

BEFORE THE PUBLIC SERVICE COMMISSION

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

DOCKET NO. 060001-EI
ORDER NO. PSC-06-1069-FOF-EI
ISSUED: December 27, 2006

The following Commissioners participated in the disposition of this matter:

LISA POLAK EDGAR, Chairman
J. TERRY DEASON
ISILIO ARRIAGA
MATTHEW M. CARTER II
KATRINA J. TEW

APPEARANCES:

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On behalf of Florida Power & Light Company (FPL).

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On behalf of Florida Public Utilities Company (FPUC).

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On behalf of Gulf Power Company (GULF).

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Progress Energy Service Company, LLC, 100 Central Avenue, St. Petersburg,
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On behalf of Progress Energy Florida, Inc. (PEF).

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McMullen, P. O. Box 391, Tallahassee, Florida 32302
On behalf of Tampa Electric Company (TECO).

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On behalf of AARP (AARP).

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On behalf of Florida Industrial Power Users Group (FIPUG).

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On behalf of Florida Retail Federation (FRF).

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On behalf of White Springs Agricultural Chemicals, Inc., d/b/a PCS Phosphate White Springs (White Springs).

CHARLES J. CRIST, JR., ESQUIRE, JACK SHREVE, ESQUIRE, and CECILIA BRADLEY, ESQUIRE, Office of the Attorney General, The Capitol – PL01, Tallahassee, Florida 32399-1050

On behalf of the Citizens of Florida (AG).

PATRICIA A. CHRISTENSEN, ESQUIRE, JOSEPH A. MCGLOTHLIN, ESQUIRE, and CHARLES J. BECK, ESQUIRE, Office of Public Counsel, c/o The Florida Legislature, 111 West Madison Street, Room 812, Tallahassee, Florida 32399-1400

On behalf of the Citizens of the State of Florida (OPC).

LISA C. BENNETT, ESQUIRE, and WM. COCHRAN KEATING, IV, ESQUIRE, Florida Public Service Commission, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850

On behalf of the Florida Public Service Commission (Staff).

ORDER DENYING OFFICE OF PUBLIC COUNSEL'S PETITION TO AMEND THE
GENERATING PERFORMANCE INCENTIVE FACTOR

BY THE COMMISSION:

On May 15, 2006, the Office of Public Counsel (OPC) petitioned the Commission for modification of Order No. 9558, issued September 19, 1980, in Docket No. 800400-CI, In re: Investigation of Fuel Cost Recovery Clause Application of Investor-Owned Electric Utilities. OPC petitioned for two specific modifications, one to be heard this year and one to be heard during the 2007 fuel hearing. The modification we take up this year is whether we should amend the Generating Performance Incentive Factor (GPIF) to incorporate a "dead band" around Generating Performance Incentive Points (GPIP), so that only if a utility exceeds the minimum or maximum GPIP will it be penalized or rewarded. We took testimony on this petition in November during our annual fuel hearing, Docket No.060001-EI. OPC and each investor-owned electric utility presented testimony and evidence in support of their positions. At the conclusion, we continued the hearing to allow parties to brief their positions

Generating Performance Incentive Factor

On September 19, 1980, by Order No. 9558, we adopted an incentive factor for investor-owned electric utilities known as the Generating Performance Incentive Factor (GPIF). The GPIF rewards investor-owned electric utilities for efficient power plant operation and imposes penalties for inefficient power plant operation on certain base load units. The purpose of the GPIF is to encourage utilities to efficiently operate their base load units, which are the least costly to consumers, and when operated, result in fuel savings. Each year, as part of our annual fuel proceedings, we approve targets and ranges for equivalent availability factors (EAF) and heat rates for the projection period of base load units. In addition, each year we reward or penalize each utility based on whether it has met its prior year targets.

Targets for both EAF and heat rate are based largely on historical performance, and each target is accompanied by a range. Following the projection period, the actual EAFs and heat rates are compared to their respective targets. Each actual EAF and heat rate is assigned a number of points, between -10 and +10, based on its position in its respective target range. Each unit's number of points for EAF and heat rate is weighted based on estimated fuel savings, and the sum of the weighted numbers of points, labeled Generating Performance Incentive Points (GPIP), determines the overall reward or penalty. System-wide GPIP is also between -10 and +10, and it represents the system-wide comparison of actual performance to target performance. The GPIF is part of our annual adjustment to the Fuel and Purchased Power Cost Recovery Factor. Based on the GPIP score, the maximum reward or penalty a company can receive is between +25 (equal to + 10 GPIPs) and -25 (equal to -10 GPIPs) basis points return on equity.

OPC's Position

OPC presented witness James Ross who recommended that each utility be required to achieve a +5 or higher GPIP in order to be eligible for a GPIF reward. Conversely, each utility

should achieve a -2.5 or lower GPIF in order to be penalized. The range recommended by OPC is referred to as a “dead band,” because any points a utility achieves within that dead band range do not qualify a utility for rewards or penalties. Mr. Ross agreed with us that it was within our discretion to adjust his recommended dead band range as we saw fit in order to achieve the underlying purpose of system improvement.

Mr. Ross testified that his recommendation for the dead band was based on his observation that large net rewards have been given to utilities from 1983 to 2004, but the GPIF has not prompted universal improvement in individual unit performance or in system-wide performance. Mr. Ross’s criticism of the GPIF is that a unit’s target performance is based on the unit’s recent performance, resulting in rewards even if recent performance data reflects deterioration in efficiency. Because regulated utilities are obligated to operate efficiently and targeted performance can produce rewards for marginal improvement over any level of recent performance, the witness concluded that we should require utilities to achieve exemplary gains in performance in order to receive rewards. He offered his dead band solution as a simple method that can be implemented without delay for achieving his stated objective of treating ratepayers more equitably.

