

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

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

DOCKET NO. 090001-EI
ORDER NO. PSC-10-0001-FOF-EI
ISSUED: January 4, 2010

The following Commissioners participated in the disposition of this matter:

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FINAL ORDER APPROVING FLORIDA PUBLIC UTILITIES COMPANY'S
EXPENDITURES AND TRUE-UP AMOUNTS FOR FUEL ADJUSTMENT FACTORS

BY THE COMMISSION:

Background

As part of the Florida Public Service Commission's continuing fuel and purchased power cost recovery and generation performance incentive factor proceedings, a hearing was held on November 2, 2009, in this docket. The hearing addressed the issues set forth in Order No. PSC-09-0723-PHO-EI (Prehearing Order), issued October 30, 2009. As noted in the Prehearing Order, several issues were resolved pursuant to stipulations. There were a few issues regarding Florida Public Utilities Company (FPUC) that were not resolved by stipulation and we took

testimony and evidence on those issues. We also asked that briefs be filed for the outstanding issues. Only FPUC provided us with a brief on its remaining issues.

This Order addresses the remaining issues in this docket for FPUC. We have jurisdiction over this subject matter pursuant to the provisions of Chapter 366, Florida Statutes, including Sections 366.04, 366.05, and 366.06, Florida Statutes.

FPUC Pursued All Reasonable Avenues to Protect its Ratepayers From Mid-course Increases In Fuel And Demand Charges From JEA In 2009

This issue is a follow-up of FPUC's actions to address the mid-course increase in fuel and demand charges approved in Order No. PSC-09-0213-PCO-EI, issued April 9, 2009, in Docket 090001-EI, In re: Fuel and purchased power cost recovery clause with generating performance incentive factor (mid-course order). We allow mid-course corrections between fuel hearings to timely correct a large underrecovery or overrecovery caused by significant deviation between revenues and projected costs.

JEA is the primary power supplier for FPUC's Northeast Division. FPUC's purchased power contract with JEA (JEA Contract) was amended and became effective January 2007. The amended contract contained provisions for rates based on cost-of-service principles.¹

As noted in the mid-course order, early this year FPUC received notification from JEA that the energy and demand charges would increase significantly effective March 1, 2009. The rate increase was based on the contract provision for cost-of-service rates. Citing JEA's rate increase, FPUC filed a petition for a mid-course increase for its Northeast (Fernandina Beach) Division on February 12, 2009. After our staff and intervening parties questioned whether FPUC had adequate time and information to review JEA's rate increase, FPUC reported that after further discussion with JEA, JEA had delayed the implementation of the new rates until April 1, 2009. On March 16, 2009, FPUC informed us that JEA had again delayed the rate increase until May 2009. JEA's two-month delay reduced FPUC's estimated year-end underrecovery from \$2,671,081 to \$1,743,884.

FPUC contended that it pursued all reasonable avenues to protect its ratepayers. Initially, FPUC retained the services of consultants to review the cost-of-service study utilized by JEA. Based on that review, FPUC presented comments and objections regarding the study's results to the JEA Board. As a result, the JEA Board made some adjustments of input data used to set the cost-of-service charges. However, the JEA Board voted for the rate increase and rejected FPUC's alternative proposals which would have further protected FPUC's customers.

FPUC also consulted an attorney and considered additional options, including oversight by the Federal Energy Regulatory Commission (FERC) and other administrative or legal

¹ In Docket No. 060001-EI, the Commission approved purchased power cost recovery for FPUC based on its purchased power contract with JEA (JEA Contract). See: Order No. PSC-06-1057-FOF-EI, issued on December 22, 2006, in Docket No. 060001-EI, In re: Fuel and purchased power cost recovery clause with generating performance incentive factor.

complaints. Witness Cutshaw testified that neither party is at fault for the miscommunication that occurred between FPUC and JEA regarding the term “fuel cost.” FPUC Witness Cutshaw stated that FPUC relied on the assurance from JEA that there would be no fuel increase this year. However, JEA did raise its rates for FPUC, but this increase was not attributable to fuel. The witness stated that FPUC and JEA had contrasting interpretations of what the term “fuel cost” meant. He stated that FPUC’s use of the term was intended to mean the total cost related to the JEA Contract, while JEA’s interpretation of the term “fuel cost” referred to the fuel charge specified in the contract. According to witness Cutshaw, when all of the facts and circumstances were evaluated, FPUC’s legal counsel advised the utility that a successful outcome to litigation was not very likely.

