

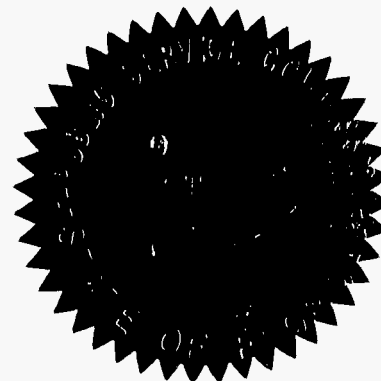
BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

DOCKET NO. 080007-EI

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In the Matter of

ENVIRONMENTAL COST RECOVERY
CLAUSE.



PROCEEDINGS: PREHEARING

BEFORE: COMMISSIONER KATRINA J. McMURRIAN
PREHEARING OFFICER

DATE: Monday, October 20, 2008

TIME: Commenced at 9:30 a.m.

PLACE: Betty Easley Conference Center
Room 148
4075 Esplanade Way
Tallahassee, Florida

REPORTED BY: JANE FAUROT, RPR
Official FPSC Reporter
(850) 413-6732

1 APPEARANCES:

2 LEE L. WILLIS, ESQUIRE and JAMES D. BEASLEY, ESQUIRE,
3 Ausley Law Firm, Post Office Box 391, Tallahassee, 32302,
4 appearing on behalf of Tampa Electric Company.

5 JEFFREY STONE, ESQUIRE, RUSSELL BADDERS, ESQUIRE, and
6 STEVEN GRIFFIN, ESQUIRE, Beggs & Lane Law Firm, Post Office Box
7 12950, Pensacola, Florida 32591-2950, appearing on behalf of
8 Gulf Power Company.

9 JOHN W. MCWHIRTER, JR., ESQUIRE, c/o McWhirter Law
10 Firm, Post Office Box 3350, Tampa, Florida 33601-3350,
11 appearing on behalf of Florida Industrial Power Users Group.

12 JOHN BUTLER, ESQUIRE, and WADE LITCHFIELD, ESQUIRE,
13 Florida Power & Light Company, 215 South Monroe Street, Suite
14 810, Tallahassee, Florida 32301-1859, appearing on behalf of
15 Florida Power & Light Company.

16 GARY V. PERKO, ESQUIRE, Hopping Law Firm, Post Office
17 Box 6526, Tallahassee, Florida 32314, appearing on behalf of
18 Progress Energy Florida, Inc.

19 STEPHEN BURGESS, ESQUIRE, PATRICIA CHRISTENSEN,
20 ESQUIRE, and JOE MCGLOTHLIN, ESQUIRE, Office of Public Counsel,
21 c/o The Florida Legislature, 111 W. Madison St., #812,
22 Tallahassee, Florida 32399-1400, appearing on behalf of the
23 Citizens of Florida.

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1 APPEARANCES (continued);

2 JOHN T. BURNETT, Progress Energy Service Co., LLC,
3 Post Office Box 14042, St. Petersburg, Florida 33733-4042,
4 appearing on behalf of Progress Energy Florida, Inc.

5 CECILIA BRADLEY, ESQUIRE, Senior Assistant Attorney
6 General, The Capitol - PL01, Tallahassee, Florida 32399-1050,
7 appearing on behalf of the Office of the Attorney General.

8 KAREN S. WHITE and CAPTAIN SHAYLA L. McNEILL,
9 ESQUIRES, AFCESA/ULT, 139 Barnes Drive, Suite 1, Tyndall Air
10 Force Base, Florida 32403, appearing on behalf of the Federal
11 Executive Agencies.

12 MARTHA BROWN, ESQUIRE, and ERIK L. SAYLER, ESQUIRE,
13 FPSC General Counsel's Office, 2540 Shumard Oak Boulevard,
14 Tallahassee, Florida 32399-0850, appearing on behalf of the
15 Commission Staff.

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P R O C E E D I N G S

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COMMISSIONER McMURRIAN: Okay. We will adjourn the prehearing in the 02 docket, and proceed to the 07 docket.

Ms. Brown, any preliminary matters in the 080007 docket?

MS. BROWN: Yes, Commissioner, there is one preliminary matter that we can probably address.

COMMISSIONER McMURRIAN: Okay.

MS. BROWN: That is the Federal Executive Agencies' petition to intervene that was filed last week. There are no objections to that petition, but it has not been ruled on yet, and we suggest that you could rule on it now, and that would be an efficient way to deal with it. And then we will reflect that ruling in Section XIV of the prehearing order.

COMMISSIONER McMURRIAN: Hearing no objections, show it done.

MS. BROWN: And that's the only preliminary matter that I'm aware of.

COMMISSIONER McMURRIAN: Any others from the parties? Seeing none. I guess we will proceed through the draft prehearing order.

Sections I through IV. Any changes, concerns? Section V, prefiled testimony, exhibits, witnesses, and the next section on order of witnesses.

MS. BROWN: Commissioner, we expect that most if not

1 all the witnesses' testimony and exhibits will be stipulated
2 into the record as we are just about at the cusp of a
3 completely stipulated case. Parties will be notified as soon
4 as possible if any witnesses will be required to be present at
5 the hearing, and the testimony of excused witnesses will be
6 inserted into the record as though read, and all exhibits
7 submitted with those witnesses' testimony will be identified as
8 shown in Section X.

