

BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

In Re: Environmental Cost :
Recovery Clause : DOCKET NO. 960007-EI
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:

PROCEEDINGS: PREHEARING CONFERENCE

BEFORE: J. TERRY DEASON

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

TIME: Commenced at 10:46 a.m.
Concluded at 11:05 a.m.

DATE: Monday, February 12, 1996

REPORTED BY: SARAH B. GILROY, CP, RPR
Notary Public, State of
Florida at Large.

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FPSC-RECORDS/REPORTING

1 APPEARANCES:

2 VICKI GORDON KAUFMAN, ESQUIRE, McWhirter, Reeves,
3 McGlothlin, Davison, Rief & Bakas, 117 South Gadsden Street,
4 Tallahassee, Florida 32301, appearing on behalf of Florida
5 Industrial Power Users Group.

6 JEFFREY A. STONE, ESQUIRE, Beggs & Lane, 700 Blount
7 Building, 3 West Garden Street, Post Office Box 12950,
8 Pensacola, Florida 32576, appearing on behalf of Gulf Power
9 Company.

10 MATTHEW M. CHILDS, ESQUIRE, Steel, Hector & Davis,
11 215 South Monroe Street, Suite 601, Tallahassee, Florida 32301,
12 appearing on behalf of Florida Power & Light Company.

13 JOHN ROGER HOWE, ESQUIRE, Deputy Public Counsel,
14 Office of Public Counsel, c/o The Florida Legislature, 111 West
15 Madison Street, Room 812, Tallahassee, Florida 32399-1400,
16 appearing on behalf of the Citizens of the State of Florida.

17 VICKI D. JOHNSON, ESQUIRE, Florida Public Service
18 Commission, 2540 Shumard Oak Boulevard, Tallahassee, Florida,
19 32399-0850, appearing on behalf of the Commission Staff.

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P R O C E E D I N G S

(The proceedings commenced at 10:46 a.m.)

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3 COMMISSIONER DEASON: Okay. We will move into the
4 07 docket. Are there any preliminary matters in the
5 07?

6 MS. JOHNSON: Staff is not aware of any.

7 COMMISSIONER DEASON: Very well. We will address
8 the prehearing order. Section one, case background;
9 section two, confidential information; section three,
10 prefiled testimony; section four, order of witnesses.

11 MR. CHILDS: Commissioner, there were a couple of
12 number differences with Staff here and also later on in
13 the order. We have given them to Staff. It's just
14 glitches in the way the draft was prepared.

15 COMMISSIONER DEASON: So you've given those to
16 Staff?

17 MR. CHILDS: That's right.

18 COMMISSIONER DEASON: Very well. Section five,
19 basic positions; section six, issues and positions. We
20 will begin with issue one.

21 MS. JOHNSON: Staff has a correction for FPL. Our
22 position should be 583,626 over-recovery. And Staff is
23 in agreement with both FPL and Gulf on that issue.

24 MR. HOWE: Public Counsel takes no position.

25 MS. KAUFMAN: FIPUG takes no position.

1 COMMISSIONER DEASON: Very well. Show then that
2 issue one is a proposed stipulation. Issue two. Does
3 Staff is have a position on issue two?

4 MS. JOHNSON: Staff has no changes.

5 COMMISSIONER DEASON: Okay. Issue number three,
6 any changes? Staff takes no position; is that correct?

7 MS. JOHNSON: Can I have just a moment?

8 COMMISSIONER DEASON: Sure.

9 MS. JOHNSON: I have a correction with issue two.
10 Staff's position with respect to Gulf is 669,969
11 under-recovery. We're in agreement with the company's
12 numbers.

13 COMMISSIONER DEASON: So you're in agreement with
14 Gulf, but there is still disagreement with FPL?

15 MS. JOHNSON: That's correct.

16 COMMISSIONER DEASON: Does Public Counsel take no
17 position on Gulf?

18 MR. HOWE: We will take no position with respect to
19 Gulf, yes, sir.

20 MS. KAUFMAN: No position.

21 COMMISSIONER DEASON: With respect to Gulf; is that
22 right?

23 MS. KAUFMAN: Yes.

24 COMMISSIONER DEASON: Issue three?

25 MS. JOHNSON: Issue three, Staff's position should

1 be corrected to reflect, refund of 30,760. And, again,
2 we're in agreement with the company's number for Gulf.

3 COMMISSIONER DEASON: Public Counsel take no
4 position with reference to Gulf?

5 MR. HOWE: Yes, sir.

6 MS. KAUFMAN: Same for FIPUG.

7 COMMISSIONER DEASON: Very well. Issue four?

8 MS. JOHNSON: Staff's position for issue four for
9 Gulf Power Company should read 5,928,949.

10 COMMISSIONER DEASON: So there is agreement with
11 Gulf?

12 MS. JOHNSON: Yes.

13 COMMISSIONER DEASON: And Public Counsel takes no
14 position with reference to Gulf?

15 MR. HOWE: That's correct.

16 MS. KAUFMAN: Same.

17 COMMISSIONER DEASON: Same with FIPUG. Very well.
18 Issue five, it appears that issue can be stipulated; is
19 that correct?

