to reduce the regulatory asset established by Order No. PSC-12-600-PAA-EI, issued in Docket No. 120227-EI.

Gulf Power Company

ISSUE 4A: Should the Commission approve as prudent, Gulf's actions to mitigate the volatility of natural gas, residual oil, and purchased power prices, as reported in Gulf's April 2013 and August 2013 hedging reports?

OPC: No position at this time.

ISSUE 4B: Should the Commission approve Gulf's 2014 Risk Management Plan?

OPC: No position at this time.

Tampa Electric Company

ISSUE 5A: Should the Commission approve as prudent, Tampa Electric's actions to mitigate the volatility of natural gas, residual oil, and purchased power

prices, as reported in Tampa Electric's April 2013 and August 2013 hedging reports?

OPC: No position at this time.

ISSUE 5B: Should the Commission approve Tampa Electric's 2014 Risk Management Plan?

OPC: No position at this time.

ISSUE 5C: What is the appropriate amount of capital costs for the Polk Unit One ignition oil conversion project that Tampa Electric should be allowed to recover through the Fuel Clause?

OPC: The Polk Unit One ignition oil conversion project costs in accordance with Order No. PSC-12-0498-PAA-EI, issued September 27, 2012, are to be limited to actual fuel savings per year and amortized over five years using the actual weighted average cost of capital. The costs should also comply with the applicable terms of the settlement approved in Docket No. 130040-EI.

GENERIC FUEL ADJUSTMENT ISSUES

ISSUE 6: What are the appropriate actual benchmark levels for calendar year 2013 for gains on non-separated wholesale energy sales eligible for a shareholder incentive? (Not applicable to FPL).

OPC: As to FPL, see OPC's positions on Issues 2C and 2D.

ISSUE 7: What are the appropriate estimated benchmark levels for calendar year 2014 for gains on non-separated wholesale energy sales eligible for a shareholder incentive? (Not applicable to FPL).

OPC: As to FPL, see OPC's positions on Issues 2C and 2D.

ISSUE 8: What are the appropriate fuel adjustment true-up amounts for the period January 2012 through December 2012?

OPC: The cost recovery amounts should reflect the position taken by OPC in the company specific issues.

ISSUE 9: What are the appropriate fuel adjustment actual/estimated true-up amounts for the period January 2013 through December 2013?

OPC: The cost recovery amounts should reflect the position taken by OPC in the company specific issues.

ISSUE 10: What are the appropriate total fuel adjustment true-up amounts to be collected/refunded from January 2014 to December 2014?

OPC: The cost recovery amounts should reflect the position taken by OPC in the company specific issues.

ISSUE 11: What are the appropriate projected total fuel and purchased power cost recovery amounts for the period January 2014 through December 2014?

OPC: The cost recovery amounts should reflect the position taken by OPC in the company specific issues

COMPANY-SPECIFIC GENERATING PERFORMANCE INCENTIVE FACTOR ISSUES

Duke Energy Florida, Inc.

No company-specific issues for Duke Energy Florida, Inc. have been identified at this time. If such issues are identified, they shall be numbered 12A, 12B, 12C, and so forth, as appropriate.

Florida Power & Light Company

No company-specific issues for Florida Power & Light Company have been identified at this time. If such issues are identified, they shall be numbered 13A, 13B, 13C, and so forth, as appropriate.

Gulf Power Company

No company-specific issues for Gulf Power Company have been identified at this time. If such issues are identified, they shall be numbered 14A, 14B, 14C, and so forth, as appropriate.

Tampa Electric Company

No company-specific issues for Tampa Electric Company have been identified at this time. If such issues are identified, they shall be numbered 15A, 15B, 15C, and so forth, as appropriate.

GENERIC GENERATING PERFORMANCE INCENTIVE FACTOR ISSUES

ISSUE 16: What is the appropriate generation performance incentive factor (GPIF) reward or penalty for performance achieved during the period January 2012 through December 2012 for each investor-owned electric utility subject to the GPIF?

OPC: No position at this time.

ISSUE 17: What should the GPIF targets/ranges be for the period January 2014 through December 2014 for each investor-owned electric utility subject to the GPIF?

OPC: No position at this time.

ISSUE 18: Should the Commission consider modification of the existing GPIF mechanism at this time?

OPC: Due to resource constraints, OPC has not formulated a recommendation on the GPIF mechanism for consideration during the current hearing cycle, but believes

the Commission should revisit the GPIF mechanism in future proceedings. OPC reserves the right to propose modifications to or elimination of the GPIF during such proceedings.

FUEL FACTOR CALCULATION ISSUES

ISSUE 19: What are the appropriate projected net fuel and purchased power cost recovery and Generating Performance Incentive amounts to be included in the recovery factor for the period January 2014 through December 2014?

