

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

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., RECOVERY OF ECONOMIC
DEVELOPMENT EXPENSES, BY
FLORIDA POWER & LIGHT COMPANY,
GULF POWER COMPANY, AND TAMPA
ELECTRIC COMPANY

_____ /

PROCEEDINGS: COMMISSION CONFERENCE AGENDA
ITEM NO. 2

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

DATE: Tuesday, June 11, 2019

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

REPORTED BY: DANA W. REEVES
Court Reporter and
Notary Public in and for
the State of Florida at Large

PREMIER REPORTING
114 W. 5TH AVENUE
TALLAHASSEE, FLORIDA

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

2 CHAIRMAN GRAHAM: Okay. Let's move on to Item
No. 2.

3 MS. DAVIS: This is Lauren Davis of the
4 Commission's legal staff. Item No. 2 is staff's
5 recommendation to amend the Commission's rule
6 addressing the recovery of economic development
7 expenses by public electric utilities to further
8 encourage these utilities to promote continued
9 economic development.

10 Staff is recommending that Subsection 3 of the
11 rule be amended to increase the gap in recoverable
12 economic development expenses to either the greater
13 of .15 percent of jurisdictional gross annual
14 revenues or 5 million, as set forth in Attachment A
15 of staff's recommendation.

16 Staff is also recommending that the Commission
17 certify the rule as a minor violation rule. This
18 item was deferred from the May agenda conference.
19 The Commission asked staff to provide options for
20 its consideration, which staff has included in the
21 recommendation as Attachment E.

22 There are stakeholders who would like to
23 address the Commission on this item. Staff is also
24 available to address any questions the Commission
25 might have.

1 CHAIRMAN GRAHAM: Thank you, staff. Okay.

2 OPC.

3 MS. CHRISTENSEN: Good morning, Commissioners.

4 Patty Christensen with the Office of Public

5 Council.

6 We appreciate the changes that staff has
7 proposed and we agree that the rule is ripe for
8 some changes. However, I'd like to reiterate some
9 of my comments from the previous agenda that I made
10 and suggest that, given that the current level of
11 sharing is set at 95 percent for customers, the
12 vast majority of the economic development money is
13 ratepayer money. And the greater of language
14 allows FPL and Duke Energy to go from 3 million in
15 economic development to approximately 16.9 million
16 and 7.2 million respectively, which allows an
17 increase to go on indefinitely without further
18 review of the Commission by operation of the
19 proposed rule.

20 And while the current rule may be outdated and
21 OPC agrees that it should be amended, the OPC
22 believes that the solution is not to just turn on
23 the spigot of the customer's money. We urge you to
24 take a more conservative and measured approach that
25 ensures a return on the customers on their money.

1 To this end, we would reiterate OPC's proposed
2 cap language. OPC's proposed language for section
3 B is that -- and it would read as follows -- 95
4 percent of the total economic development expenses
5 incurred for the reporting period, so long as the
6 total economic development expenses do not exceed
7 .15 percent of jurisdictional gross annual
8 revenues, and is capped at 10 million.

9 I would point out that going from 3 million to
10 10 million for FPL is still a big increase, over
11 200 percent, from the current rule. The other
12 utilities would not be affected by the cap at this
13 time. And if a company finds the cap limiting, as
14 I mentioned at the last agenda, the utility can,
15 under Section A, prove up at the next rate case
16 that their economic development level should be
17 different.

18 And those are my comments. Thank you.

19 CHAIRMAN GRAHAM: Thank you. My note says
20 that Mr. Beasley wishes to speak, so we'll start
21 with you and then we'll go from there.

