

BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

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FPSC - COMMISSION CLERK

In the Matter of:

DOCKET NO. 20180143-EI

PETITION TO INITIATE
RULEMAKING TO REVISE AND
AMEND PORTIONS OF RULE
25-6.0426, F.A.C., BY FLORIDA
POWER & LIGHT COMPANY, GULF
POWER COMPANY, AND TAMPA
ELECTRIC COMPANY.

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PROCEEDINGS: COMMISSION CONFERENCE AGENDA
ITEM NO. 3

COMMISSIONERS
PARTICIPATING: CHAIRMAN ART GRAHAM
COMMISSIONER JULIE I. BROWN
COMMISSIONER DONALD J. POLMANN
COMMISSIONER GARY F. CLARK
COMMISSIONER ANDREW G. FAY

DATE: Wednesday, August 29, 2018

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

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

2 CHAIRMAN GRAHAM: As I said before, Item No. 5
3 is deferred, so let's revert back to Item No. 3.

4 MS. GERVASI: Commissioners, Item No. 3 is
5 staff's recommendation in Docket No. 20180143-EI to
6 grant the petition to initiate rule-making to amend
7 Rule 25-6.0426 FAC, recovery of economic
8 development expenses filed by FPL, Gulf Power and
9 Tampa Electric Company.

10 This recommendation is for the Commission to
11 initiate rule-making proceedings in order to
12 collect information and evaluate whether the
13 Commission should propose to adopt the petitioner's
14 suggested rule amendments at a later date.

15 It is my understanding that the Office of
16 Public Counsel, Charles Rehwinkel, is here to
17 address the Commission on this item.

18 CHAIRMAN GRAHAM: Thank you, OPC.

19 MR. REHWINKEL: Thank you, Mr. Chairman and
20 Commissioners. Charles Rehwinkel, Deputy Public
21 Counsel.

22 I am not here to speak against this process or
23 the petition. I am not here to ask that you not
24 initiate rule-making. I am here to make an
25 observation and request to the Commission.

1 Well over a year ago, closer to a
2 year-and-a-half ago, the customers asked in a
3 separate process in a rule-making on operating
4 margin policy for you to undertake to adopt a rule
5 for a policy that had been in place for 21 years.
6 You agreed to do this. Nearly a year went by until
7 a draft appeared.

8 Next month, we are hopeful to see a
9 rule-making proposal from the Commission. We are
10 not complaining about that, but less than 30 days
11 ago, the four biggest utilities in this state filed
12 a petition, and now 29 days later a rule-making
13 process is being opened up.

14 We want to observe and note that there may be
15 a difference, and we hope that's not the case,
16 between the powerless and the powerful in this
17 state when it comes to getting what people need and
18 what they want.

19 I am not saying the operating margin rule is
20 on par with an economic development rule that might
21 help everyone. It's just a matter of the process.

22 What we are asking you to do is to take the
23 time and be deliberative, which I think in fairness
24 to your staff they are saying is what they want, is
25 to take time to gather information to decide

1 whether to even propose a rule. But there is
2 nothing wrong with taking time to make sure that
3 you get it right when it comes to what we would
4 consider discretionary spending by utilities.

5 We are at a time right now where some of the
6 utilities have passed through or agreed to pass
7 through all of their tax savings, and some have not
8 necessarily done that.

9 When we are sitting here deciding whether to
10 do discretionary spending, I think it's imperative
11 that we clear the decks on the taxings savings and
12 storm issues that are, in some ways, taken together
13 before we rush into adding an expense to the bottom
14 line; because in the end, what matters most to the
15 economic development from my experience in economic
16 development is utility rates, and low rates are the
17 best form of economic development incentive.

18 So we are not opposing this. We think that
19 there could be merit to what the petitioners are
20 asking for, but we are just asking that this
21 process not be rushed along. We may even ask, and
22 not as a method of opposition, but to make sure we
23 have a good record, because I was around 30 years
24 ago, 35 years ago, when economic development
25 expenditures were part of a problem and in a

1 mismanagement case. And it's something I think the
2 Commission needs to be very careful about when you
3 loosen the reigns on economic development spending,
4 because there are potential problems in that area.
5 And I am not saying we are going to have that in
6 the future, but it may be important that the
7 Commission build a really good record and
8 understand what economic development spending is
9 all about.

10 One of the tools available to interested
11 parties and certainly the Public Counsel
12 representing the customers would be one of those,
13 is to have a draw-out, where you take evidence and
14 you have testimony before you conclude a
15 rule-making.

16 We are not here to say that we are going to do
17 that, but it is a tool and an option available to a
18 decision-maker like yourself that will be making
19 really an important change in a process that has
20 been in place for 20 years. It may well be time to
21 revisit this issue and to raise the cap.

22 The Public Counsel will commit to you, and
23 will commit to the utilities that have filed this
24 petition, that we will work to find a solution that
25 is in the best interest of everyone, but our ask is

1 that this not be rushed along, and that us be given
2 the deliberation and time that it deserves.

3 Thank you.

4 COMMISSIONER GRAHAM: Thank you, Mr.
5 Rehwinkel.

6 I agree with you. The first thing is you
7 started off, you said that this was sponsored by
8 four of the largest utilities. I only have three.

9 MR. REHWINKEL: Then I am in error. I was
10 counting them all, and --

11 CHAIRMAN GRAHAM: I am not saying that that
12 fourth one is not supportive. I am just saying he
13 is not on here.

14 MR. REHWINKEL: I stand corrected. Thank you.

15 CHAIRMAN GRAHAM: Second, I agree. Some of
16 this stuff is kind of vague. The one that popped
17 out to me was on page nine, line number 23, that
18 says: Making financial contributions to state and
19 local governments to assist strategic planning
20 efforts, I have no idea what that means and it
21 sounds just pretty wide open.

