

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

**ORIGINAL
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In re: Petition of the Florida
Industrial Power Users Group to
Discontinue Florida Power and
Light Company's Oil Backout
Cost Recovery Factor.)
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Docket No. 890148-EI

In re: Fuel and Purchased Power
Cost Recovery Clause with Generating
Performance Incentive Factor.)
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Docket No. 890001-EI

Filed: July 27, 1989

FIPUG'S PREHEARING STATEMENT

The Florida Industrial Power Users Group ("FIPUG") hereby submits its Prehearing Statement in the above-consolidated dockets.

Witness:

FIPUG will sponsor the testimony of Jeffrey Pollock. Mr. Pollock will testify that, due to circumstances far different than the assumptions on which the qualification of Florida Power and Light Company's ("FPL") oil backout project was based, the transmission line has not economically displaced oil. Further, FPL has failed to recognize that changes in circumstances also affected the 1982 assumptions (timing and cost) relating to deferred capacity. Even if the line had not been built changes occurred which would have affected the timing, nature and costs of additional capacity on FPL's system that FPL has simply ignored. The accelerated depreciation previously collected by FPL should be refunded; the oil backout charge should be

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terminated. The cost of the project should be collected through traditional base rate mechanisms.

Exhibits:

Mr. Pollock will sponsor an exhibit consisting of 13 schedules. FIPUG suggests that each schedule be assigned a separate exhibit number.

<u>Description</u>	<u>Subject</u>	<u>Exhibit No</u>
JP-1, Schedule 1	Cumulative cost savings of project original projection U.S. actual	_____
JP-2, Schedule 2	Comparison: FPL's actual load growth and kwh consumption with 1982 forecast	_____
JP-1, Schedule 3	Comparison: coal-by-wire energy Purchases, original forecast and actual/current forecast	_____
JP-1, Schedule 4	Comparison: oil prices, original forecast v. actual/current forecast	_____
JP-1, Schedule 5	Comparison: cost of oil-fired generation with cost of coal-by-wire energy purchases	_____
JP-1, Schedule 6	Actual summer peak reserve margins	_____
JP-1, Schedule 7	Projected reserve margins with and without coal-by-wire capacity	_____
JP-1, Schedule 8	Comparison of returns on equity	_____
JP-1, Schedule 9	Analysis of recently authorized returns on equity	_____
JP-1, Schedule 10	Comparison: production/transmission and energy allocation factors, GSLD and CS rate clauses	_____
JP-1, Schedule 11	Recovery of capacity deferred savings through the OBCRF	_____
JP-1, Schedule 12	Estimates of direct cost of 700 MW coal station	_____
JP-1, Schedule 13	Revenue requirement effect of the income tax saving rule	_____

Statement of Basic Position:

Seven years of experience have demonstrated that the oil backout project does not economically displace oil. At the present OBCRF rate, in 1989 FPL will collect in excess of \$500,000,000 from its customers, while the net energy savings are only \$214,515,000.

The project does provide significant capacity and reliability functions. Recovering the full cost of a 30-year capacity/reliability project through a seven year energy surcharge causes present customers to subsidize future customers, provides unreasonable and unrestricted excess cash flows to FPL and penalizes high load factor customers. To perpetuate the charge after radically changed circumstances have occurred, which render the charge inappropriate, would be unjust and unreasonable.

Past collections of "net savings" for an accelerated write-off were based on improper claims of capacity deferral benefits and should be refunded. The claims were based upon 1982 assumptions that have been outdated by changes in load growth and demand and supply options. The oil backout charge should be terminated. "Accelerated depreciation" should be reversed, and the revenues returned to customers. The remaining cost of the transmission lines and other project costs should be recovered through FPL's base rates.

Issues of Fact, Policy, and Law:

1. **FACTUAL ISSUES** (FIPUG's witness on all factual issues is Jeffrey Pollock)

1. Issue: Are the 500 KV transmission lines presently being used primarily to displace oil-fired generation?

FIPUG: No. Without the capacity imported over the transmission line, FPL could not adequately meet its present load requirements. It does not have sufficient oil-fired generating capacity to meet present system demand. Electricity purchased from Southern Company is the same as a new generating unit and is no longer justified under the prohibitions of Rule 25-17.016(2)(b), F.A.C.

2. Issue: Should FPL be required to refund past collected backout revenues associated with accelerated depreciation?

FIPUG: Yes. Supposedly, the Southern contract capacity allowed FPL to defer its own capacity; but collecting both capacity charges and costs of the deferred unit is tantamount to collecting for the same capacity twice. FPL is also collecting for capacity which has not been built and has been removed from the planning horizon because of more economical alternatives; thus, the hypothetical Martin units are not "used and useful." Finally, FPL testified in 1982 that deferral was justified to enable FPL to realize lower capital costs, construction costs, and more economical technologies. Those changes occurred, affecting all parameters of "deferral benefits," including in-

service date, construction costs, and supply options; but FPL improperly clung to the outdated 1982 assumptions for the purpose of quantifying "deferral benefits." In Order No. 11217, the Commission reserved the ability to review the cost parameters. The Commission should reject FPL's static approach and recognize the changes in circumstances that require a refund of revenues tied to the Martin assumptions.

3. Issue: Should FPL be required to terminate the oil backout cost recovery factor?

FIPUG: Yes. The claimed deferral benefits have been improperly included, and the changes in fuel costs have resulted in greatly diminished fuel savings, so that the project is not achieving net fuel benefits. It does provide capacity and reliability benefits; therefore, the continued collection through an energy charge is unwarranted and discriminatory.