22 MR. BEASLEY: Thank you, Mr. Chairman,
23 Commissioners. Jim Beasley for Tampa Electric
24 Company.

25 We support the rule language proposed in our

1 joint petition and would be glad to answer any
2 questions you have. We would urge that in
3 considering any rule proposal that the Commission
4 adhere to the existing language in the rule, which
5 allows the utilities to recover 95 percent of their
6 expenses. That was discussed a couple times before
7 when the rule was initially adopted and then when
8 it was amended and the Commission took it from 90
9 percent to 95 percent with some discussion about
10 making it 100 percent. The 95 percent percentage
11 we believe is fair. We would urge you to adhere to
12 that in any rule proposal you consider going
13 forward. Be happy to answer any questions you may
14 have.

15 CHAIRMAN GRAHAM: Thank you, sir.

16 Anyone else? Okay. Commissioners.

17 Commissioner Clark.

18 COMMISSIONER CLARK: Thank you, Mr. Chairman.

19 Before I begin, I just want to say thank you to the
20 staff and to the parties for the amount of work and
21 effort that you have put into getting this rule
22 change proposed. I, too, I think that waxed on
23 probably a little too long at our last hearing
24 about my feelings toward economic development and
25 the role that utilities play in economic

1 development, but I'm going to reiterate that once
2 again.

3 Swear, I spent -- the bulk of my career has
4 been in economic development on the utility side
5 and certainly see the merit and understand the
6 positive effects that occur because of the
7 investments that utility companies have made,
8 especially in the rural markets. And I want to
9 emphasize that again. Without the investments the
10 utility companies have put into economic
11 development and rural areas, so many of these
12 projects that have resulted in positive economic
13 growth in the State of Florida would not have
14 occurred.

15 I also want to advocate from the position of
16 at least an understanding of what real economic
17 development from the utility company is based on,
18 and that is additional kilowatt hour sales. Those
19 additional kilowatt hour sales, if they are sold at
20 the right areas, and I mean at higher-than-average
21 load factor loads, actually decrease the average
22 cost for all consumers. There is a huge positive
23 benefit to adding additional retail load if it is
24 worked and done in the correct manner.

25 And I know having been involved in that area,

1 that is the focus of the utilities, focusing on the
2 growth of high-load-factor loads in conjunction
3 with working with such organizations as Enterprise
4 Florida, searching for and looking at the qualified
5 targeted industries that they have laid out.
6 Typically, those industries will result in improved
7 load factor for the company, which actually works
8 to decrease costs for consumers.

9 I say all that to advocate for a position.
10 I've passed out an alternative proposal that we
11 have worked on for the last couple of weeks, which
12 probably is a little bit of a bold step, but I'm
13 willing to put it out there anyway.

14 I am proposing, Mr. Chairman, that we look at
15 a rule change that actually would allow for the
16 recovery of greater -- the greater of 10 million
17 dollars or .225 percent of the gross revenues.

18 Also, I would propose that we consider a shift
19 in the cost-sharing program once these dollars
20 exceed the ten-million-dollar mark, that currently
21 95 percent recovery for 10 million and under,
22 propose that anything that goes beyond that be
23 allowed to be recovered at a rate of 93 percent.

24 That is my proposal, Mr. Chairman. I probably
25 didn't explain it well enough or eloquent enough,

1 but I'll be glad to answer any questions anybody
2 might have from me regarding it.

3 CHAIRMAN GRAHAM: Thank you, Mr. Clark. And
4 just for clarity, any of those ethics people that
5 may be watching, when you said you guys worked on
6 it since last month, you meant you and the staff,
7 correct?

8 COMMISSIONER CLARK: Yes. Staff.

9 CHAIRMAN GRAHAM: Not any other Commissioners.
10 Okay. Staff, any comments on the Clark
11 proposal?

12 MS. DRAPER: It is a reasonable approach. It
13 is valid. I mean, we -- staff has presented
14 alternatives. That's one more, but it's certainly
15 a reasonable approach. I mean, at the end, staff
16 still stays with its recommendation. However, you
17 have certainly the discretion to consider and
18 approve the Clark proposal.

