

In re: Review of investor-owned electric utilities' risk management policies and procedures.

DOCKET NO. 011605-EI
ORDER NO. PSC-02-1484-FOF-EI
ISSUED: October 30, 2002

ORDER APPROVING PROPOSED RESOLUTION OF ISSUES

By Order No. PSC-01-1829-PCO-EI, issued September 11, 2001, issues were established for resolution at the November 20-21, 2001, hearing in Docket No. 010001-EI. On November 2, 2001, the Office of Public Counsel (OPC) filed a motion to defer consideration of several of the issues listed in that Order to allow the parties additional time to explore those issues. Those issues generally concerned risk management by investor-owned electric utilities (IOU) with respect to fuel procurement. By Order No. PSC-01-2273-PHO-EI, issued November 19, 2001, OPC's motion was granted. This docket was opened November 26, 2001, for the purpose of addressing the deferred issues, and an evidentiary, administrative hearing was scheduled in this docket for August 12-13, 2002.

Two of the issues deferred for consideration in this docket were resolved by proposed agency action which, because no request for hearing was filed, became final and effective. (Order Nos. PSC-02-0793-PAA-EI and PSC-02-0919-PAA-EI) As to all of the issues remaining for hearing, the parties engaged in settlement discussions. At the start of the administrative hearing scheduled in this docket, we were presented with a Proposed Resolution of Issues which was intended to resolve all issues that remained for hearing in this docket. The Proposed Resolution of Issues, attached hereto as Attachment A and incorporated herein by reference, was signed and supported by Florida Power Corporation, Florida Power & Light Company, Tampa Electric Company, the Florida Industrial Power Users Group, and OPC.

Based on a modification made in discussions at the start of the hearing, Gulf Power Company agreed to the Proposed Resolution of Issues. That modification amended the first sentence in paragraph 6 of the Proposed Resolution of Issues to include Gulf Power Company and amended the second sentence in paragraph 6 to read as follows: "No party to this docket shall seek approval of a

DOCUMENT NO. 011605-EI

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hedging incentive program earlier than six months after the projection filing for the 2003 fuel and purchased power cost recovery period."

We find that the Proposed Resolution of Issues, modified as set forth above, provides a reasonable resolution of all issues in the docket. The Proposed Resolution of Issues establishes a framework and direction for the Commission and the parties to follow with respect to risk management for fuel procurement. It provides for the filing of information in the form of risk management plans and as part of each IOU's final true-up filing in the fuel and purchased power cost recovery docket, which will allow the Commission and the parties to monitor each IOU's practices and transactions in this area. In addition, it maintains flexibility for each IOU to create the type of risk management program for fuel procurement that it finds most appropriate while allowing the Commission to retain the discretion to evaluate, and the parties the opportunity to address, the prudence of such programs at the appropriate time. Further, the Proposed Resolution of Issues appears to remove disincentives that may currently exist for IOUs to engage in hedging transactions that may create customer benefits by providing a cost recovery mechanism for prudently incurred hedging transaction costs, gains and losses, and incremental operating and maintenance expenses associated with new and expanded hedging programs. For these reasons, we approve the attached Proposed Resolution of Issues, as modified above.

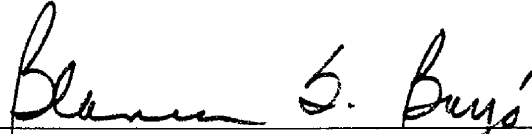
Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that the Proposed Resolution of Issues, attached hereto as Attachment A and incorporated herein by reference, and modified as set forth in the body of this Order, is hereby approved to resolve all outstanding issues in this docket. It is further

ORDERED that this docket shall be closed.

ORDER NO. PSC-02-1484-FOF-EI
DOCKET NO. 011605-EI
PAGE 3

By ORDER of the Florida Public Service Commission this 30th
day of October, 2002.



BLANCA S. BAYÓ, Director
Division of the Commission Clerk
and Administrative Services

(S E A L)

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NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), Florida Statutes, to notify parties of any administrative hearing or judicial review of Commission orders that is available under Sections 120.57 or 120.68, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing or judicial review will be granted or result in the relief sought.

