

FLORIDA PUBLIC SERVICE COMMISSION
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MEMORANDUM

OCTOBER 23, 1997

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FPSC - Records/Reporting

TO: DIRECTOR, DIVISION OF RECORDS AND REPORTING (BAYO)

FROM: DIVISION OF LEGAL SERVICES (PAUGH) *JJP RVE TB JDJ*
DIVISION OF ELECTRIC & GAS (JENKINS, BOHRMANN, BASS,
COLSON, DRAPER, MATLOCK, WHEELER) *XXW*
DIVISION OF AUDITING & FINANCIAL ANALYSIS (HICKS,
MCPHERSON, MERTA, REVELL) *DM* ROMIG, VANDIVER, WELCH) *mb*

RE: DOCKET NO. 970001-EI - FUEL AND PURCHASED POWER COST
RECOVERY CLAUSE AND GENERATING PERFORMANCE INCENTIVE
FACTOR

AGENDA: NOVEMBER 4, 1997 - REGULAR AGENDA - PROPOSED AGENCY
ACTION - INTERESTED PERSONS MAY PARTICIPATE

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: S:\PSC\LEG\WP\970001.RCM

CASE BACKGROUND

At the February 19, 1997, fuel adjustment hearing, the Commission voted to allow Florida Power Corporation (FPC or Company) to recover, on an interim basis, a portion of the replacement fuel costs associated with the extended outage of its Crystal River 3 nuclear unit. The interim recovery was subject to refund, with interest, pending the results of the Commission's investigation of the causes of the outage. Although the Commission allowed interim recovery of a portion of the outage related expenses, concern was expressed with the level of detail provided by FPC in its prefiled testimony. The Commission stated that more stringent filing requirements would be required in the future. By Order No. PSC-97-0359-FOF-EI, issued March 31, 1997, the Commission stated:

We have a great deal of difficulty with allowing recovery of these costs. To a limited extent, we agree with the arguments of Public Counsel that given the significance of these costs, FPC should have made some initial presentation as to the reasonableness of these costs. In

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the past, we have permitted utilities to recover costs on a preliminary basis, subject to audit, "true-up" with interest and an after-the-fact prudence review. Thus, we do not believe it was unreasonable for FPC to expect that it would have the opportunity to meet the burden of proof in a proceeding specifically designed to determine the prudence of these costs. In the future, however, when a utility seeks to recover the costs which have a significant impact on the utility's fuel adjustment factor, the utility must affirmatively demonstrate that the actions or events that gave rise to the need for the recovery and the underlying costs are reasonable.

The Order, however, did not define the "significant impact" which would trigger the more stringent filing requirements. This recommendation addresses the guideline to be followed by utilities to determine when they must provide a preliminary explanation justifying the need to recover projected fuel costs as required by Order No. PSC-97-0359-FOF-EI.

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DISCUSSION OF ISSUES

ISSUE 1: What guideline should utilities follow to determine when they must provide a preliminary explanation justifying the need to recover projected fuel costs as required by Order No. PSC-97-0359-FOF-EI?

RECOMMENDATION: When a utility seeks to recover fuel costs which will result in an increase or decrease in excess of 5% of the utility's fuel adjustment factor for the projection period, the utility must affirmatively demonstrate, prior to approval of recovery, that the actions or events which gave rise to the need for recovery and the underlying costs are reasonable.

STAFF ANALYSIS: The fuel adjustment clause was established to allow utilities to recover the cost of fuel through a continuous proceeding rather than through rates set in a rate case. Gulf Power Company v. Florida Public Service Commission, 487 So. 2d 1036, 1037 (Fla. 1986). The utilities are permitted to recover estimated expenses for a six-month projection period, subject to a "true-up" provision which operates as an adjustment to the past projections.

Because fuel costs can fluctuate greatly, the clause benefits both utilities and ratepayers by allowing the utilities to recover the actual cost of fuel rather than the amount allocated for fuel in the utility's current general rate structure. The fuel adjustment clause protects customers in the case of sharp decreases in fuel costs, and the utility in cases of sharp increases. Pinellas County v. Mayo, 218 So. 2d 749, 750 (Fla. 1969).

