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COMMISSION
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November 17, 2006

HAND DELIVERED

Ms. Blanca S. Bayo, Director
Division of Commission Clerk
and Administrative Services
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0850

Re: Fuel and Purchased Power Cost Recovery Clause with Generating Performance
Incentive Factor; FPSC Docket No. 060001-EI

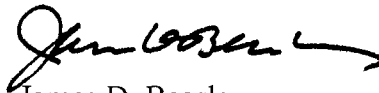
Dear Ms. Bayo:

Enclosed for filing in the above docket are the original and fifteen (15) copies of the Post-Hearing Brief and Statement of Issues and Positions of Investor-Owned Electric Utilities.

Please acknowledge receipt and filing of the above by stamping the duplicate copy of this letter and returning same to this writer.

Thank you for your assistance in connection with this matter.

Sincerely,


James D. Beasley

- CMP _____
- COM 5 _____
- CTR _____
- ECR _____ JDB/pp
Enclosure
- GCL _____
- OPC _____ cc: All parties of record (w/enc.)
- RCA _____
- SCR _____
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FPSC-BUREAU OF RECORDS

DOCUMENT NUMBER-DATE

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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Fuel and Purchased Power Cost Recovery)	
Clause with Generating Performance Incentive)	DOCKET NO. 060001-EI
Factor.)	FILED: November 17, 2006
_____)	

**POST-HEARING BRIEF AND STATEMENT OF ISSUES
AND POSITIONS OF INVESTOR-OWNED ELECTRIC UTILITIES**

This Brief and Post-hearing Statement of Issues and Positions ("Brief") is submitted on behalf Florida Power & Light Company ("FPL"), Progress Energy Florida, Inc. ("Progress"), Tampa Electric Company ("Tampa Electric") and Gulf Power Company ("Gulf Power"). FPL, Progress, Tampa Electric and Gulf Power will be collectively referred to herein as the IOUs. This Brief responds to the following issues, raised by the Office of Public Counsel ("OPC"), who sponsored the testimony of witness James A. Ross:

ISSUE 21: Should the Commission amend or modify the existing GPIF mechanism so as to incorporate a "dead band" around the scale of Generating Performance Incentive Points in the amounts proposed by OPC?

ISSUE 22: If the "dead band" amendment to the GPIF mechanism is implemented by the Commission should it be applied for the current year so that the rewards or penalties are applied commencing January 1, 2007?

Summary of Position

The IOUs submit that Issue 21 should be resolved with a resounding no. The proposed "dead band" is neither reasonable, nor is it necessary. (Tr. 820, lines 4-5). The current Generating Performance Incentive Factor ("GPIF") methodology, as approved by the Commission, has worked as intended by providing an on-going incentive for the efficient operation of generating units. The current GPIF mechanism accomplishes its objective by

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setting meaningful targets, reasonable performance ranges and equitable rewards and penalties.

[Id.]

OPC's "dead band" proposal would virtually eliminate the GPIF incentive by imposing an unfair asymmetric slant. OPC's proposal lacks balance in that it is biased in favor of penalties and contravenes the equitable nature of the GPIF program. (Tr. 824, 843). OPC's proposal would exclude twice as large a range of performance improvements from receiving rewards as it would exclude performance declines from receiving penalties. OPC's proposal is clearly inconsistent with the primary objective of the GPIF program which is to encourage improved performance through a fair and balanced application of the incentive/penalty mechanism. If Issue 21 is resolved appropriately, Issue 22 is rendered moot.

Matters Established During the Hearing

OPC does not propose any change to the GPIF formula other than a skewed treatment of the results of that formula. OPC presented testimony of Mr. James A. Ross who urged that the utilities continue to calculate the GPIF components as currently defined by the Commission (Tr. 734, lines 18-19). Mr. Ross proposed that a GPIF dead band be applied in the last step of the GPIF methodology, with all other aspects of the current GPIF remaining unaffected. (Tr. 734, lines 22-24).

Under Mr. Ross's proposal a utility would have to score more than five points above the preset GPIF target to achieve a reward, but would be penalized if it scored more than 2.5 points below the GPIF target. (Tr. 734, line 18 – Tr. 735, line 17). Mr. Ross's proposal would unfairly bias the GPIF methodology in favor of penalties and against a utility's ability to earn a reward. Such a proposal is directly contrary to the fair and balanced approach built into the current GPIF methodology. Mr. Ross's proposal should be rejected out of hand.