The question before us is whether FPUC has taken all reasonable actions to protect its ratepayers from JEA’s 2009 rate increase. As referenced earlier, FPUC had taken some actions prior to our approval of the mid-course increase. Upon request by FPUC, the JEA Board delayed the implementation of the rate increase to address FPUC’s concerns. Further, FPUC retained the services of consultants to present alternative methods and input data for JEA’s consideration. JEA’s two-month delay of the rate increase and input data adjustments resulted in a benefit to FPUC’s customers.

In addition, FPUC sought advice from legal counsel and outside technical experts to determine if other actions could be taken. In the end, it was determined that the likelihood of success was minimal FPUC took actions consistent with what a reasonable utility would do, when faced with a contractual dispute, in hiring a legal consultant to evaluate its case and outside experts to negotiate a resolution to the dispute. Accordingly, based on the record evidence and testimony, we find that FPUC has taken a reasonable course of action to protect its ratepayers from the mid-course increases in fuel and demand charges from JEA in 2009.

FPUC’s Proposal To Use Storm Hardening Revenues To Mitigate Fuel Increases In the Northwest Division

FPUC recognized that its 2009 underrecovery would cause a substantial increase in the fuel factor for its Northwest Division. It proposed to defer collection of its 2009 underrecovery and to off-set some of that under-recovery by using a portion of its base rates revenue dedicated to storm hardening purposes to pay for some of the 2009 underrecovery.

While base rates for FPUC’s two operating divisions have been consolidated, the fuel factors are division-specific because FPUC has two different power suppliers. FPUC does not generate power, but instead purchases power from Gulf Power Company (Gulf) for its Northwest Division and from JEA for its Northeast Division.² For its Northwest Division (FPUC-Marianna), FPUC presented testimony that supported a significant increase in fuel costs and in customers’ bills for 2010. Based on this testimony, the monthly 1000 kWh residential bill would

² The Commission approved the purchased power agreement (PPA) between FPUC and Gulf by Order No. PSC-07-0476-PAA-EI, issued June 6, 2007, in Docket No. 070108-EI, In re: Petition for approval of agreement for generation services and related terms and conditions with Gulf Power Company for Northwest Division (Marianna) beginning 2008, by Florida Public Utilities Company.

increase by \$18.93, from \$136.59 in 2009 to \$155.52³ in 2010. FPUC witness Cutshaw stated that the reasons for the increase were an underrecovery of fuel and purchased power costs in 2009 of \$1,725,320, an increase in capacity payments for 2010 in the Purchased Power Agreement (PPA), and a pass through of increased environmental compliance costs from Gulf.

FPUC witnesses Cutshaw and Young stated FPUC is in continuing discussions with Gulf to determine if rate reductions are possible. Witness Cutshaw stated that FPUC has taken all prudent measures to manage the cost of purchased power, and “will review any alternatives that we may be able to find in order to reduce these prices.” To mitigate immediate concerns, FPUC proposed an alternative to help reduce the cost of energy for customers in the Northwest Division by deferring the collection of the underrecovery that is currently projected at the end of 2009.