OPC: The cost recovery amounts should reflect the position taken by OPC in the company specific issues.

ISSUE 20: What is the appropriate revenue tax factor to be applied in calculating each investor-owned electric utility's levelized fuel factor for the projection period January 2014 through December 2014?

OPC: The cost recovery amounts should reflect the position taken by OPC in the company specific issues..

ISSUE 21: What are the appropriate levelized fuel cost recovery factors for the period January 2014 through December 2014?

OPC: The cost recovery amounts should reflect the position taken by OPC in the company specific issues.

ISSUE 22: What are the appropriate fuel recovery line loss multipliers to be used in calculating the fuel cost recovery factors charged to each rate class/delivery voltage level class?

OPC: The cost recovery amounts should reflect the position taken by OPC in the company specific issues.

ISSUE 23: What are the appropriate fuel cost recovery factors for each rate class/delivery voltage level class adjusted for line losses?

OPC: The cost recovery amounts should reflect the position taken by OPC in the company specific issues.

II. CAPACITY ISSUES

COMPANY-SPECIFIC CAPACITY COST RECOVERY FACTOR ISSUES

Duke Energy Florida, Inc.

ISSUE 24: Has DEF included in the capacity cost recovery clause, the nuclear cost recovery amount ordered by the Commission in Docket No. 130009-EI?

OPC: No position at this time.

Florida Power & Light Company

ISSUE 25A: Has FPL included in the capacity cost recovery clause, the nuclear cost recovery amount ordered by the Commission in Docket No. 130009-EI?

OPC: No position at this time.

ISSUE 25B: Are costs (O&M and Capital Costs) related to Nuclear Regulatory Commission requirements stemming from the Fukushima incident that exceed the levels of such costs that FPL included in its 2013 test year in Docket No. 120015-EI eligible for recovery through the capacity cost recovery clause?

OPC: No. FPL witness Keith acknowledges that FPL incorporated such projected costs in the 2013 projected test year in Docket No. 120015-EI. The fact that the level

of such costs will vary between rate cases does not render them eligible for recovery through the fuel cost recovery clause. Such selective, piecemeal ratemaking would prejudice customers by increasing their bills to shield earnings, while keeping for the benefit of the utility reductions in the levels of other base rate-related items.

ISSUE 25C: What is the appropriate amount of Incremental Nuclear Regulatory Commission (Fukushima) Compliance O&M and capital costs that FPL should be allowed to recover through the Capacity Clause?

OPC: Zero.

ISSUE 25D: What are the appropriate 2014 projected non-fuel revenue requirements for West County Energy Center Unit 3 (WCEC-3) to be recovered through the Capacity Clause?

OPC: No position at this time.

ISSUE 25E: Should the Commission approve FPL's proposed generation base rate adjustment (GBRA) factor of 4.565 percent for the Riviera Beach Energy Center (RBEC)?

OPC: The Riviera "GBRA" was approved in Order No. PSC-13-0023-S-EI, and so is subject to the disposition of OPC's appeal of the order, which is currently pending before the Florida Supreme Court.

Gulf Power Company

No company-specific issues for Gulf Power Company have been identified at this time. If such issues are identified, they shall be numbered 26A, 26B, 26C, and so forth, as appropriate.

Tampa Electric Company

No company-specific issues for Tampa Electric Company have been identified at this time. If such issues are identified, they shall be numbered 27A, 27B, 27C, and so forth, as appropriate.

GENERIC CAPACITY COST RECOVERY FACTOR ISSUES

ISSUE 28: What are the appropriate capacity cost recovery true-up amounts for the period January 2012 through December 2012?

OPC: The cost recovery amounts should reflect the position taken by OPC in the company specific issues.

ISSUE 29: What are the appropriate capacity cost recovery actual/estimated true-up amounts for the period January 2013 through December 2013?

OPC: The cost recovery amounts should reflect the position taken by OPC in the company specific issues.

ISSUE 30: What are the appropriate total capacity cost recovery true-up amounts to be collected/refunded during the period January 2014 through December 2014?

OPC: The cost recovery amounts should reflect the position taken by OPC in the company specific issues.

ISSUE 31: What are the appropriate projected total capacity cost recovery amounts for the period January 2014 through December 2014?

OPC: The cost recovery amounts should reflect the position taken by OPC in the company specific issues.

ISSUE 32: What are the appropriate projected net purchased power capacity cost recovery amounts to be included in the recovery factor for the period January 2014 through December 2014?

OPC: The cost recovery amounts should reflect the position taken by OPC in the company specific issues.

ISSUE 33: What are the appropriate jurisdictional separation factors for capacity revenues and costs to be included in the recovery factor for the period January 2014 through December 2014?