Mr. Ross testified that over the years three utilities had approximately \$120 million in cumulative net payments under our GPIF mechanism. He also testified that while TECO had received a net penalty of \$2.3 million during the same period, ratepayers had made a cumulative net payment to TECO from April 1983 through 2002. Conversely he testified that his data shows that all utilities have had decreases in individual units’ EAFs and increases in individual units’ heat rates, thus showing that performances on a unit by unit basis have been decreasing. Additionally, Mr. Ross argued that system-wide performance results show that utilities have not improved performance over the years. OPC argues that because the units’ results have declined over the years while the utilities continue to get rewards, the GPIF manual should be adjusted to include the dead band so that a meaningful degree of system improvement would be reached before a utility qualifies for a reward.

Investor-owned Electric Utilities’ Positions

Each investor-owned electric utility that participates in our GPIF procedure presented testimony that the GPIF methodology has worked as intended, by providing an ongoing incentive for the efficient operation of generating units. The utilities dispute both OPC’s interpretation of the purpose of the GPIF manual and the conclusions Mr. Ross drew from the data he presented to us.

For instance, Florida Power & Light Company (FPL) witness Pamela Sonnelitter testified that the GPIF has resulted in rewards when the performance of generating units improves relative to GPIF targets and in penalties when the performance has deteriorated compared to those targets. Ms. Sonnelitter testified that although FPL has received cumulative net rewards, those rewards have been accompanied by larger net fuel-cost savings over the same period. According to FPL’s witness, the proposed dead band limits would virtually eliminate the possibility of FPL receiving any rewards. Furthermore, Ms. Sonnelitter testified that the evidence presented by Mr.

Ross on individual unit declines does not necessarily reflect a decline in unit performance. For instance, some declines for some units may be related to the dispatch order of units in FPL's system. As a unit grows older, the utility often dispatches new units more frequently and older units less frequently and therefore system wide reliability is maintained.

Tampa Electric Company (TECO) witness William A. Smotherman also testified that rewards and penalties are limited to a portion of the associated projected fuel savings or losses that a company experiences. He testified that part of TECO's GPIF-unit performance since the middle 1990's is attributable to constraints imposed by TECO's need to comply with environmental regulations. According to Mr. Smotherman's testimony, he disputes the calculations of OPC's witness and, furthermore, he testified that TECO actually had an increase in GPIF unit availability from 1989 through 2004.

Conclusion

Upon consideration of the facts and testimony adduced at the hearing and the briefs filed subsequent to hearing, we find that the proposed dead band amendment to our GPIF mechanism is not necessary. The ultimate purpose of the GPIF mechanism is to create fuel savings by rewarding electric utilities when they efficiently operate their base load units. We believe that the purpose for the GPIF mechanism, as established by Order No. 9558, is being achieved. The GPIF mechanism allows us to establish targets each year for each utility. Those targets are established based upon the circumstances and facts for each utility and are designed to obtain the most efficient performance for base load units which will result in less cost to ratepayers. If the utility meets or exceeds its target, it is rewarded. If the utility falls below the target we establish, it is penalized. When we adopted Order No. 9558, we intended to reward a utility for improvement over the target that we established. OPC has interpreted our prior order to require a utility to improve its performance each year. That is clearly not the stated purpose of Order No. 9558. By asking us to establish a dead band because units have not shown improvement from the inception of the GPIF, OPC actually attempts to change the meaning and purpose of our prior order. We decline to amend our prior order because we believe that the GPIF mechanism is working as we intended. It measures how the utilities carry out their obligation to prudently operate their generating units, which results in appropriate rewards and penalties under the existing mechanism and results in fuel savings. Accordingly, OPC's petition to establish the dead band is denied.

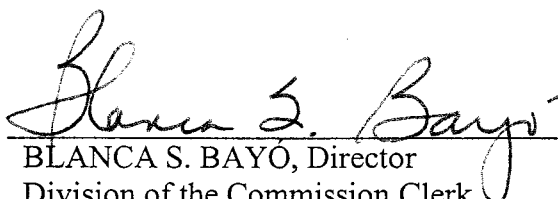
Effective Date of Dead Band Amendment

OPC asked that the dead band amendment, if approved, be made effective for the current year so that the rewards or penalties are applied commencing January 1, 2007. Because of our decision above, this issue is rendered moot.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that Office of Public Counsel's petition to establish a dead band around the Generating Performance Incentive Points as established by Order No. 9558, is denied.

By ORDER of the Florida Public Service Commission this 27th day of December, 2006.


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

(SEAL)

LCB

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 or judicial review of Commission orders that is available under Sections 120.57 or 120.68, 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 or judicial review will be granted or result in the relief sought.

Any party adversely affected by the Commission's final action in this matter may request: 1) reconsideration of the decision by filing a motion for reconsideration with the Director, Division of the Commission Clerk and Administrative Services, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, within fifteen (15) days of the issuance of this order in the form prescribed by Rule 25-22.060, Florida Administrative Code; or 2) judicial review by the Florida Supreme Court in the case of an electric, gas or telephone utility or the First District Court of Appeal in the case of a water and/or wastewater utility by filing a notice of appeal with the Director, Division of the Commission Clerk and Administrative Services and filing a copy of the notice of appeal and the filing fee with the appropriate court. This filing must be completed within thirty (30) days after the issuance of this order, pursuant to Rule 9.110, Florida Rules of Appellate Procedure. The notice of appeal must be in the form specified in Rule 9.900(a), Florida Rules of Appellate Procedure.