With this option, FPUC would remove the 2009 underrecovery of \$1,725,320 from the calculation of 2010 fuel factors. The underrecovery would be amortized and paid with revenues created by reducing storm hardening expenditures. For 2010, the reduction to storm hardening expenses would be approximately \$295,000. The 2010 monthly 1000 kWh residential bill would be \$149.95 with this option, reducing the increase resulting from the 2009 underrecovery by a total of \$5.63. FPUC proposed this option for only one year. FPUC does not address how the balance of the 2009 underrecovery would be collected. Witness Cutshaw states:

The deferral would use approximately \$295,000 to pay for the amortization of the underrecovery, which would defer pole inspections, joint use audits and a portion of the tree trimming. Since this service area is located inland and is not subject to significant damage that would be expected along the coast, this deferral would reduce the electric cost while not adversely impacting the damage and outages that may occur if a hurricane struck this area.

In its brief, FPUC noted that its primary position was to recover, and not defer, the 2009 underrecovery. FPUC’s proposal involving storm hardening revenue is an option the company presented as a way of mitigating increases experienced by Northwest Division customers since January 2007.

We note that FPUC’s storm hardening plan was part of FPUC’s recent base rate case. (See Docket Nos. 070300-EI and 070304-EI) Therein, we approved FPUC’s storm hardening plan, including expense allowances in base rates to implement the plan.⁴ We carefully evaluated funding for storm hardening in the rate case to determine the amount necessary for FPUC to meet its requirements. In Order No. PSC-08-0327-FOF-EI, we allowed funds for joint use audits, pole inspections and tree trimming – the areas FPUC’s proposal would reduce for one

³Although the FPUC witness uses the figure \$155.52, staff notes that this figure does not incorporate the 2010 conservation charge, which is \$0.80, an increase of \$0.02 from 2009. The correct figure is \$155.54.

⁴ See pages 8 through 20 of Order No. PSC-08-0327-FOF-EI, issued May 19, 2008 in Docket No. 070300-EI, In re: Review of 2007 Electric Infrastructure Storm Hardening Plan filed pursuant to Rule 25-6.0342, F.A.C., submitted by Florida Public Utilities Company and Docket No. 070304-EI, In re: Petition for a rate increase by Florida Public Utilities Company.

year. (Order No. PSC-08-0327-FOF-EI, pp. 8-20) FPUC witness Cutshaw stated that if the proposal at issue in the fuel docket is approved, FPUC would cut back on these activities in 2010, and “catch up” on most of these programs in 2011. He admitted, however, that tree trimming was an area the company would not be able to catch up on. Upon approval, the witness stated that FPUC would amend its storm hardening plan.

Witness Cutshaw acknowledged that the proposal would cause base rates to subsidize fuel rates. Under FPUC’s proposal, customers would not pay the full cost of fuel. Instead, the costs would be paid by reductions in storm hardening expenses that were authorized in FPUC’s recent base rate case.

FPUC’s proposal to use storm hardening revenue to offset a portion of the fuel costs compounds problems for both fuel and storm hardening. The proposed plan would recover only a small portion of the 2009 underrecovery in 2010. According to the petition, the balance of the 2009 underrecovery would be amortized. FPUC does not address how or when the amortized balance would be recovered. If the balance were deferred to future fuel proceedings, it could result in higher fuel costs over a longer period. Future fuel costs could continue to increase over the same time period, leaving customers to pay for the remaining balance of the 2009 underrecovery – approximately \$1.4 million – in addition to new fuel costs, and potential future under recoveries for several years out.

In addition, by diverting storm hardening costs to offset fuel and purchased power costs, FPUC’s storm hardening activities could be impaired. This could affect distribution reliability, possibly for years into the future, if FPUC were to propose continuing the same treatment for the balance of the underrecovery. Although witness Cutshaw contended that its Northwest Division service area was inland, if FPUC were allowed to reduce its storm hardening activities, the end result could be more frequent and longer outages to its customers. If FPUC can meet its storm hardening plan while diverting funds to fuel, then it is possible the plan is over-funded, and base rates should be reduced.