19 CHAIRMAN GRAHAM: Utilities. Yes, sir.

20 MR. KING: Yes. I'm Jim King for FPL. We can
21 be supportive of the Clark proposal. I think it
22 doesn't just update the rule, it enhances the rule,
23 which is part of the purpose of the joint petition.
24 The use of the greater of recognizes the inherent
25 size differences between the utilities, which a

1 flat cap does not. And I think together with
2 increasing the percentage to .225 allows us to
3 continue to increase our economic development
4 investments, which, as Commission Clark said,
5 benefits all ratepayers.

6 We're also mindful of the discussion last time
7 and today of the sharing percentage, and we do not
8 oppose Commissioner Clark's proposal to increase
9 that above ten million dollars. And I believe on
10 the back of his alternative it shows that as
11 investment in economic development increases, so
12 will the raw contribution from shareholders. And
13 from, I think right now, under the current rule,
14 the contribution on the raw level is about
15 \$150,000. And under this proposal, as I'm looking
16 as we ramp up on the spending, it will be well over
17 a million. So we do think that this would be a
18 reasonable approach.

19 CHAIRMAN GRAHAM: Mr. Griffin.

20 MR. GRIFFIN: Thank you, Mr. Chairman. Steve
21 Griffin, counsel for Gulf Power Company. And just
22 reviewing this, it certainly appears to provide
23 meaningful contributions, both for the smaller
24 utilities, such Gulf Power Company, but also
25 recognizes that other utilities, such as Florida

1 Power & Light, have different scope and economic
2 scale. So it appears to recognize that, as well,
3 which are two key components of what we've been
4 driving for. So I think we can be supportive of
5 this.

6 CHAIRMAN GRAHAM: Mr. Beasley.

7 MR. BEASLEY: Thank you, Commissioner. We
8 support the proposal put forth by Commissioner
9 Clark, as well. I think it's unique that we're
10 here all supporting a concept, which is economic
11 development. It's kind of unique because we don't
12 always get together and support the same things at
13 the same time, but I think this proposal would go a
14 long way in that direction.

15 CHAIRMAN GRAHAM: Ms. Christensen.

16 MS. CHRISTENSEN: Well, in taking a brief
17 review of it, it does move some of the goals in, I
18 think, a more positive forward momentum in that if
19 you're going to allow them to recover over ten
20 million dollars, there would be a greater
21 percentage of sharing by the shareholders. Whether
22 or not we agree that 93 percent is that correct
23 level of sharing, and believe that maybe some of
24 that should be more vetted in a rate-case setting,
25 I think would be more consistent with what our

1 comments are.

2 We do appreciate, though, that at least this
3 is moving into more of a share between ratepayers
4 and the shareholders for the additional amount
5 above 10 million. We still, of course, see that
6 there is some concern that since you allow the
7 level of sharing to continue above 10 million, even
8 at a 93 percent, there seems to be no additional
9 Commission review under the way the proposal is
10 drafted.

11 So we appreciate Commissioner Clark's comment
12 that if you can bring on these high-load-factor
13 customers, that you can have an overall reduction
14 effect to all consumers' bills, but we -- you know,
15 we think at some point you need to prove that up
16 and show that's actually what's happening with this
17 economic development money. And I don't know that
18 there's a mechanism under the current rule that's
19 drafted that gives anybody really an opportunity to
20 review that it's doing what we anticipate and hope
21 that the rule would do.

22 So, with those concerns in mind, OPC obviously
23 still supports our original comments, but I offer
24 those thoughts.

25 CHAIRMAN GRAHAM: Thank you. Commissioner

1 Clark, you good?

2 Commissioners, any questions, concerns
3 comments?

4 I can almost hear the choir starting to sing.
5 Okay. Commissioner Brown.

6 COMMISSIONER BROWN: Well, first off, thank
7 you, Commissioner Clark, for spending some time on
8 this. This is your area of expertise and your
9 bailiwick, so I give great deference to your
10 opinion on the matter.

11 I also appreciate the creativity that you've
12 given this -- given some thought to this with
13 regard to the sharing mechanism. I think that
14 makes sense, but also achieves the overall premise
15 of the rule, which is to support economic
16 development that would benefit all ratepayers.

