BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Fuel and purchased power cost recovery clause and generating performance incentive factor.	DOCKET NO. 970001-EI ORDER NO. PSC-97-0262-FOF-EI ISSUED: March 11, 1997

The following Commissioners participated in the disposition of this matter:

JULIA L. JOHNSON, Chairman
J. TERRY DEASON
JOE GARCIA

FINAL ORDER ADDRESSING TREATMENT OF FUEL REVENUES RECEIVED FROM WHOLESALE SALES IN THE FUEL AND CAPACITY COST RECOVERY CLAUSES

BY THE COMMISSION:

During the March 1996 fuel hearing in Docket No. 960001-EI, the Office of Public Counsel (OPC) raised the following issue:

> Should an electric utility be permitted to include, for retail cost recovery purposes, fuel cost of generation at any time its units exceed, on a cents-per kilowatt-hour basis, the average fuel cost of total generation (wholesale plus retail) out of those same units?

OPC asked that the Commission establish a generic policy statement regarding whether a utility could recover any revenue shortfall that existed between the actual fuel revenues the utility receives from a wholesale sale when those revenues were less than system average fuel costs. The issue was deferred until the August, 1996 fuel hearing to provide parties the opportunity to present testimony. After the hearing, the Commission directed parties to file posthearing statements and staff to submit a recommendation.

It is important to understand the significance of a wholesale sale that is subject to a jurisdictional separation factor (a "separated sale") and a wholesale sale that is not subject to a jurisdictional separation factor (a "non-separated sale"), as a different regulatory treatment exists for the costs and revenues associated with each type of sale.

Non-separated sales: Historically, the Commission has treated sales that are non-firm or less than one year in duration as non-separated sales. An example of such sales is Florida Energy Broker sales which are typically made as the opportunity presents itself.

Because non-separated sales are sporadic, a utility does not commit long-term capacity to the wholesale customer. Non-separable sales are not assigned cost responsibility through a separation process, therefore the retail ratepayer supports all of the investment that is used to make the sale. In exchange for supporting the investment, the retail ratepayer receives all of the revenues, both fuel and non-fuel, that the sale generates through a credit in the fuel and capacity cost recovery clauses. For Broker sales, the utility's shareholders receive 20 percent of the profit associated with the sale.

The actual revenues a utility receives for non-separated sales are typically based on incremental costs. As discussed during the hearing, our existing policy has generated over $800 million in retail benefits to date through the Florida Energy Broker alone. All parties appear to agree, at a minimum, that we should not preclude utilities from this opportunity. Thus, for non-separated sales, we find that our existing policy of crediting all revenues through the fuel and capacity cost recovery clauses should not be altered.

Separated sales: We have traditionally allowed a sale to be separated if it is a long-term firm sale, greater than one year, that commits production capacity to a wholesale customer. In essence, a sale is separated to remove the production plant and operating expenses associated with the sale from the retail jurisdiction's cost responsibility.

When a utility enters into a wholesale transaction that is to be separated, the retail cost responsibility is adjusted by either a reduction in actual retail base rate revenue requirements at the time of the utility's next base rate case, through continued monthly surveillance reporting, which, in the event a utility is over earning, generates additional funds subject to Commission disposition, or through credits in the fuel adjustment clause. In exchange for assigning cost responsibility to the company's shareholders, the Commission allows the utility's shareholders to keep all of the non-fuel revenues received from the sale.

We have generally employed a methodology which uniformly allocates cost to the wholesale and retail markets for separated sales. As Florida Power Corporation's witness Mr. Wieland testified, if costs are allocated between the wholesale and retail

jurisdictions on a consistent basis, it is difficult to say that one group of customers is being priced unfairly. We have assigned costs to both jurisdictions using average embedded costs for production plant and operating expenses, and have required fuel credits equal to average system fuel costs. This process protects the retail market from subsidizing the competitive wholesale market.