FPUC’s proposal seriously distorts the concept of proper price signals.⁵ The purpose in setting fuel factors on an annual basis is to better match rates to the cost of service so customers can make efficient choices in using electricity. Proper price signals are crucial to fostering conservation and encouraging participation in conservation programs, which benefit all ratepayers. Subsidizing immediate fuel costs, especially with funds that are committed to the comprehensive storm hardening activities, is of questionable long term value. Based on this analysis, we do not approve FPUC’s proposal to use a portion of storm hardening revenues to mitigate increases to customers.

We recognize that the large proposed increase in fuel costs to customers in the Northwest Division could worsen other economic pressures the area is experiencing. We considered a “middle-of-the-road” option to defer one-half of the 2009 underrecovery to the 2011 cost

⁵ For a discussion of rate stability and price signals, see page 11 of Order No. PSC-08-0495-PCO-EI, issued August 5, 2008, in Docket No. 080001-EI, In re: Fuel and purchased power cost recovery clause with generating performance incentive factor.

recovery period. We have used this practice in the past for other utilities to maintain the nexus of the costs and benefits.⁶ For FPUC, this option would preserve the storm hardening funds which were determined prudent as part of its rate case, and at the same time provide some relief to FPUC's Northwest division customers in 2010. Witness Young acknowledged that deferring half the underrecovery would reduce the monthly 1000 kWh residential bill by approximately \$2.72.

In its brief, FPUC stated this option would have some advantages as well as some issues. FPUC emphasized that it should be permitted to fully recover fuel costs associated with providing power to its customers.

While this deferral option is less than the \$5.63 reduction under FPUC's proposal, this comparison is misleading because it is only a one-year snapshot of the impacts. FPUC's proposal removes all of the underrecovery, with no plan for recovery of any but the initial \$295,000 transfer from the storm hardening funds. It does not address the out-years, when the remaining \$1,430,320 balance of the underrecovery would be recovered. Recognizing at least a portion of the underrecovery this year, with a plan certain for recovery of the remaining portion avoids many of the problems we addressed above in denying FPUC's proposal. Furthermore, witness Young stated that FPUC had the financial capability to carry out such a deferral.

However, the option of deferring even part of 2009's underrecovery to a future period can create significant risks as well, particularly for a distribution-only utility like FPUC. FPUC's Northwest Division buys all its power from Gulf and therefore has limited ability to control fuel expenses. As a distribution-only utility, FPUC's bill has a higher percentage of fuel revenue than other IOUs. Fuel is approximately 40% of the bill for the generating IOUs in Florida but it is 79% of the bill for FPUC-Mariana, a distribution-only utility. Further, whereas a generating utility's fuel costs vary with sales, FPUC recovers capacity and demand charges, which are essentially fixed costs, through its fuel charge. If FPUC sells less kWhs than forecasted, then an underrecovery will result. Therefore, a deferral of costs, compounded with rising purchased power costs, could magnify the bill impact for Northwest Division customers beyond the impact of a deferral for a fully integrated electric utility. Due to these risks, we will not defer one-half of FPUC's 2009 underrecovery to 2011.

As noted above, we find that approval of FPUC's proposal would create an inappropriate subsidy that would send the wrong price signal to customers. In addition, we find that reducing storm hardening activities could lead to undesirable consequences that may compromise the reliability of the Northwest Division's distribution system over the long term. If FPUC's proposal was granted, this action could compound the impact of any bill increases that customers may face beyond 2010. Although FPUC developed this proposal to bring its customers lower bills, we must balance any reduction today with the consequences to customers in the future. Witness Cutshaw states that with or without this proposal, the company will continue to explore all possible options regarding the cost of purchased power.

⁶ For a discussion of deferrals, see pages 11 through 13 of Order No. PSC-08-0495-PCO-EI, issued August 5, 2008, in Docket No. 080001-EI, In re: Fuel and purchased power cost recovery clause with generating performance incentive factor.

Based upon the foregoing, we find that both the Deferral Option and FPUC's storm hardening proposal carry risks that are undesirable. Both options merely postpone recovery of the 2009 underrecovery and may compound the overall rate impact in future years. Subsidizing fuel costs with storm hardening revenue will decrease storm hardening activities. Therefore, we reject both options.