Any party adversely affected by the Commission's final action in this matter may request: 1) reconsideration of the decision by filing a motion for reconsideration with the Director, Division of the Commission Clerk and Administrative Services, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, within fifteen (15) days of the issuance of this order in the form prescribed by Rule 25-22.060, Florida Administrative Code; or 2) judicial review by

ORDER NO. PSC-02-1484-FOF-EI
DOCKET NO. 011605-EI
PAGE 4

the Florida Supreme Court in the case of an electric, gas or telephone utility or the First District Court of Appeal in the case of a water and/or wastewater utility by filing a notice of appeal with the Director, Division of the Commission Clerk and Administrative Services and filing a copy of the notice of appeal and the filing fee with the appropriate court. This filing must be completed within thirty (30) days after the issuance of this order, pursuant to Rule 9.110, Florida Rules of Appellate Procedure. The notice of appeal must be in the form specified in Rule 9.900(a), Florida Rules of Appellate Procedure.

**PROPOSED RESOLUTION OF ISSUES
DOCKET NO. 011605-EI
AUGUST 9, 2002**

Components of Proposed Resolution:

1. Each investor-owned electric utility recognizes the importance of managing price volatility in the fuel and purchased power it purchases to provide electric service to its customers. Further, each investor-owned electric utility recognizes that the greater the proportion of a particular fuel or purchased power it relies upon to provide electric service to its customers, the greater the importance of managing price volatility associated with that energy source.
2. Each investor-owned electric utility shall submit to the Commission, at the time of its projection filing in the fuel and purchased power cost recovery docket each year, its risk management plan for fuel procurement. For purposes of this proposed resolution, each risk management plan shall address the following items set forth in Exhibit TFB-4 to the prefiled testimony of Todd F. Bohrmann in this docket: item numbers 1, 3 (to the extent possible), 4, 5, 6, 7, 8, 9, 13, 14, and 15. The information provided as part of each risk management plan should emphasize the utility's numerical assessment of an acceptable level of price risk for each type of fuel and for purchased power, the method used to determine the acceptable level of risk, identification of the mechanisms to mitigate risk above the acceptable level, and a valuation of that risk in dollars, where possible. The information provided as part of each risk management plan shall include the quantities of fuel and purchased power that each utility expects to hedge through physical and financial hedging, to the extent such forecasts are made. Filing of such risk management plans for informational purposes shall not constitute approval or disapproval by the Commission. In addition, each investor-owned electric utility shall submit, as part of its final true-up filing in the fuel and purchased power cost recovery docket each year, a report indicating the success of its risk management activities with respect to the objectives set forth in its risk management plan.
3. Each investor-owned electric utility shall be authorized to charge/credit to the fuel and purchased power cost recovery clause its non-speculative, prudently-incurred commodity costs and gains and losses associated with financial and/or physical hedging transactions for natural gas, residual oil, and purchased power contracts tied to the price of natural gas. Examples of such items include transaction costs associated

with derivatives (e.g., fees and commissions), gains and losses on futures contracts, premiums on options contracts, and net settlements from swaps transactions. Each utility choosing to engage in such transactions shall maintain records of each transaction for Commission audit purposes.

4. Each investor-owned electric utility may recover through the fuel and purchased power cost recovery clause prudently-incurred incremental operating and maintenance expenses incurred for the purpose of initiating and/or maintaining a new or expanded non-speculative financial and/or physical hedging program designed to mitigate fuel and purchased power price volatility for its retail customers each year until December 31, 2006, or the time of the utility's next rate proceeding, whichever comes first. The base period for determining incremental expenses as described above is the year 2001 (using actual expenses), except for utilities with rates approved based on Minimum Filing Requirements (MFR) in rate reviews conducted since 2001, in which case the projected rate year is the base period (using projected expenses). For purposes of calculating the incremental operating and maintenance expenses for applicable periods of either the initiating or terminating year of this fuel clause recovery arrangement, the corresponding period in the base year shall be the basis for determining recoverable incremental expenses. In September of each year from 2002 through 2006, as part of the Projected Fuel Filing, each utility shall provide an itemization of the projected operating and maintenance expenses for the projected period by functional category for which fuel cost recovery is requested (the incremental expense). Such itemizations shall include allocations, where appropriate, of such costs between financial and physical hedging expense. All base year and recovery year FERC subaccount operating and maintenance expense amounts associated with financial and physical hedging activities shall be included in the Fuel Clause Final True-up filing each April during the years 2003 through 2007, including the difference between the base year and recovery year expense amounts, then summed, yielding a total incremental hedging amount which may be compared for cost recovery review purposes to the requested cost recovery amount produced in the Projected Filing for the recovery year.
5. Each investor-owned utility shall provide, as part of its final true-up filing in the fuel and purchased power cost

