

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Fuel and purchased power
cost recovery clause and
generating performance incentive
factor.

DOCKET NO. 010001-EI
ORDER NO. PSC-01-1665-PAA-EI
ISSUED: August 15, 2001

The following Commissioners participated in the disposition of
this matter:

E. LEON JACOBS, JR., Chairman
J. TERRY DEASON
LILA A. JABER
BRAULIO L. BAEZ
MICHAEL A. PALECKI

NOTICE OF PROPOSED AGENCY ACTION
ORDER AFFIRMING LENGTH AND TIMING OF FUEL AND PURCHASED POWER
COST RECOVERY PERIOD

BY THE COMMISSION:

NOTICE is hereby given by the Florida Public Service
Commission that the action discussed herein is preliminary in
nature and will become final unless a person whose interests are
substantially affected files a petition for a formal proceeding,
pursuant to Rule 25-22.029, Florida Administrative Code.

I. CASE BACKGROUND

By Order No. PSC-98-0691-FOF-PU ("Order No. 98-0691"), issued
May 19, 1998, in Docket No. 980269-PU, this Commission established
an annual, calendar-year recovery period for the Fuel and Purchased
Power Cost Recovery Clause ("fuel clause") for each investor-owned
electric utility ("utility") within its jurisdiction. Prior to
Order No. 98-0691, we used seasonal, six-month fuel and purchased
power cost recovery factors ("factors") that commenced in April and
October of each year, as set forth in Order No. 9273, issued March
7, 1980, in Docket No. 74680-CI.

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FPSC-COMMISSION CLERK

As discussed in Order No. 98-0691, we adopted an annual, calendar-year recovery period to meet the following five objectives:

1. This Commission and the parties to this docket can utilize their resources more efficiently;
2. Monthly over- and under-recovery amounts would offset each other to create less frequent mid-course corrections;
3. Ratepayers can budget with more certainty when the electricity price is set for a calendar year;
4. Interested persons can analyze fuel cost information more easily; and
5. The Commission can simplify its audit of each utility's fuel costs.

In addressing petitions for mid-course corrections to certain utilities' factors at our March 6, 2001, and March 13, 2001, Agenda Conferences, we expressed concern about whether an annual, calendar-year recovery period still meets the objectives for implementing the change made by Order No. 98-0691. In response to these concerns, our staff conducted a workshop on June 27, 2001, to which all parties to this docket were invited to discuss the appropriate length and timing of the fuel and purchased power cost recovery period. Florida Power & Light Company ("FPL"), Florida Power Corporation ("Florida Power"), Tampa Electric Company ("Tampa Electric"), Gulf Power Company ("Gulf Power"), Florida Public Utilities Company ("FPUC"), and the Florida Industrial Power Users Group ("FIPUG") provided pre-workshop comments. FPL, Florida Power, Tampa Electric, Gulf Power, and FIPUG provided post-workshop comments. We have considered the parties' comments in reaching the findings set forth in this Order.

We have jurisdiction over this matter through the provisions of Chapter 366, Florida Statutes, including Sections 366.04, 366.05, 366.06, Florida Statutes.

II. ANALYSIS AND FINDINGS

Each of this Commission's reasons for adopting an annual, calendar-year recovery period, as stated in Order No. 98-0691, reflected a specific objective for the future. In our analysis, we first discuss the parties' positions regarding whether the current

recovery period length is adequate, and what alternatives, if any, each party believes should be adopted to replace the current recovery period length. Next, we review whether the annual, calendar-year recovery period has achieved and can be expected to achieve the objectives set forth in Order No. 98-0691. Finally, we consider whether any of the parties' recovery period alternatives can be expected to achieve these objectives better than the current recovery period length.

A. Positions of the Parties

FPL supports an alternative procedure under which each party or this Commission, on its own motion, would have the option to request by a date certain an evidentiary hearing to establish a mid-year change in a utility's factors. Florida Power, Tampa Electric, and Gulf Power have indicated that they are each generally satisfied with the status quo. However, each of these utilities would support a change in the recovery period length if the change provided more flexibility without mandating additional costs on the parties.

FPUC proposed in its pre-workshop comments that this Commission set a maximum factor, or "cap", on an annual, calendar-year basis, commencing in January of each year. Under this proposal, this Commission would authorize each utility to charge an amount equal to or less than the Commission-approved cap. FPUC stated that this proposal is consistent with Commission policy for the purchased gas adjustment for investor-owned natural gas utilities.