Mr. Ross recommended that rewards begin at a minimum positive score of no less than five on a GPIF plus or minus ten point scale, and that a penalty be assessed if a negative score is 2.5 points or more. He stated that his recommendation would not change the way the current GPIF works but, instead, the dead band would be simply implemented as the last step of the current process. (Tr. 738, lines 21-25). Mr. Ross did not profess any specific knowledge as to the IOUs or their individual power plants.

Mr. Ross conceded that he had performed no objective analysis to support his proposed dead band range. (Tr. 755, line 18 – Tr. 756, line 9).

When asked by Commissioner Carter about the obvious lack of fairness and the imbalance of a plus 5 and minus 2.5 skewed dead band, Mr. Ross conceded:

. . . So I would agree that if the concept of more symmetrical, going from a plus 5 to a minus 5 in your mind is reasonable, I would agree with that. . . . (Tr. 757, lines 17-19)

Mr. Ross further stated:

And it's much more important to set a dead band of 5 above and 5 below than it is not to set a dead band at all, so I would agree that a symmetrical dead band would be a reasonable modification to my proposal. (Tr. 758, lines 6-9)

Mr. Ross further conceded that his proposal represents the first time that the Office of Public Counsel has ever challenged the GPIF over the last 20 years. (Tr. 759, lines 22-25). Even though he is the only person who has ever challenged the GPIF over the last two decades, Mr. Ross has performed no independent research as to whether the GPIF historically has provided fuel savings to ratepayers in Florida. (Tr. 760, lines 4 – Tr. 761, line 16)

Although Mr. Ross couldn't say with certainty what impact his dead band proposal would have on fuel savings in Florida (Tr. 765, line 20 – Tr. 766, line 2), he did not disagree with

testimony by an FPL witness to the effect that Mr. Ross's dead band proposal would virtually eliminate all rewards under the GPIF. (Tr. 766, lines 3-13).

Although witness Ross stated the historical GPIF data was "all over the place," Commissioner Arriaga pointed out that the historical data show that the GPIF factor has behaved appropriately according to Commission desires, rules and objectives. (Tr. 770, lines 9-25).

When asked by Commissioner Carter as to what would constitute "exemplary performance," a term relied upon by Mr. Ross, he could only respond in terms of his "something above a plus 5 point" proposal and not with any qualitative description of the actual performance. (Tr. 773, lines 1 – Tr. 774, line 7).

Notwithstanding that steady modest performance improvement is something that OPC says that it seeks to encourage, Mr. Ross conceded that a utility that achieved a record of steady modest improvements in generating performance over a series of years would never receive a reward for that performance under Mr. Ross's dead band. (Tr. 779, line 24 – Tr. 780, line 10).

In their questioning of Mr. Ross, Staff established that the purpose of the GPIF is to encourage improvements from the targets rather than improvements from the past. (Tr. 783, lines 6-11).

Perhaps the most simplistic but telling indictment of Mr. Ross's proposal appears in the following questions by FPL's counsel and responses by witness Ross:

Q. [By Mr. Butler]. Speaking of opening statement, I would like to ask you about the high school student that Mr. McGlothlin referred to. Analogizing to the GPIF as he should, the high school student that went from the B-plus average to the D could expect to receive a penalty for having do so, wouldn't he?

A. [Mr. Ross] Yes.

Q. [Mr. Butler] And the student having slipped to a D level of performance, if he improved to a C-minus, that might not be where you would like him to end up, but that would be better than if he had remained at a D level of performance, wouldn't it?

A. [Mr. Ross] That's correct. (Tr. 780, lines 11-23)

Argument

The current GPIF process is not broken. It is working as it was intended to work. (Tr. 822-23). OPC's focus on continuous improvement over extended periods of time overlooks the purpose of the GPIF and the realities of how utilities function. Rewarding and penalizing performance relative to recent experience provides strong motivation for utilities to improve their generating performance, regardless of whether the long-term trend of past performance has been consistently improving, deteriorating or mixed. (Tr. 802). Customers have benefited substantially from the generating unit performance improvements that have been rewarded under the GPIF. For example, FPL has received a cumulative GPIF reward of approximately \$92 million over the past sixteen years, while the same heat rate and availability improvements that led to that reward saved customers over \$227 million in fuel costs. (Tr. 807). Moreover, the OPC's proposal fails to account for factors which affect generation performance such as unit degradation, fuel supply/price, and site-specific/environmental considerations which often are beyond a utility's control. (Tr. 774-52, 836-38, 842-43)