9 **COMMISSIONER McMURRIAN:** Okay. Any other? Hearing
10 none.

11 Moving on to Sections VII and VIII, basic positions
12 and issues and positions. Any corrections or concerns there?
13 Hearing none.

14 **MR. BUTLER:** I'm sorry, Commissioner, are you going
15 to go issue-by-issue through VIII, or do you want to go ahead
16 and raise points on Section VIII on the issues?

17 **COMMISSIONER McMURRIAN:** Ms. Brown, what do you
18 think?

19 **MS. BROWN:** Commissioner, I'm not sure it is
20 necessary to go through every one if I can have a confirmation
21 from OPC whether they intend to take any position on any of the
22 issues.

23 **MS. CHRISTENSEN:** No, we are going to no position on
24 the issues. We will change from no position at this time to no
25 position.

1 **COMMISSIONER McMURRIAN:** On all issues, Ms.
2 Christensen?

3 **MS. CHRISTENSEN:** On all issues.

4 **MS. BROWN:** We'll reflect that, OPC takes no position
5 on the issues in the prehearing order. And with that, the
6 parties and staff have reached agreement on positions for all
7 issues in the case.

8 **COMMISSIONER McMURRIAN:** Mr. Butler, does that --

9 **MR. BUTLER:** That's fine. I was going to note the
10 fact that a couple of the issues, IV and VII, I think it is,
11 don't say that they are potential stipulated, but the
12 discussion just held takes care of that.

13 **MS. BROWN:** I think in the latest draft they do.

14 **MR. BUTLER:** They do? Oh, really. Okay. I had the
15 one that --

16 **MS. BROWN:** Thanks to you.

17 **MR. BUTLER:** Thank you.

18 **COMMISSIONER McMURRIAN:** Okay. I show Issue 8, at
19 least, as possible stipulated. So I have the most recent.

20 **MR. BUTLER:** Okay.

21 **COMMISSIONER McMURRIAN:** Anything else on issues and
22 positions? Hearing none. Section IX, the exhibit list.

23 **MS. BROWN:** Staff will prepare a Comprehensive
24 Exhibit List for the hearing that will include all prefiled
25 exhibits reflected in Section IX of the prehearing order, as

1 well as a stipulated composite exhibit of all staff's discovery
2 exhibits.

3 **COMMISSIONER McMURRIAN:** Okay, thank you. And
4 Section X, proposed stipulations. As we have discussed
5 earlier, all issues appear to be stipulated and the prehearing
6 order will show that.

7 Section XI, pending motions.

8 **MS. BROWN:** There is one pending motion. FPL has
9 filed a request for official notice of petitions for rehearing
10 of the D.C. Circuit opinion vacating the Clean Air Interstate
11 Rule on October 1, 2008. There have been no objections to that
12 request, and we recommend that you could grant it here and we
13 will reflect that ruling in the prehearing order.

14 **COMMISSIONER McMURRIAN:** Any objections? Hearing
15 none, show it granted. And we already covered the other
16 pending motion, which was FEA's petition to intervene. Moving
17 on to pending confidentiality matters.

18 **MS. BROWN:** There are several pending confidentiality
19 matters, and we will address those by separate order.

20 **COMMISSIONER McMURRIAN:** Okay, thank you. Section
21 XIV on rulings.

22 **MS. BROWN:** In this section we will reflect the
23 rulings that you have made. In addition, we suggest that you
24 rule that if a hearing is held, opening statements should not
25 exceed five minutes. I've got ten minutes here, but let's

1 knock it down to five.

2 **COMMISSIONER McMURRIAN:** Any concerns? Hearing none.
3 Any other matters from the parties or from staff?

4 **MS. BROWN:** Staff isn't aware of any.

5 **COMMISSIONER McMURRIAN:** Okay. We will adjourn the
6 07 docket and move on to 080001.

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STATE OF FLORIDA)

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CERTIFICATE OF REPORTER

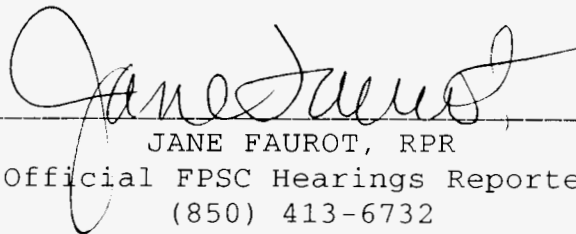
COUNTY OF LEON)

I, JANE FAUROT, RPR, Chief, Hearing Reporter Services Section, FPSC Division of Commission Clerk, do hereby certify that the foregoing proceeding was heard at the time and place herein stated.

IT IS FURTHER CERTIFIED that I stenographically reported the said proceedings; that the same has been transcribed under my direct supervision; and that this transcript constitutes a true transcription of my notes of said proceedings.

I FURTHER CERTIFY that I am not a relative, employee, attorney or counsel of any of the parties, nor am I a relative or employee of any of the parties' attorney or counsel connected with the action, nor am I financially interested in the action.

DATED THIS 24th day of October, 2008.



JANE FAUROT, RPR

Official FPSC Hearings Reporter
(850) 413-6732