In its comments, FIPUG urges that we revert to using a seasonal, six-month recovery period. FIPUG states that a shorter recovery period would yield more precise fuel price forecasts and better price signals to a utility's ratepayers. FIPUG states that it was impressed by FPUC's proposal because the proposal allows a utility's ratepayers an opportunity to respond to price signals in a more timely manner.

B. Objectives of Order No. 98-0691

The first objective described in Order No. 98-0691 was to increase the efficient use of the resources of this Commission and

the parties. An annual, calendar-year recovery period has reduced this Commission's time and effort associated with the administrative tasks of conducting two evidentiary hearings each year. In addition, an annual, calendar-year recovery period has increased the time available to analyze a myriad of unique, non-boilerplate issues considered in the fuel docket during the past three years. Thus, we find that the time and effort associated with the fuel clause has not so much been reduced as improved. This Commission and the parties have been able to use their resources more efficiently to prepare for annual hearings in the fuel clause docket, and the prudence review of incurred fuel costs has not suffered.

The second objective described in Order No. 98-0691 was that mid-course corrections would occur less frequently as monthly over- and under-recoveries would offset each other during the longer recovery period. Since Order No. 98-0691 became effective, we have seen mixed results. Since January 1999, Gulf Power and both divisions of Florida Public Utilities Company have not requested a mid-course correction. However, FPL, Florida Power, and Tampa Electric requested and received mid-course corrections to their respective factors in May 2000 and March 2001. Based on these results, it is not clear whether an annual, calendar-year recovery period produces less frequent mid-course corrections.

The third objective described in Order No. 98-0691 was to provide ratepayers with more certainty during their budgeting process when the electricity price is set for a calendar year. When this Commission set each utility's factors based on a seasonal, six-month recovery period, ratepayers were charged three different factors during one calendar year. With an annual, calendar-year recovery period and no mid-course corrections, a utility's ratepayers are charged only one factor during a calendar year. However, ratepayers of FPL, Florida Power, and Tampa Electric have experienced two factors within the calendar years of 2000 and 2001 as a result of the mid-course corrections approved in May 2000 and March 2001.

The fourth objective described in Order No. 98-0691 was to allow interested persons to analyze fuel cost information more easily. Previously, an interested person extracted these data from three recovery periods to calculate fuel costs for a calendar year.

Currently, an interested person only needs to extract data from one twelve-month recovery period to calculate fuel costs on a calendar year basis. Also, an annual, calendar-year recovery period allows this Commission to maintain data in a manner consistent with the manner in which most data are accumulated and reported to the Federal Energy Regulatory Commission, the Department of Energy, and other public agencies.

The fifth objective described in Order No. 98-0691 was to simplify Commission audits. Previously, this Commission audited each utility's fuel expenses from April through the following March. Therefore, we accessed information from each utility's general ledger and electronic data processing (EDP) tapes from two calendar years to complete each year's audit. Currently, the audit period commences in January and concludes the following December. Thus, we access the utilities' general ledger and EDP tapes from only one calendar year.

C. Findings

As stated previously, Florida Power, Tampa Electric, and Gulf Power are generally satisfied with the status quo. However, each utility has indicated it would support a change in the recovery period length if the change provided more flexibility without mandating additional costs on the parties. After reviewing several alternatives, we cannot identify an alternative to the status quo that would satisfy these utilities' two objectives.

In analyzing the alternative supported by FPL, as set forth above, we note that the mid-course correction procedures set forth in Order No. 13694, issued September 20, 1984, in Docket No. 840001-EI, already allow a party or this Commission, on its own motion, to seek a change in a utility's factors between hearings in the fuel clause docket to refund (collect) all or part of the utility's over-recovery (under-recovery) balance prior to the end of the current recovery period. At page 6, Order No. 13694, states in pertinent part:

[A] utility's filing pursuant to No. 1 above shall also include a request for a hearing to revise the fuel adjustment factor if in its judgment such revision would not be impractical.

In any event, any party may request or the Commission may order that a hearing be held to consider a revision of the utility's fuel adjustment factor.

Thus, we find that the alternative supported by FPL would merely re-affirm the procedures already available to each party and this Commission.

The history of mid-course corrections made subsequent to Order No. 13694 shows that this Commission has not chosen to conduct evidentiary hearings on petitions for mid-course corrections. Instead, we have granted or denied such petitions through informal proceedings after testing the reasonableness of actual and revised projected data supporting a utility's petition for a mid-course correction. In each instance, we have recognized that a more thorough prudence review can occur at the next regularly scheduled hearing in the fuel clause docket. Thus, we retain jurisdiction over the incremental (decremental) amounts collected (refunded) as a result of the mid-course correction. If any collected amounts are found after an evidentiary hearing to have been incurred imprudently, we may require a utility to refund such amounts, with interest, to the utility's ratepayers. Further, the utility will refund, with interest, any projected under-recoveries that do not materialize. In addressing mid-course correction petitions, we have also recognized that delaying implementation of the proposed factors to hold an evidentiary hearing may increase interest expense and rate shock to the utility's ratepayers.