As discussed by Mr. Ramil, we have allowed some deviation from the average fuel costing methodology for separated sales on a case-by-case basis. With respect to TECO's sales to Florida Power & Light Company (FPL) from Big Bend unit 4, TECO demonstrated that absent a price concession, FPL would not made purchases. Therefore, we allowed TECO to credit incremental fuel revenues even though revenues were less than average system fuel costs.

Whenever a utility credits an amount which is less than average system fuel costs to the fuel adjustment clause for its separated wholesale sales, the retail ratepayers pay increased (i.e. above average) fuel costs than they would have paid if fuel revenues were credited through the fuel clause based on average fuel costs. When fuel prices are discounted and that discount is automatically passed through to the retail ratepayer, and the other non-fuel revenues go to the utility's shareholders immediately, there is an increased possibility of gaming the system. This concern is heightened by the fact that the retail ratepayer's cost responsibility is reduced only at the time of the utility's next base rate case or when the utility is over earning and the continued monthly surveillance adjustments generate additional funds subject to Commission disposition. Absent a rate case or overearnings situation, the additional non-fuel revenues flow directly to the company's shareholders.

In view of these concerns, we find that, as a generic policy, there shall be uniform cost allocation between the wholesale and retail markets for all prospective separable sales. Thus, we shall impute revenues in the fuel adjustment clause in the event the actual fuel revenues a utility receives from a separable sale are less than average system fuel costs. A utility's shareholders will, in effect, be required to pay for any shortfall associated with fuel revenues if the actual fuel revenues the utility collects are less than the average system fuel costs we impute. Imputation of fuel revenues will protect the retail ratepayer from automatic increases in fuel cost responsibility. Wholesale sales currently being made pursuant to existing contracts will not be affected by this policy.

There is a significant amount of discussion in the record regarding the idea that a utility may be hesitant to enter into a separable sale, even if that sale provides net benefits to the retail ratepayer, because the imputation process has the effect of reducing shareholder earnings. Moreover, because the wholesale market has become increasingly competitive, it is difficult for a utility to collect the average embedded revenues. Given these circumstances, some discounting of the fuel costs may be necessary to achieve overall benefits for the retail ratepayers. To remedy this problem, Gulf Power Company and TECO advocated that the Commission adopt a generic policy that recognizes the overall net benefits a separable sale provides to the retail ratepayer. Such an approach would compare the potentially negative impacts associated with crediting incremental fuel revenues through the fuel adjustment clause to the positive benefits to retail ratepayers associated with selling capacity.

We have a long history of providing utilities with the flexibility needed to maximize retail benefits, however, a utility bears the burden of showing that deviation from established policy is in the public interest. Thus, a utility shall credit average system fuel revenues through the fuel adjustment clause unless it demonstrates, on a case-by-case basis, that each new sale does in fact provide overall benefits to the retail ratepayers.

Mr. Ramil raised concerns regarding a potentially burdensome review and the danger of such a review becoming an opportunity for increased litigation. Nonetheless, it is the Commission's responsibility to ensure that activities taking place in the wholesale market do not adversely affect the retail market. Therefore, when a utility files a petition for recovery of fuel cost differentials, our review shall be limited to a determination of whether a sale is beneficial to the retail ratepayers. We will not determine which utility should make the sale, but rather focus on the utility's actions and the subsequent impact the sale has on the utility's retail ratepayers.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that for non-separable sales, total revenues received shall be credited to the fuel and capacity cost recovery clauses, as more fully described in the body of this Order. It is further

ORDERED that for separable sales, average system fuel costs shall be credited to the fuel and capacity cost recovery clauses, unless the utility demonstrates that the sale generates net benefits to the retail ratepayers, as more fully described in the body of this Order.

ORDERED that this docket shall remain open.

By ORDER of the Florida Public Service Commission, this 11th day of March, 1997.

BLANCA S. BAYÓ, Director
Division of Records and Reporting

by: _____
Chief, Bureau of Records

(S E A L)

VDJ

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 Records and Reporting, 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 Records and Reporting 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.