OPC: The cost recovery amounts should reflect the position taken by OPC in the company specific issues.

ISSUE 34: What are the appropriate capacity cost recovery factors for the period January 2014 through December 2014?

OPC: The cost recovery amounts should reflect the position taken by OPC in the company specific issues.

III. EFFECTIVE DATE

ISSUE 35: What should be the effective date of the fuel adjustment factors and capacity cost recovery factors for billing purposes?

OPC: No position at this time.

ISSUE 36: Should this Docket be closed?

OPC: No position at this time.

5. STIPULATED ISSUES:

None at this time.

6. PENDING MOTIONS:

OPC has no pending motions.

7. STATEMENT OF PARTY'S PENDING REQUESTS OR CLAIMS FOR CONFIDENTIALITY:

OPC has no pending request or claims for confidentiality.

8. OBJECTIONS TO QUALIFICATION OF WITNESSES AS AN EXPERT:

OPC has no objection to qualifications of witnesses.

9. STATEMENT OF COMPLIANCE WITH ORDER ESTABLISHING PROCEDURE:

There are no requirements of the Order Establishing Procedure with which the Office of Public Counsel cannot comply.

Dated this 7th day of October, 2013

Respectfully submitted,

J.R. Kelly
Public Counsel

s/Patricia A. Christensen
Patricia A. Christensen
Associate Public Counsel
c/o The Florida Legislature
Office of Public Counsel
111 W. Madison Street
Room 812
Tallahassee, FL 32399-1400

Attorney for the Citizens
of the State of Florida

6. PENDING MOTIONS:

OPC has no pending motions.

7. STATEMENT OF PARTY'S PENDING REQUESTS OR CLAIMS FOR CONFIDENTIALITY:

OPC has no pending request or claims for confidentiality.

8. OBJECTIONS TO QUALIFICATION OF WITNESSES AS AN EXPERT:

OPC has no objection to qualifications of witnesses.

9. STATEMENT OF COMPLIANCE WITH ORDER ESTABLISHING PROCEDURE:

There are no requirements of the Order Establishing Procedure with which the Office of Public Counsel cannot comply.

Dated this 7th day of October, 2013

Respectfully submitted,

J.R. Kelly
Public Counsel



Patricia A. Christensen
Associate Public Counsel
c/o The Florida Legislature
Office of Public Counsel
111 W. Madison Street
Room 812
Tallahassee, FL 32399-1400

Attorney for the Citizens
of the State of Florida

CERTIFICATE OF SERVICE
130001-EI

I HEREBY CERTIFY that a true and foregoing Amended Prehearing Statement has been furnished by electronic mail on this 8th day of October, 2013, to the following:

John T. Butler/Maria Moncada
Florida Power & Light Company
700 Universe Blvd.
Juno Beach, FL 33408

John T. Burnett, Esquire
Duke Energy Florida
106 East College Avenue, Suite 800
Tallahassee, FL 32301-7740

R. Scheffel Wright/John LaVia
Florida Retail Federation
1300 Thomaswood Drive
Tallahassee, FL 32308

Robert L. McGee, Jr.
Gulf Power Company
One Energy Place
Pensacola, FL 32520-0780

Jeffrey A. Stone, Russell A. Badders, and
Steven Griffin
Beggs & Lane Law Firm
P. O. Box 12950
Pensacola, Florida 32591-2950

Beth Keating
Gunster Law Firm
215 South Monroe Street, Suite 601
Tallahassee, FL 32301

Paula K. Brown
Tampa Electric Company
P. O. Box 111
Tampa, FL 33601-0111

Cheryl Martin
Florida Public Utilities Company
P. O. Box 3395
West Palm Beach, FL 33402-3395

Jon C. Moyle, Jr.
Florida Industrial Powers
118 N Gadsden St
Tallahassee, Florida 32301-1508

John T. Burnett, Esquire
Duke Energy Florida
106 East College Avenue, Suite 800
Tallahassee, FL 32301-7740


Paul Lewis, Jr.
Duke Energy Florida
106 East College Avenue, Suite 800
Tallahassee, FL 32301-7740

Kenneth Hoffman
Florida Power & Light Company
215 South Monroe Street, Suite 810
Tallahassee, FL 32301-1858

James Beasley and Jeffrey Wahlen, Esquire
Ausley & McMullen Law Firm
P. O. Box 391
Tallahassee, FL 32302

James W. Brew
PCS Phosphate – White Springs
1025 Thomas Jefferson St., NW
Eighth Floor, West Tower
Washington, DC 20007-5201

Julia Gilcher/Martha Barrera
Division of Legal Services
Florida Public Service Commission
2540 Shumard Oak Blvd.
Tallahassee, FL 32399-0850



Patricia A. Christensen
Associate Public Counsel