17 I just have a question for staff, noting OPC's
18 last comment about mechanism for making sure -- for
19 checks and balances here. Could you tell us what
20 tools the Commission has in place?

21 MS. DRAPER: Let me maybe start on this.
22 First, Subsection 4 of the rule specifies that at
23 the time of the utility's next rate case, the
24 Commission will determine the level of sharing. So
25 the level of sharing and the actual expenses, a

1 rate case, is the time that this can be reviewed
2 and should be reviewed. So here we're really
3 emphasizing what's reported on the surveillance
4 report between rate cases.

5 And I just would like to make it clear that 93
6 percent sharing over 10-million dollars really only
7 impacts FP&L, which is appropriate since they're
8 the largest utility.

9 COMMISSIONER CLARK: I think it might impact
10 one other, as well.

11 MS. DRAPER: Duke by a little bit, if you
12 will.

13 COMMISSIONER CLARK: Duke. Yes, ma'am. Just
14 want that on the record.

15 MS. DRAPER: Okay.

16 COMMISSIONER BROWN: Thank you. Appreciate
17 it. And I like -- we have a lot of different
18 proposals, a lot of different alternatives and I
19 support the Clark proposal.

20 CHAIRMAN GRAHAM: Was that a motion?

21 COMMISSIONER BROWN: Yes. I move to support
22 the Clark proposal.

23 CHAIRMAN GRAHAM: It's been moved and
24 seconded. Any further discussion? Commissioner
25 Polmann.

1 COMMISSIONER POLMANN: Thank you, Mr.
2 Chairman. I appreciate all of the discussion that
3 we've had regarding the economic development rule
4 changes. I don't think there's any question that
5 it's time to update the rule. This has been in
6 place for a very long time and the economic
7 development for the State of Florida at large is a
8 very important aspect, as the Chairman -- the
9 Chairman started this discussion with.

10 And, again, I appreciate Commissioner Clark
11 giving this a lot of thought, bringing this
12 forward. Not only do we see the significance of
13 the effort that the utilities have performed over
14 the past few years, I do see a lot of benefit with
15 the increasing utilization seeking the gross and
16 the reduction in average cost of the customers.
17 It's a very, very difficult concept for many of the
18 customers to relate to and understand, but there is
19 real benefit here. We certainly recognize and
20 understand that. I appreciate the input also from
21 Office of Public Council and we recognize your
22 concerns. And, as staff indicate, we'll be
23 carefully reviewing this in all the rate-cases the
24 come forward.

25 Having said that, I certainly can support

1 Commissioner Clark's efforts. Appreciate your
2 expertise in that. Thank you very much.

3 CHAIRMAN GRAHAM: There definitely is a role
4 for the utilities to have when it comes to economic
5 development and it's not just our IOU's. I can
6 tell you, from a person that lives in a muni, even
7 muni's get involved in economic development because
8 as Commissioner -- and co-ops. I'm sorry. Didn't
9 mean to disrespect your co-ops. Because there
10 definitely is a role for there and I agree that
11 this is something that needs to be updated. And,
12 Commissioner Clark, I do applaud you and staff for
13 getting together over the last months to come up
14 with this proposal.

15 Okay. So we have a motion on the floor, duly
16 seconded. Is there any further discussion?

17 (No comments made.)

18 CHAIRMAN GRAHAM: Seeing none, all in favor
19 say, aye.

20 (Chorus of ayes.)

21 CHAIRMAN GRAHAM: Any opposed?

22 (No comments made.)

23 CHAIRMAN GRAHAM: By your action, you've
24 approved the Clark proposal.

25 Guys, thank you very much for your time and

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

CERTIFICATE OF REPORTER

STATE OF FLORIDA)
COUNTY OF LEON)

I, DANA W. REEVES, Professional 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 20th day of June, 2019.



DANA W. REEVES
NOTARY PUBLIC
COMMISSION #FF968527
EXPIRES MARCH 22, 2020