Although the fuel adjustment clause allows utilities to recover the actual costs of fuel near the time they are incurred, this practice does not prohibit the Commission from reviewing the prudence of the fuel costs at a later date. In addition, because of the continuing nature of the clause, the Florida Supreme Court has affirmed the Commission's authority to review the prudence of costs several years after the costs have been recovered from ratepayers. Gulf Power, 487 So. 2d at 1037.

The Commission has continuing jurisdiction over fuel costs and many of the costs included in the utilities' fuel filings are normal expenses. As such, utilities have not always provided detailed explanations of each expenditure included in its projections, unless staff or a party raises an issue concerning an expenditure. When this occurs, the issue is typically deferred until a subsequent fuel adjustment hearing or is "spun-off" into a

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specific investigatory docket in order to permit the parties to conduct discovery and file specific testimony addressing the issue. The Commission allows the utility to recover the costs relating to the expenditure on an interim basis, and the recovery does not become final until the prudence of the utility's actions is determined in the later proceeding.

During the February, 1997, fuel adjustment hearing, the Office of Public Counsel (OPC), stated that FPC did not offer any explanation of the circumstances which led to the Company's decision to keep Crystal River off-line in an extended outage. Therefore, OPC argued that FPC had not met its burden of proof and the Commission should deny its request to recover replacement fuel costs due to the outage. In response, FPC argued that it did not specifically address the outage in its prefiled testimony for two reasons: (1) at the time the prefiled testimony was filed, the company was not aware of the future implications the outage would have on its fuel factor; and (2) consistent with the Commission's past practice, the Company expected that it would have an opportunity to explain the causes of the outage and its management of the outage activities, after the unit was repaired and returned to service.

Staff agrees that the timing in the fuel adjustment proceeding may prevent a utility from assessing the full impact an outage will have on its fuel adjustment factor. However, it is well-known that replacement fuel costs due to an extended outage have a significant impact on the utility's fuel adjustment factor. For example, FPC's fuel adjustment factor was 2.058 cents per KWh for the October, 1996, through March, 1997, period and 2.332 cents for the April, 1997, through September, 1997, projection period, a 13.3% increase. A significant portion of this increase was attributable to the Crystal River 3 outage which began in September, 1996.

The Commission has a statutory duty pursuant to Section 366.041, Florida Statutes, to ensure that rates and charges recovered from ratepayers are "just, reasonable, and compensatory." Utilities should demonstrate that their fuel costs are reasonable, even when the Commission is asked to preliminarily approve such costs, pending audit, true-up with interest, and an after-the-fact prudence review. To better ensure that this statutory duty is met, the Commission has ordered that when a utility seeks to recover fuel costs which have a "significant impact" on the utility's fuel adjustment factor, the utility must make a presentation in its prefiled testimony as to the reasonableness of the costs prior to interim approval for recovery.

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Therefore, in order to ensure that rates and charges are just, Staff recommends that as a condition precedent to interim recovery, utilities must demonstrate the reasonableness of costs that exceed the threshold for increases in fuel adjustment factor filings as set forth herein. Staff recommends that the threshold requirement of Order No. PSC-97-0359-FOF-EI be triggered whenever fuel costs will result in an increase or decrease in excess of 5% of the utility's fuel adjustment factor for the projection period. Staff believes that a 5% standard is reasonable and can be administered fairly to all investor-owned utilities, regardless of the level of their fuel adjustment factor. The preliminary proof of reasonableness required herein is not intended to be a substitute for a full prudence review nor does it abridge parties' rights or obligations in prudence proceedings.

ISSUE 2: Should this docket be closed?

RECOMMENDATION: No.

STAFF ANALYSIS: The Fuel and Purchased Power Adjustment Clause is an on-going docket and should remain open. However, pursuant to Rule 25-22.029(4), Florida Administrative Code, any person whose substantial interests are affected by the Commission's proposed agency action shall have 21 days after issuance of the order to file a protest.