BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Fuel and purchased power cost recovery clause with generating performance incentive factor	Docket No. 150001-EI Filed: July 14, 2015

FLORIDA POWER & LIGHT COMPANY'S RESPONSE TO OFFICE OF PUBLIC COUNSEL'S MOTION TO INCLUDE DISPUTED ISSUES OF MATERIAL FACT

Florida Power & Light Company ("FPL" or the "Company"), pursuant to Rule 28-106.204, Florida Administrative Code ("F.A.C."), hereby files this response to the Office of Public Counsel ("OPC") Motion to Include Disputed Issues of Material Fact (the "OPC Motion"):

1. The OPC Motion is much ado about nothing. It seeks to include three factual issues for Commission resolution in this proceeding related to hedging results and fuel volatility. Nothing in OPC's three factual issues would affect the Commission's determination of FPL's or any other utility's fuel or capacity cost recovery factors for 2016, which is the ultimate objective of this proceeding. There is no need for the Commission to address those issues in order to set appropriate cost recovery factors.

2. Staff and the parties have agreed to include the following two issues for resolution in this docket concerning hedging (the "Hedging Issues"):

- Is it in the consumers' best interest for the utilities to continue financial hedging activities?
- What changes, if any, should be made to the manner in which electric utilities conduct their financial hedging activities?

The Hedging Issues afford OPC ample opportunity to present whatever evidence it chooses concerning hedging results and fuel volatility, as support for its position on whether the utilities' financial hedging programs are in the customers' best interest and whether any changes should be made to those programs. FPL is confident that the Commission will take OPC's evidence into account, along with all other hedging-related evidence adduced at hearing, in reaching a decision on the Hedging Issues. There is simply no need to add OPC's three proposed factual issues in order for OPC to state and support its positions fully or for the Commission to properly evaluate the continued appropriateness of financial hedging.

3. OPC's references to Order No. PSC-15-0096-PCO-EI (the order establishing procedure, or "OEP"), are misplaced. It is true that the OEP directs each party to identify questions of fact, law and policy that it considers to be at issue. However, nothing in the OEP or the Commission's well-established practice precludes a prehearing officer from excluding issues that he or she concludes are irrelevant, redundant or properly subsumed within other issues that have been included for resolution. *See, e.g.,* Order No. PSC-12-0441-PCO-EI, Docket No. 120009-EI, dated August 27, 2012; Order No. PSC-12-0323-PHO-TP, Docket No. 110234-TP, dated June 22, 2012. In this instance, OPC's three proposed factual issues are clearly subsumed within the two Hedging Issues, and there is no reason why they must or should be included separately. Moreover, as noted below, the focus in OPC's issues on hedging gains or losses is irrelevant to the central objective of hedging: volatility reduction.

4. Beyond its unpersuasive attempt to interject unnecessary factual issues into this proceeding, the OPC Motion contains some extraordinarily misleading characterizations of the utilities' hedging programs, which FPL cannot let stand unaddressed. The OPC Motion asks rhetorically whether the utilities' hedging programs should be continued "in the face of nearly $6 billion in hedging losses which were incurred from 2002 through 2014 …." This twists the facts and ignores the true purpose of hedging. As FPL stated in its 2015 Risk Management Plan, filed with the Commission in Docket No. 140001-EI on July 25, 2014 and approved in Order No. PSC-14-0701-FOF-EI:

> FPL's risk management plan is based on the following guiding principles:
>
> a) A well-managed hedging program does not involve speculation or market timing. *Its primary purpose is not to reduce FPL's fuel costs paid over time, but rather to reduce the variability or volatility in fuel costs over time.*

> b) *Hedging can result in significant lost opportunities for savings in the fuel costs to be paid by customers if fuel prices actually settle at lower levels than at the time the hedges were placed.* FPL does not predict or speculate on whether markets will ultimately rise or fall and actually settle higher or lower than the price levels that existed at the time hedges were put into place.
>
> c) Market prices and forecasts of market prices have experienced significant volatility and are expected to continue to be highly volatile and, therefore, *FPL does not intend to "outguess the market" in choosing the specific timing for effecting hedges or the percentage or volume of fuel hedged.*
>
> d) In order to balance the goal of reducing customers' exposure to rising fuel prices against the goal of allowing customers to benefit from falling fuel prices, *it is appropriate to limit hedging to a portion of the total expected volume of fuel purchases.*

(Emphasis added). FPL has taken this same approach to hedging consistently since the program's inception in 2002.

5. The hedging "losses" that OPC references repeatedly and misleadingly are simply the result of market prices for natural gas turning out to be lower than the forward curves that prevailed at the time that the hedges were put in place. That is a great result for FPL and its customers because, consistent with FPL's Risk Management Plan, a substantial volume of the gas that FPL purchases is not hedged and customers benefit fully from the lower prices that FPL paid. When that relationship is turned around, as happened in 2004-2005 and more recently in 2013-2014, hedges can result in substantial savings for customers. In view of how low gas prices are currently, it would not be surprising if FPL finds spot prices well above the forward curve in the future.