20 MS. JOHNSON: That's correct.

21 COMMISSIONER DEASON: Issue six likewise; is that
22 correct?

23 MS. JOHNSON: Yes. That's correct.

24 MR. HOWE: Public Counsel would take no position on
25 issue six.

1 MS. KAUFMAN: Same for FIPUG.

2 COMMISSIONER DEASON: Very well. Issue seven.

3 MS. JOHNSON: Issue seven I have a correction from
4 FPL. What's shown under issue seven for FPL is actually
5 FPL's position with respect to issue eight. FPL's
6 position for issue seven should be, agree with Staff.

7 COMMISSIONER DEASON: I'm sorry now. For issue
8 seven what you have listed for FPL's position is
9 incorrect. And what should be listed is that FPL agrees
10 with Staff's position?

11 MS. JOHNSON: That's correct.

12 COMMISSIONER DEASON: Very well. Mr. Childs, I
13 assume that's correct?

14 MR. CHILDS: That's correct.

15 MR. HOWE: Public Counsel takes no position.

16 MS. KAUFMAN: FIPUG takes no position.

17 COMMISSIONER DEASON: Very well. Then issue seven
18 can be shown as a stipulation. Issue number eight.

19 MS. JOHNSON: Issue eight for FPL, the numbers that
20 are shown under issue seven, it's my understanding that
21 that is FPL's position for issue eight.

22 MR. CHILDS: Correct.

23 COMMISSIONER DEASON: Very well. Does Staff have a
24 position on issue eight?

25 MS. JOHNSON: Yes. Staff's position for issue

1 eight are the same factors that are shown under Gulf's
2 position. We don't have a position at this time for FPL
3 pending resolution of the company-specific issue.

4 COMMISSIONER DEASON: Public Counsel take no
5 position with reference to Gulf?

6 MR. HOWE: That's correct.

7 MS. KAUFMAN: Same for FIPUG.

8 COMMISSIONER DEASON: Very well. Issue number
9 nine? Does Florida Power & Light have a position?
10 Mr. Childs, do you have a position on issue nine?

11 MR. CHILDS: Yes. We agree with Staff, but we
12 would begin with the next true-up filing in May of '96.

13 COMMISSIONER DEASON: Is that Staff's
14 understanding?

15 MS. JOHNSON: That's Staff's understanding, and
16 Staff is in agreement with that. The wording of Staff's
17 position can be revised to reflect our agreement to
18 defer it.

19 COMMISSIONER DEASON: You will just incorporate
20 that change; is that correct?

21 MS. JOHNSON: That's correct.

22 MR. HOWE: No position.

23 MS. KAUFMAN: No position.

24 COMMISSIONER DEASON: Very well. Issue number
25 ten.

1 MR. STONE: Commissioner -- go ahead, Ms. Johnson.

2 MS. JOHNSON: It's my understanding that Staff --
3 Staff handed out a position for issue ten. It's very
4 lengthy. A copy was provided to the court reporter.

5 But it's my understanding that the company is not
6 in agreement with our wording. So we still need to work
7 out the wording of that issue to see if we can come to
8 some resolution prior to the hearing.

9 COMMISSIONER DEASON: Go ahead, Mr. Stone.

10 MR. STONE: It is my understanding that we are in
11 agreement, that there are no dollars affected by this
12 issue, in terms of this filing.

13 And our concern with the wording relates to the
14 paragraph that seems to imply that updates of studies
15 are not recoverable through the clause. And we're not
16 certain that that was a policy statement that's been
17 made in the past.

18 And it is our understanding that that language was
19 an attempt to paraphrase the FERC accounts that are
20 listed later in Staff's position. We would have a
21 greater measure of comfort and ability to stipulate to
22 this issue if that paragraph were omitted from the
23 position and leave that issue until it becomes ripe.

24 COMMISSIONER DEASON: Does Staff have a response to
25 that concern?

1 MS. JOHNSON: Staff believes that we can reach
2 agreement with that. We just wanted to take some time
3 to sit down with the company to work out the wording.

4 MR. STONE: That would be fine.

5 COMMISSIONER DEASON: I would invite then all the
6 parties to -- that wish to be involved in that
7 discussion, and to the extent there can be an agreement,
8 it will be shown in the prehearing order. To the extent
9 that there is not agreement, I guess that the positions
10 as stated would have to be stated, and we will discuss
11 the differences to the extent necessary.

12 Anything further on issue ten? Issue 11A.

13 MS. JOHNSON: Issue 11A, I just wanted to make
14 Commissioner Deason aware that today FP&L has made
15 available certain documents that Staff has not had time
16 to review, and that our position is pending review of
17 those documents that we anticipate doing today, and if
18 possible, if we could come to some resolution of that,
19 we would request that it can be reflected in the
20 prehearing order.

