

ORIGINAL

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Fuel and purchased power) Docket No. 040001-EI
cost recovery clause with generating) Filed: April 1, 2004
performance incentive factor.)

FLORIDA POWER & LIGHT COMPANY'S NOTICE OF INTENT TO SEEK CONFIDENTIAL CLASSIFICATION (FUEL HEDGING INFORMATION)

Pursuant to Section 366.093, Florida Statutes and Rule 25-22.006, Florida Administrative Code, Florida Power & Light Company ("FPL") hereby files this Notice of Intent to Seek Confidential Classification of certain information on fuel hedging activities that is contained in Document GJY-1 to the prepared testimony of Gerard Yupp (the "Fuel Hedging Information"), which is being filed contemporaneously in this docket, and states:

Item 5 of the Resolution of Issues that was approved by the Commission in Order No. PSC-02-1484-FOF-EI,, Docket No. 011605-EI, dated October 30, 2002, required FPL and other electric utilities to provide, as part of their final true-up filings in the fuel and purchased power cost recovery docket, information on (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

AUS
CAF
CMP
COM
CTR
ECR
GCL
DPC
MMS
SEC
OTH

losses, swaps settlements) associated with using each type of hedging instrument. FPL is filing the Fuel Hedging Information in compliance with this requirement. FPL hereby gives notice of its intent to seek confidential classification with respect to the Fuel Hedging Information pursuant to Rule 25-22.006(3)(a), Florida Administrative Code. A copy of the Fuel Hedging Information

conf records

This docketed notice of intent was filed with Confidential Document No. 04170-04. The document has been placed in confidential storage pending timely receipt of a request for confidentiality.

DOCUMENT NUMBER-DATE

04170 APR-1 3

FPSC-COMMISSION CLERK

with the confidential portions highlighted, together with a copy of the Resolution of Issues, are attached to the original of this Notice only.

R. Wade Litchfield, Esq.
Senior Attorney
Florida Power & Light Company
700 Universe Boulevard
Juno Beach, Florida 33408-0420
Telephone: 561-691-7101

Respectfully submitted,

Steel Hector & Davis LLP
Attorneys for Florida Power & Light
Company
200 South Biscayne Boulevard
Suite 4000
Miami, Florida 33131-2398
Telephone: 305-577-2939

By: Karel M. Dutzi for JTB
John T. Butler
Florida Bar No. 283479

CERTIFICATE OF SERVICE

Docket No. 040001-EI

I **HEREBY CERTIFY** that a true and correct copy of Florida Power & Light Company's Notice of Intent to Seek Confidential Classification (Fuel Hedging Information) has been furnished by overnight delivery (*) or United States Mail on this 31st day of March, 2004, to the following:

Wm. Cochran Keating, IV, Esq.(*)
Division of Legal Services
Florida Public Service Commission
2540 Shumard Oak Blvd.
Tallahassee, Florida 32399-0850

Robert Vandiver, Esq.
Office of Public Counsel
c/o The Florida Legislature
111 West Madison Street, Room 812
Tallahassee, Florida 32399

Lee L. Willis, Esq.
James D. Beasley, Esq.
Ausley & McMullen
Attorneys for Tampa Electric
P.O. Box 391
Tallahassee, Florida 32302

James A. McGee, Esq.
Progress Energy Florida, Inc.
P.O. Box 14042
St. Petersburg, Florida 33733

Joseph A. McGlothlin, Esq.
Vicki Gordon Kaufman, Esq.
McWhirter, Reeves, McGlothlin,
Davidson, et al.
Attorneys for FIPUG
117 South Gadsden Street
Tallahassee, Florida 32301

Norman H. Horton, Esq.
Floyd R. Self, Esq.
Messer, Caparello & Self
Attorneys for FPUC
215 South Monroe Street, Suite 701
Tallahassee, Florida 32302-0551

John W. McWhirter, Jr., Esq.
McWhirter, Reeves, McGlothlin,
Davidson, et al.
Attorneys for FIPUG
P.O. Box 3350
Tampa, Florida 33602

Jeffrey A. Stone, Esq.
Russell A. Badders, Esq.
Beggs & Lane
Attorneys for Gulf Power
P.O. Box 12950
Pensacola, Florida 32576-2950

By: *Karel M. Rubin for JTB*
John T. Butler

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.