4. Issue: When will investment in transmission lines be fully recovered if FPL is allowed to use two-thirds of the "annual net savings" as accelerated depreciation?

FIPUG: October, 1989.

5. Issue: Has the time come to require FPL to collect the capacity charges for the Southern System UPS charges through base rate mechanisms?

FIPUG: Yes. FPL is using generating capacity on the Southern System to meet its basic load requirements. The cost of this capacity far exceeds the net energy savings. It is improper to recover it through the fuel clause because the capacity costs exceed the fuel savings.

6. Issue: Is FPL justified in charging a 15.6% return on the equity portion of its capital invested in the 500 KV transmission lines?

FIPUG: No. Rule 17.016(4)(e), F.A.C., requires the utility to use its actual cost of capital for the recovery period. Use of 15.6% is unjustified.

7. Issue: What is the final oil backout true-up amount for the April 1988 through September 1988 period?

8. Issue: What is the estimated oil backout true-up amount for the period October 1988 through March 1989?

9. Issue: What is the total oil backout true-up amount to be collected during the periods April 1989 through September 1989 and October 1989 through March 1990?

FIPUG: (Issues 7, 8 and 9) The amount suggested by FPL must include an adjustment to reflect a refund for those amounts which FPL has attributed to the "deferral savings" on the two 700 MW coal-fired Martin units. The collection of higher revenues

due to Martin units 3 and 4 is improper because they represent capacity which is not presently, and which may never be, used and useful to provide service. To the extent that coal-by-wire purchases deferred construction of these units, ratepayers would effectively be paying twice for the same capacity. FPL should be allowed to recover the cost of the most economical generation plan, not a plan that was rejected in favor of more economical alternatives. Just as changes in fuel costs altered the projected fuel savings, changes in circumstances (load growth, capital and construction costs, timing of need and supply options) occurred affecting the deferral issue which FPL has ignored.

10. Issue: What is the projected oil backout cost recovery factor for the period October 1988 through March 1990?

FIPUG: FPL's application of the Oil Backout Cost Recovery Factor should be discontinued because the project has not achieved the economic displacement of oil. All accelerated depreciation amounts should be refunded and any recovery related to the cost of the lines should be disallowed for the projection period October 1988 through March 1990.

II. LEGAL ISSUES

11. Issue: Once the Florida Public Service Commission has approved a project as an oil backout project is it required to continue to collect all costs associated with the project through

an oil backout surcharge if circumstances change and the originally projected savings do not materialize?

FIPUG: No. The Commission reserved the opportunity to review FPL's oil backout project every six months and Rule 25-17.016(4)(d), F.A.C., contemplates that "normally the remaining unrecovered cost of the qualified oil backout project shall be rolled into the utilities base rates without altering the depreciation period at the utility's next rate base filing and cost recovered for the qualified oil backout project through the Oil Backout Cost Recovery Factor shall terminate..." At the time FPL's oil backout project was approved and the rule was adopted, all utilities were having frequent base rate increases. It would appear that the rule did not contemplate long term application of the Oil Backout Cost Recovery Factor. This is especially unwarranted now that facts have materially changed.

12. Issue: As a matter of law, can the Florida Public Service Commission place an accelerated depreciation surcharge on present customers to require them to pay the full cost of transmission facilities which are being used to provide reliability and capacity in three or four years when the facilities will be in use and useful service for more than 25 years?

FIPUG: Section 366.07, F.S., provides that whenever the Commission finds rates to be unreasonably discriminatory or preferential, it shall revise the rates. In light of diminished

fuel savings which are inadequate to justify the present extraordinary energy charge, it is discriminatory to ask present customers to pay the full cost of a plant that will have a useful life for the next generation of ratepayers.

The income tax normalization procedure utilized by the Commission requires present customers to pay income taxes in excess of the utility's present tax liability to ensure that today's customers do not get the benefit of accelerated depreciation to the detriment of future customers. A logical corollary to this procedure would be to prohibit a utility from charging today's customers the full cost of facilities which will be used for 25 more years.

13. Issue: Is there any legal basis for charging customers costs associated with utility generating plants that have not been built, are not under construction and are not presently projected to be built?

FIPUG: Charging present customers costs associated with phantom plants is expressly precluded by the provisions of Section 366.06, F.S.

14. Issue: Does collection of capacity charges in excess of fuel savings through a fuel cost recovery charge comply with the law?

FIPUG: No.

15. Issue: Does 13 Rule 25-17.016(6) F.A.C. require the discontinuance of the OBCRF when the transmission line costs are fully recovered?

FIPUG: Yes. Apparently this will be October, 1989, unless the Commission grants FIPUG's petition that accelerated depreciation charges be refunded.

16. Issue: Did FPL consider OBO revenue in calculating income tax refunds to its customers in 1987 and 1988?

FIPUG: No.

17. Issue: Should FPL be required to refund these tax savings to customers?

FIPUG: Yes. Having failed to do it in the tax refund case, the refund should be considered in the oil backout docket.

Respectfully submitted,


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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of FIPUG's Prehearing Statement has been furnished either by U.S. Mail or by hand delivery* to the following parties of record, this 27th day of July, 1989:

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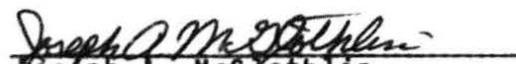
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