22 But the reality is this is just starting
23 rule-making, so I am sure our staff and everybody
24 else that's involved can start to pin down and make
25 sure exactly what things like that mean. And there

1 is quite a few of those in here, but that's my
2 concern.

3 And I think what I want to put on the record,
4 and make sure staff is paying attention to, because
5 as Mr. Rehwinkel said, 30 years ago, when some of
6 these things probably went astray is because a lot
7 of these options were just too broad and people did
8 things that they probably shouldn't have.

9 I have some commissioners who want to speak.
10 Commissioner Polmann.

11 COMMISSIONER POLMANN: Thank you, Mr.
12 Chairman.

13 I appreciate Mr. Rehwinkel coming forward and
14 raising the questions and making comments that he
15 did, and I share in some of his thoughts.

16 Mr. Rehwinkel, I had very similar thoughts
17 when I first read through this item, and I am not
18 as familiar as you are with the background here,
19 but I had a very similar question on my reading
20 that, you know, who pays and who benefits?

21 And I had a discussion with staff along those
22 lines, and had a very good briefing on this item,
23 and I am appreciative of the concern, and I am also
24 comforted by the fact that this is just an
25 initiation. And I was assured that the purpose

1 here is to open up the process in that it's both
2 timely and appropriate that we go through a
3 thorough examination.

4 And staff did assure me that the intention as
5 to gather as much information as we can, and that
6 this will be very open. And I took some comfort in
7 that, that everybody will be involved.

8 And I really do appreciate you coming forward
9 with that, and your commitment for full
10 involvement. I expect that we are going to have
11 many questions. This is a very significant issue
12 to our state, but I want to make sure that the
13 appropriate people are benefited, and that this is
14 not simply a burden on the ratepayers. That is not
15 at all the appropriate things to do, and I want to
16 make sure everyone is involved and has an
17 opportunity through workshop. That was my concern
18 about, you know, we are not burdening
19 inappropriately, but that there is a benefit for
20 economic development. I think that is an important
21 part of what we are doing here.

22 I thank you again for many could go forward,
23 thank you, Mr. Chairman.

24 COMMISSIONER GRAHAM: Commissioner Brown.

25 COMMISSIONER BROWN: Thank you.

1 I see we have a new gentleman at the --

2 MS. KING: Yes, I am Jim King, Senior Attorney
3 for FPL.

4 I just wanted to say, we are supportive of the
5 staff recommendation to initiate the proceeding.
6 And it is our intent to develop the record, answer
7 questions, participate in workshops to develop the
8 record, to answer any questions that do come up.

9 COMMISSIONER BROWN: Thank you. And thank
10 you, Mr. Chairman.

11 I just wanted -- Mr. Rehwinkel, thank you for
12 being here and for expressing your concerns. And I
13 do think maybe it is time to revisit the cap. And
14 so I look forward to the initiation of these
15 proceedings.

16 But you did raise a point about the comparison
17 of the operating ratio methodology in this
18 proceeding. If we could just have staff kind of
19 walk us through the timeframe and clarify any
20 concerns, or address any concerns that Mr.
21 Rehwinkel had regarding the two different rules.

22 MS. GERVASI: Commissioner, I can tell you
23 that the reason we got to agenda so quickly on this
24 one has nothing do with the powerful versus the
25 powerless, and everything to do with Section

1 120.54(7)(a), Florida Statutes, which requires the
2 Commission to either initiate rule-making
3 proceedings or deny the petition to initiate
4 rule-making with a written statement of its reasons
5 for the denial not later than 30 calendar days
6 following the date of the filing of the petition.

7 Now, I am not involved in that other rule, so
8 I don't know exactly where we are with respect to
9 that, but I would suspect that we would have done
10 the same thing. We would have been required by law
11 to do the same thing if that rule was opened up at
12 the request of a interested person.

13 Oftentimes, we initiate rule-making on our
14 own, and then we don't have that requirement. So
15 that may have happened in that case as well.

16 COMMISSIONER BROWN: You are good, Ms.
17 Gervasi.

18 MS. GERVASI: Thank you.

19 COMMISSIONER BROWN: Thank you so much for
20 that clarification.

21 CHAIRMAN GRAHAM: Okay. Any other
22 commissioners? Seeing none, I will entertain a
23 motion.

24 COMMISSIONER CLARK: Move staff.

25 COMMISSIONER BROWN: Second.

1 CHAIRMAN GRAHAM: It's been moved and seconded
2 staff recommendation on Item No. 3.

3 Is there any further comments?

4 Seeing none, all in favor, say aye.

5 (Chorus of ayes.)

6 CHAIRMAN GRAHAM: Any opposed?

7 (No response.)

8 CHAIRMAN GRAHAM: By your action, you have
9 approved the staff recommendation on Item No. 3.

10 Okay. This concludes our agenda. We have IA,
11 so we will start over in the IA room in 10 minutes,
12 which, according to that clock back there, is 10
13 o'clock.

14 Thank you very much.

15 (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 stenographically reported the said proceedings; that the same has been transcribed under my direct supervision; and that this transcript constitutes a true transcription of my notes of said proceedings.

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

DATED this 7th day of September, 2018.



DEBRA R. KRICK
NOTARY PUBLIC
COMMISSION #GG015952
EXPIRES JULY 27, 2020