recovery docket, the following information: (1) the volumes of each fuel the utility actually hedged using a fixed price contract or instrument; (2) the types of hedging instruments the utility used, and the volume and type of fuel associated with each type of instrument; (3) the average period of each hedge; and (4) the actual total cost (e.g., fees, commissions, options premiums, futures gains and losses, swaps settlements) associated with using each type of hedging instrument.

6. This proposed resolution is intended to resolve all issues remaining for consideration in this docket, including disposition of the hedging incentive programs proposed in this docket by Florida Power Corporation and Florida Power & Light Company. No party to this docket shall seek approval of a hedging incentive program earlier than the time of its projection filing for the 2004 fuel and purchased power cost recovery period. This proposed resolution is not intended to apply to Florida Public Utilities Company.
7. This proposed resolution may be executed in counterparts, and all such counterparts shall constitute one instrument binding on the signatories, notwithstanding that all signatories are not signatories to the original or the same counterpart. Facsimile transmission of an executed copy of this Agreement shall be accepted as evidence of a party's execution of the Agreement.

* The Commission will review the prudence of each IOU's hedging transactions, including financial hedging transactions, as part of its annual fuel and purchased power cost recovery proceedings. Prudence shall be determined under established legal standards.

* No implication concerning the relative merits of using financial versus physical hedging techniques should be drawn from this proposed resolution.

* "Speculative" refers to physically and/or financially purchasing more of a commodity than one is expected to consume, or physically and/or financially selling more of a commodity than one owns.

Agreed to this 9th day of August 2002, by:



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ORDER NO. PSC-02-1484-FOF-EI

DOCKET NO. 011605-EI

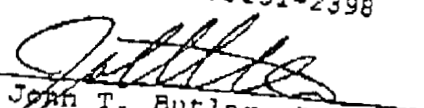
PAGE 9

ATTACHMENT A

Agreed and accepted on behalf of
Florida Power & Light Company

Steel Hector & Davis LLP
Suite 4000
200 South Biscayne Boulevard
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By:


John T. Butler, P.A.

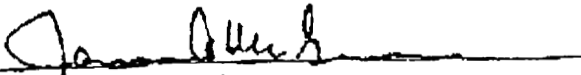
Date:

August 9, 2002


ORDER NO. PSC-02-1484-FOF-EI
DOCKET NO. 011605-EI
PAGE 10

ATTACHMENT A -

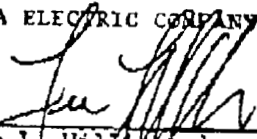
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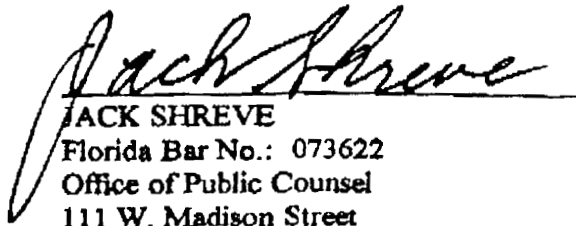
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ORDER NO. PSC-02-1484-FOF-EI
DOCKET NO. 011605-EI
PAGE 12

ATTACHMENT A

A handwritten signature in black ink, appearing to read "Jack Shreve", is written over a horizontal line.

JACK SHREVE

Florida Bar No.: 073622

Office of Public Counsel

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On behalf of the Citizens
of the State of Florida