The fuel adjustment true-ups for 2008 and 2009, as well as the 2010 projections and cost-recovery factors are fallout considerations from the issues we addressed above. Having considered the prudence of FPUC's actions with regard to the 2009 mid-course and FPUC's proposal to defer the 2009 underrecovery, we address the remaining issues below.

2008 Fuel Adjustment True-Ups

We find that the appropriate fuel adjustment true-up amounts for the period January 2008 through December 2008 are:

Northwest Division: \$591,984 (overrecovery)

Northeast Division: \$1,659,809 (overrecovery)

These true-up amounts are included in the calculation of the 2010 fuel factors.

2009 Fuel Adjustment True-Ups

We find that the appropriate fuel adjustment true-up amounts for the period January 2009 through December 2009 are:

Northwest Division: \$2,317,304 (underrecovery)

Northeast Division: \$2,485,067 (underrecovery)

These true-up amounts are included in the calculation of the 2010 fuel factors.

Fuel Adjustment Over/Underrecovery To Be Collected in 2010

We find that the appropriate total fuel adjustment true-up amounts to be collected/refunded from January 2010 to December 2010 are:

Northwest Division: \$1,725,320 (underrecovery)

Northeast Division: \$825,258 (underrecovery)

These true-up amounts are included in the calculation of the 2010 fuel factors.

Appropriate Projected Net Fuel and Purchased Power Cost Recovery and Generating Performance Incentive Amounts To Be Included in the 2010 Recovery Factor

We find the appropriate projected net fuel and purchased power cost recovery and Generating Performance Incentive amounts to be included in the recovery factor for the period January 2010 through December 2010 are:

Northwest Division: \$26,064,444

Northeast Division: \$22,114,719

These projected amounts are included in the calculation of the 2010 fuel factors.

Levelized Fuel Cost Recovery Factors

We find the appropriate levelized fuel cost recovery factors for the period January 2010 through December 2010 are:

Northwest Division: 8.197¢/kwh

Northeast Division: 6.572¢/kwh

These factors are included in the calculation of the 2010 fuel factors.

Fuel Cost Recovery Factors For Each Rate Class/Delivery Voltage Level Class Adjusted For Line Losses

We find the appropriate fuel cost recovery factors for each rate class/delivery voltage level class adjusted for line losses are as shown in staff's analysis. (Draper)

Northwest Division:

<u>Rate Schedule</u>	<u>Adjustment</u>
RS	\$.12293
GS	\$.12158
GSD	\$.11708
GSLD	\$.11285
OL, OL1	\$.09937
SL1, SL2 and SL3	\$.10018
Step Rate for RS	
RS with less than 1,000 kWh/Month	\$.11927
RS with more than 1,000 kWh/Month	\$.12927

Northeast Division:

<u>Rate Schedule</u>	<u>Adjustment</u>
RS	\$.09955
GS	\$.09735
GSD	\$.09266
GSLD	\$.09341
OL	\$.07050
SL	\$.07112
Step Rate for RS	
RS with less than 1,000 kWh/Month	\$.09615
RS with more than 1,000 kWh/Month	\$.10615


Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that the findings set forth in the body of this Order are hereby approved. It is further

ORDERED that Florida Power & Light Company, Progress Energy Florida, Inc., Tampa Electric Company, Gulf Power Company, and Florida Public Utilities Company are hereby authorized to apply the fuel cost recovery factors set forth herein during the period January 2009 through December 2009. It is further

ORDERED the estimated true-up amounts contained in the fuel cost recovery factors approved herein are hereby authorized subject to final true-up and further subject to proof of the reasonableness and prudence of the expenditures upon which the amounts are based.

By ORDER of the Florida Public Service Commission this 4th day of January, 2010.



ANN COLE
Commission Clerk

(S E A L)

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 Office of Commission Clerk, 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 Office of Commission Clerk, 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.