

ORIGINAL

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Subject: Docket No. 050001-EI
Attachments: Motion to address fuel surcharge in DN 050317-EI(efile).pdf

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1. This filing is to be made in Docket Number: 050001-EI, In Re: Fuel and Purchased Power Cost Recovery Clause with Generating Performance Incentive Factor
2. Attached for filing on behalf of Office of Public Counsel is OPC's Motion to Address All Issues Relating to FPUC's Proposed Fuel Surcharge Included in This Docket in a Separate Proceeding.
3. There are a total of five (5) pages for filing

Dana Burns
 488-9330

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DOCUMENT NUMBER-DATE
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 FPSC-COMMISSION CLERK

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Fuel and Purchased Power)	
Cost Recovery Clause with)	DOCKET NO. 050001-EI
Generating Performance Incentive)	FILED: October 18, 2005
Factor)	
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OPC'S MOTION TO ADDRESS ALL ISSUES RELATING TO FPUC'S PROPOSED FUEL SURCHARGE INCLUDED IN THIS DOCKET IN A SEPARATE PROCEEDING

The Citizens of the State of Florida, through the Office of Public Counsel (OPC), hereby files its Motion to address all issues relating to Florida Public Utilities Company's (FPUC) proposal for a fuel surcharge included in this docket in a separate proceeding. In support of this motion, OPC states:

1. In this proceeding, the Commission has scheduled a hearing for November 7, 2005, to consider the electric utilities' pending petitions for approval of true-up amounts for 2005 and cost projections for 2006. In its 2006 projection testimony filed September 9, 2005, FPUC included testimony regarding its proposed fuel surcharge to offset the future "rate shock" due to the expiration of its current fuel contracts at the end of 2007. In its fuel docket petition and testimony, FPUC requests that the Commission approve this "future" fuel surcharge.

2. Prior to this proceeding, FPUC filed its Petition to Implement Fuel Adjustment Surcharge on May 6, 2005, requesting approval of the same "future" fuel surcharge proposal to mitigate against the expected future increase at the expiration of the current fuel contracts. The Commission established Docket No. 050317-EI and several meetings were held between staff, OPC and the company.

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3. On October 5 and 6, 2005, customer meetings were held in Fernandina Beach and Marianna on FPUC's proposal. Most of the comments provided by the customers who attended the meetings were negative toward FPUC's "future" fuel surcharge. The customers objected to FPUC's proposal to collect money for a future purpose. Some of the concerns raised by the customers were that the program lacked a mechanism to return money to the customer if that customer left before the entire term of the program and the possibility that some customers could benefit without contributing.

4. Based on the customers' comments and the issue being a case of first impression, OPC made it clear to staff and the company that this matter should be addressed in a separate proceeding. On October 14, 2005, FPUC withdrew its petition for the fuel surcharge in Docket No. 050317-EI.

5. As the Commission has recognized in past decisions, it has a limited ability within the fuel docket's compressed schedule to accommodate complex and difficult issues which require significant analysis. In instances where the Commission has faced complex, difficult issues, it has "spun off" these contentious matters into separate dockets.¹ Moreover, given the significant customer impact of FPUC's proposal, in the interest of justice and due process, customer comments and/or testimony should be taken into consideration in any decision. The hearing in the fuel docket is not set up to accommodate taking customer testimony, nor would it be practical. Thus, in the instant

¹ See, for example, Order No. PSC-03-1461-FOF-EI, issued in Docket No. 030001-EI, in which the Commission established a separate docket to consider PEF's waterborne transportation costs, and Order No. PSC-03-1359-PCO-EI, issued in Docket No. 030001-EI, in which the Commission deferred similar waterborne transportation costs of TECO to a separate docket. In the latter order, the Commission stated, "Many complex and difficult matters are addressed each year in our hearing in this docket under a demanding schedule. Many such issues are also deferred to subsequent proceedings to allow for further review."

case, the Commission should “spin off” the issue of whether or not to approve FPUC’s proposed “future” fuel surcharge and related issues to a separate proceeding.

6. OPC proposes that once the “future” fuel surcharge issue and any other related issues are “spun off,” the matter be addressed through the Commission’s Proposed Agency Action procedure. OPC also proposes that the comments from the customer meetings held in this proceeding and in Docket No. 050317-EI and any subsequent written customers comments filed to the correspondence side of the dockets be transferred to the new docket and included in any future recommendation.

7. OPC spoke with counsel for FPUC regarding the motion to “spin off” the fuel surcharge and above proposal. FPUC’s counsel indicated that he had no objection to the motion and OPC’s proposal so long as the matter would be addressed by a PAA recommendation no later than the December 6, 2005, Agenda Conference. OPC contacted Staff counsel who indicated no objection to the motion.

WHEREFORE, OPC requests the Commission to grant this Motion and establish a separate docket to address the “future” fuel charge issue and any other related issues. Further, OPC requests that this matter be addressed by the Commission’s Proposed Agency Action procedure no later than the December 6, 2005, Agenda Conference.

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Motion To Address All Issues Relating To FPUC's Proposed Fuel Surcharge Included In This Docket In A Separate Proceeding has been furnished by electronic mail and U.S. Mail on this 18th day of October, 2005, to the following:

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