In analyzing FPUC's proposal, as set forth above, we recognize that this Commission has authorized the investor-owned natural gas utilities to "flex down" from an annually-established cap for several years. We believe that this regulatory mechanism has worked well because this Commission and the investor-owned natural gas utilities could focus on only one variable -- the price of natural gas. If we adopt FPUC's proposal, this Commission and the parties would need to monitor the price, heat rate, and consumption for each fuel used by a utility on a monthly basis. As previously indicated, one objective of Order No. 98-0691 was to reduce the administrative time and effort associated with the fuel clause. We believe that FPUC's proposal would impose considerable costs upon this Commission and the parties with little visible benefit.

Based on 2 1/2 years of experience with an annual, calendar-year recovery period, we find that actual results have satisfied or exceeded our expectations for Objectives 1, 4, and 5, and have fallen short of our expectations for Objectives 2 and 3. However, we find that a different recovery period length can not satisfy Objectives 2 and 3 better than an annual, calendar-year recovery period, because we recognize that the timing and degree of the volatility in fuel and wholesale energy prices, rather than the length of the recovery period we set, determines the frequency of mid-course corrections and price changes.

This Commission and the parties recognized almost twenty years ago that utilities may occasionally experience periods of price volatility. At that time, by Order No. 13694, we implemented two procedures which allow us and the parties to respond when volatile fuel and wholesale energy prices occur. First, we require a utility to notify us when the utility expects its fuel clause over-recovery or under-recovery will exceed ten percent. At page 6, the Order states in pertinent part:

[W]hen a utility becomes aware that its projected fuel revenues applicable to a given six-month recovery period will result in an over- or under-recovery in excess of 10 percent of its projected fuel costs for the period, the utility shall so advise the Commission through a filing promptly made.

Second, as described previously, each party or this Commission, on its own motion, may seek a change in a utility's factors during the time between our regularly-scheduled hearings in the fuel clause docket, when conditions warrant.

D. Conclusion

In Order No. 98-0691, this Commission cited five objectives in changing from a seasonal, six-month recovery period to an annual, calendar-year recovery period. At this time, for the reasons set forth above, we find that an annual, calendar-year recovery period can meet or exceed these objectives better than any alternative recovery period length. If this Order is protested by a person whose substantial interests are affected, the protest shall be addressed in our November 2001 hearing in this docket.

Based on the foregoing, it is

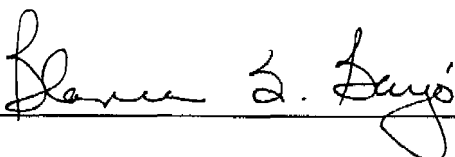
ORDERED by the Florida Public Service Commission that factors for the Fuel and Purchased Power Cost Recovery Clause shall continue to be determined on an annual, calendar-year basis for all investor-owned electric utilities. It is further

ORDERED that the provisions of this Order, issued as proposed agency action, shall become final and effective upon the issuance of a Consummating Order unless an appropriate petition, in the form provided by Rule 28-106.201, Florida Administrative Code, is received by the Director, Division of the Commission Clerk and Administrative Services, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on the date set forth in the "Notice of Further Proceedings" attached hereto. It is further

ORDERED that if any person whose substantial interests are affected by the action proposed by this Order files a petition for a formal proceeding, as set forth in the "Notice of Further Proceedings" attached hereto, such petition shall be addressed as part of the hearing in this docket scheduled for November 20-21, and December 3, 2001. It is further

ORDERED that this docket shall remain open.

By ORDER of the Florida Public Service Commission this 15th day of August, 2001.



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

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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 that is available under Section 120.57, 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 will be granted or result in the relief sought.

Mediation may be available on a case-by-case basis. If mediation is conducted, it does not affect a substantially interested person's right to a hearing.

The action proposed herein is preliminary in nature. Any person whose substantial interests are affected by the action proposed by this order may file a petition for a formal proceeding, in the form provided by Rule 28-106.201, Florida Administrative Code. This petition must be received by the Director, Division of the Commission Clerk and Administrative Services, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on September 5, 2001.

In the absence of such a petition, this order shall become final and effective upon the issuance of a Consummating Order.

Any objection or protest filed in this docket before the issuance date of this order is considered abandoned unless it satisfies the foregoing conditions and is renewed within the specified protest period.