21 COMMISSIONER DEASON: Very well. Likewise, FIPUG
22 and Public Counsel to the extent they wish will be
23 involved in those discussions as well. Issue 11B.
24 There are Staff positions that have been provided for
25 11B and 11C; is that correct?

1 MS. JOHNSON: That's correct.

2 COMMISSIONER DEASON: Does FPL have a position for
3 11B and 11C?

4 MR. CHILDS: I think -- I believe we're in
5 agreement with Staff.

6 COMMISSIONER DEASON: Do you wish to confirm that,
7 or do you wish to have the order reflect that you are in
8 agreement?

9 MR. CHILDS: It should reflect that we are in
10 agreement.

11 COMMISSIONER DEASON: Very well. Public Counsel?

12 MR. HOWE: No position.

13 MS. KAUFMAN: No position.

14 COMMISSIONER DEASON: Show then that issues 11B and
15 11C can be shown as stipulations. Are there any other
16 issues in the 07 docket? Very well.

17 Section seven addresses the exhibit list. Changes
18 or corrections to the list? Section eight addresses
19 proposed stipulations. What is the status of Gulf's
20 witnesses in this 07 docket?

21 MR. STONE: Commissioner Deason, again, with regard
22 to the numbers themselves that came out of issue ten, we
23 appear to be in complete agreement with Staff. It's a
24 question of the wording of that -- of Staff's position.

25 COMMISSIONER DEASON: I guess my question is, is

1 that of such a nature that it would necessitate having
2 witnesses appear? It seems to me that it would not.

3 MR. STONE: I would agree. If anything, if there
4 is a disagreement, it may be an argument between
5 counsel, and it may be resolved in that fashion without
6 witnesses.

7 COMMISSIONER DEASON: Let me ask you this: Do any
8 parties see the need for Gulf witnesses to appear at the
9 hearing 07 docket?

10 MS. JOHNSON: No.

11 COMMISSIONER DEASON: Hearing nothing further, I
12 take it then that the Gulf witnesses can be excused and
13 that testimony will be inserted into the record along
14 with the accompanying exhibits, and cross-examination
15 will be waived.

16 MS. JOHNSON: I would add that the only outstanding
17 issue for FP&L is issue 11A, and that affects the
18 calculations in issues two, three and four.

19 MR. CHILDS: Commissioner, if I could observe on
20 that, I believe there were a number of issues as we went
21 through where Staff doesn't have a position because of
22 this outstanding issue 11A.

23 I believe that all of those issues are simply
24 mathematical fallout and wonder if it isn't appropriate
25 to simply agree that even if -- and I think we will

1 satisfactorily address 11A before hearing.

2 But if we don't, on that slight chance I would like
3 to have it understood that it's a mathematical
4 computation, so that any adjustment necessary would not
5 require the witnesses to travel here for a hearing.

6 COMMISSIONER DEASON: So it's your proposal that
7 even if the language concerning 11A can't be agreed to,
8 it's not of such a nature that it would necessitate the
9 appearance of your witnesses?

10 MR. CHILDS: It may necessitate witnesses on that
11 issue, but not witnesses on calculations, if there is
12 any difference between them.

13 COMMISSIONER DEASON: Does Staff agree with that,
14 as far as the fallout? The fallout calculations would
15 still be a fallout, and it would not be necessary for
16 those witnesses to appear?

17 MS. JOHNSON: Staff agrees. Staff just notes that
18 if we are able to come to agreement, we would need new
19 schedules from the company, schedules showing the
20 calculation of the fallout.

21 COMMISSIONER DEASON: Is that your understanding as
22 well, Mr. Childs?

23 MR. CHILDS: My understanding was that if there was
24 a disagreement, we would need to schedule it. But we
25 can make sure that we calculate it either way to show

1 what the adjustment is.

2 COMMISSIONER DEASON: So if necessary you will be
3 providing that information?

4 MR. CHILDS: Absolutely.

5 COMMISSIONER DEASON: Anything further then
6 concerning the 07 docket?

7 MS. JOHNSON: Staff is not aware of anything.

8 COMMISSIONER DEASON: Okay. Show then the 07
9 docket is concluded.

10 Did we leave anything pending in any of the other
11 dockets? I think Mr. Horton was going to confirm a
12 number. Anything else? If not, this prehearing
13 conference is adjourned. Thank you all.

14 (The proceedings were concluded at 11:05 a.m.)

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1 STATE OF FLORIDA)

2 CERTIFICATE OF REPORTER

3 COUNTY OF LEON)

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5 I, SARAH B. GILROY, CP, RPR

6
7 DO HEREBY CERTIFY that the Prehearing Conference on
8 Docket No. 960007-EI was heard by the Florida Public Service
9 Commission at the time and place herein stated; it is further

10
11 CERTIFIED that I stenographically reported the said
12 proceedings; that the same has been transcribed under my direct
13 supervision; and that this transcript, consisting of 13 pages,
14 constitutes a true transcription of my notes of said
15 proceedings.

16
17 DATED this 15th day of February, 1996.

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23 _____
24 SARAH B. GILROY
25 Registered Professional Reporter