The GPIF methodology was crafted very carefully and has operated over the years to incent GPIF qualified utilities to continually strive to improve their generating performance. The

order adopting the GPIF methodology¹ recognized that many proposals for incentive had been placed on the table and carefully considered by the Commission. After considering the various proposals the Commission stated:

. . .In fact, the final Staff Recommendation has, in our opinion, selected the best elements of those proposals. . . ,
(Order at page 2)

As an example of its "effective and fair" approach, the Commission went on to place a "neutral band" (not a skewed band of the type Mr. Ross suggests) of ± 75 Btu/kWh around the heat rate measurement, stating that fluctuations within the neutral band will result in neither rewards nor penalties. In summarizing its extensive consideration of the various proposals put forth the Commission stated:

We find and conclude that the GPIF plan encompassed with the Staff's final recommendation is consistent with evidence received during this proceeding, represents the best elements of the ideas advanced by the parties, and provides the promise of fulfilling our objective of an explicit incentive in the area of operating efficiency. . . . (Order at page 3)

The same can be said of the Commission approved GPIF methodology down through the present. Each and every time a utility has failed to achieve its preset GPIF targets, it has been penalized. Each and every time a utility has exceeded its preset targets, it has been rewarded. At the outset of each and every year one thing has been clear to each utility: if you achieve greater than your preset targets you will be rewarded, and if your performance falls below the preset targets, you will suffer a penalty. The GPIF is a classic incentive that is easily understood and, therefore, optimally effective.

¹ Order No. 9558 issued September 19, 1980 in Docket No. 800400-CI

As discussed earlier, under OPC's proposal, a utility that achieves a record of steady, modest improvements in generating performance over a period of several years would receive no reward for that performance improvement. This simply is wrong and should not be adopted.

Mr. Ross would undo this fair and effective incentive mechanism by replacing it with a skewed and biased, totally subjective, dead band proposal unsupported by any objective analysis and without any apparent regard for the impact of the proposal. Such lackadaisical tinkering with the Commission's carefully thought-out GPIF methodology – a methodology that is not only effective, but also fair to all affected parties – should be soundly rejected. Accordingly, Issue 21 should be answered in the negative, which would render Issue 22 moot.

Post-hearing Statement of Issues and Positions

ISSUE 21: Should the Commission amend or modify the existing GPIF mechanism so as to incorporate a "dead band" around the scale of Generating Performance Incentive Points in the amounts proposed by OPC?

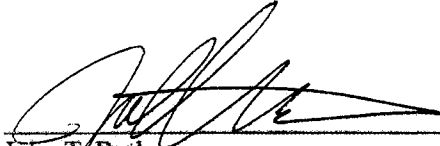
IOU's POSITION: No. The proposed dead band is neither reasonable nor is it necessary. Instead, it is a punitive measure that would eliminate the possibility of rewards and destroy the balance and fairness of the current GPIF. Mr. Ross's purely subjective and unsupported proposal is unfair and should be rejected. The current GPIF methodology works well and should not be modified.

ISSUE 22: If the "dead band" amendment to the GPIF mechanism is implemented by the Commission should it be applied for the current year so that the rewards or penalties are applied commencing January 1, 2007?

IOU's POSITION: This issue should be rendered moot if Issue 21 is appropriately resolved. If the GPIF were to be modified, any such modification should apply prospectively. By way of example, if Mr. Ross's proposal were adopted today, it would not be proper to apply the dead band prior to 2008, with respect to operating results for 2007.

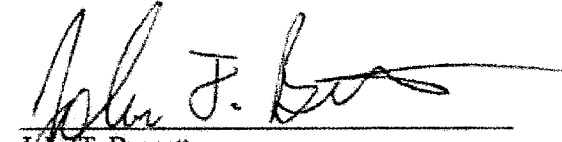
DATED this 17th day of November 2006

Respectfully submitted,



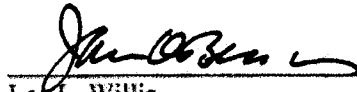
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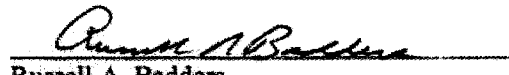
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Post-Hearing Brief and Statement of Issues And Positions of Investor-Owned Electric Utilities, has been furnished by U. S. Mail or hand delivery (*) on this 17th day of November 2006 to the following:

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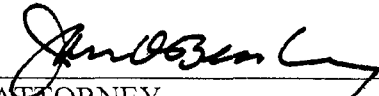
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