6. Ultimately, however, hedging accomplishes its intended objective of reducing the volatility experienced by customers, regardless of whether prices are going up or down. OPC misses this point entirely: its proposed factual issues about hedging gains or losses are not only unnecessary but irrelevant to hedging's central objective of reducing volatility.

WHEREFORE, FPL respectfully requests that the Prehearing Officer deny the OPC Motion, because its three proposed factual issues are subsumed within the Hedging Issues and are unnecessary for the full and proper evaluation of the utilities' financial hedging programs.

Respectfully submitted this 14th day of July, 2015.

John T. Butler
Assistant General Counsel - Regulatory
Maria J. Moncada
Principal Attorney
Florida Power & Light Company
700 Universe Boulevard
Juno Beach, FL 33408
Telephone: (561) 304-5639
Facsimile: (561) 691-7135
Email: john.butler@fpl.com

By: *s/ John T. Butler*
John T. Butler
Florida Bar No. 283479

CERTIFICATE OF SERVICE
Docket No. 150001-EI

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by electronic service on this 14th day of July, 2015 to the following:

Suzanne Brownless, Esq.
Division of Legal Services
Florida Public Service Commission
2540 Shumard Oak Blvd.
Tallahassee, Florida 32399-0850
sbrownle@psc.state.fl.us

Andrew Maurey
Michael Barrett
Division of Accounting and Finance
Florida Public Service Commission
2540 Shumard Oak Blvd.
Tallahassee, Florida 32399-0850
mbarrett@psc.state.fl.us
amaurey@psc.state.fl.us

Beth Keating, Esq.
Gunster Law Firm
Attorneys for Florida Public Utilities Corp.
215 South Monroe St., Suite 601
Tallahassee, Florida 32301-1804
bkeating@gunster.com

Dianne M. Triplett, Esq.
Attorneys for Duke Energy Florida
299 First Avenue North
St. Petersburg, Florida 33701
dianne.triplett@duke-energy.com

James D. Beasley, Esq.
J. Jeffrey Wahlen, Esq.
Ashley M. Daniels, Esq.
Ausley & McMullen
Attorneys for Tampa Electric Company
P.O. Box 391
Tallahassee, Florida 32302
jbeasley@ausley.com
jwahlen@ausley.com
adaniels@ausley.com

Jeffrey A. Stone, Esq.
Russell A. Badders, Esq.
Steven R. Griffin, Esq.
Beggs & Lane
Attorneys for Gulf Power Company
P.O. Box 12950
Pensacola, Florida 32591-2950
jas@beggslane.com
rab@beggslane.com
srg@beggslane.com

Robert Scheffel Wright, Esq.
John T. LaVia, III, Esq.
Gardner, Bist, Wiener, et al
Attorneys for Florida Retail Federation
1300 Thomaswood Drive
Tallahassee, Florida 32308
schef@gbwlegal.com
jlavia@gbwlegal.com

James W. Brew, Esq.
Owen J. Kopon, Esq.
Laura A. Wynn, Esq.
Attorneys for PCS Phosphate - White Springs
Stone Mattheis Xenopoulos & Brew, PC
1025 Thomas Jefferson Street, NW
Eighth Floor, West Tower
Washington, DC 20007-5201
jbrew@smxblaw.com
ojk@smxblaw.com
laura.wynn@smxblaw.com

Robert L. McGee, Jr.
Gulf Power Company
One Energy Place
Pensacola, Florida 32520
rlmcgee@southernco.com

Mike Cassel, Director/Regulatory and Governmental Affairs
Florida Public Utilities Company
911 South 8th Street
Fernandina Beach, Florida 32034
mcassel@fpuc.com

Matthew R. Bernier, Esq.
Duke Energy Florida
106 East College Avenue, Suite 800
Tallahassee, Florida 32301
matthew.bernier@duke-energy.com

Paula K. Brown, Manager
Tampa Electric Company
Regulatory Coordinator
Post Office Box 111
Tampa, Florida 33601-0111
regdept@tecoenergy.com

Erik L. Sayler, Esq.
John J. Truitt, Esq.
J. R. Kelly, Esq.
Patricia Christensen, Esq.
Charles Rehwinkel, Esq.
Office of Public Counsel
c/o The Florida Legislature
111 West Madison Street, Room 812
Tallahassee, Florida 32399
kelly.jr@leg.state.fl.us
christensen.patty@leg.state.fl.us
rehwinkel.charles@leg.state.fl.us
sayler.erik@leg.state.fl.us
truitt.john@leg.state.fl.us

Jon C. Moyle, Esq.
Moyle Law Firm, P.A.
Attorneys for Florida Industrial Power Users Group
118 N. Gadsden St.
Tallahassee, Florida 32301
jmoyle@moylelaw.com

By: *s/ John T. Butler*
John T. Butler
Florida Bar No. 283479