

BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

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In the Matter of
Fuel and purchased power
cost recovery clause and
generating performance
incentive factor.

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PROCEEDINGS: **AGENDA CONFERENCE**
 ITEM NO. 27

BEFORE: **CHAIRMAN JULIA L. JOHNSON**
 COMMISSIONER SUSAN F. CLARK
 COMMISSIONER JOE GARCIA

DATE: **Tuesday, April 28, 1998**

PLACE: **Betty Easley Conference Center**
 Room 148
 4075 Esplanade Way
 Tallahassee, Florida

REPORTED BY: **JOY KELLY, CSR, RPR**
 Chief, Bureau of Reporting

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P R O C E E D I N G S

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2 **CHAIRMAN JOHNSON:** Back to Item 27.

3 **MS. PAUGH:** Commissioners, at the April 7th
4 agenda conference you voted to hear oral argument on
5 this item on Motion for Reconsideration from Florida
6 Power & Light and Florida Power Corporation of our
7 order determining appropriate treatment of
8 transmission revenues and costs for economy energy
9 transactions.

10 I have requested that this oral argument be
11 reported by our court reporter, and I would request
12 the parties to show due deference to her difficult
13 task.

14 We have recommended that the parties be
15 allowed ten minutes each to make their oral arguments.
16 And with that we'll turn it over.

17 **CHAIRMAN JOHNSON:** Where should we begin?

18 **MS. PAUGH:** I'm sorry?

19 **CHAIRMAN JOHNSON:** Where should we begin?

20 **MS. PAUGH:** Florida Power & Light, perhaps.

21 **CHAIRMAN JOHNSON:** Florida Power & Light are
22 you prepared? Did we limit it to ten -- was it ten
23 minutes?

24 **MS. PAUGH:** Ten minutes.

25 **MR. CHILDS:** Commissioners, my name is

1 Matthew Childs and I represent Florida Power & Light
2 Company.

3 **CHAIRMAN JOHNSON:** Can you hear? Maybe
4 something is wrong with that mike. You may need to
5 switch seats.

6 **COMMISSIONER CLARK:** You know, Madam
7 Chairman, I don't think the mike works because when
8 Mr. McGee was there earlier, it didn't work very well
9 either. I think it would be better if you switched.

10 **MR. CHILDS:** My name is Matthew Childs. I
11 represent Florida Power & Light Company.

12 I wish to point out that the issues that
13 Florida Power & Light Company had raised in its
14 request for reconsideration are separate from those
15 that have been raised by Florida Power Corporation.
16 We're not all arguing the same point.

17 You issued your order dealing with the
18 treatment of economy energy transactions and the gain
19 on those transactions as a consequence of the Federal
20 Energy Regulatory Commission Order 888, which directed
21 the jurisdictional electric utilities to unbundle
22 their services, and, in effect, reflect their charge
23 for transmission. So that if a company is engaged in
24 making an economy sale, it would have to have a tariff
25 for, and show a component charged to transmit that

1 economy energy on its own system. And this, in the
2 FERC's opinion, was for the purposes of making sure
3 that there was no competitive disadvantage between
4 utilities engaged in wholesale transactions.

5 In looking at this issue it is FP&L's
6 position that this Commission, that is the Florida
7 Commission, went farther than it needed, and we
8 believe, perhaps, inadvertently directed the terms and
9 conditions of wholesale transactions, both as it
10 relates to broker pricing and as it relates to the
11 charging for economy services. I don't think that
12 there's any dispute that the FERC has jurisdiction
13 over the terms and conditions of all wholesale
14 transactions for those utilities subject to the
15 FERC's jurisdiction.

16 I would point out that this Commission's
17 rule addressing transmission services for qualifying
18 facilities years ago was changed to clearly provide
19 that the terms and conditions for transmission
20 services shall be those approved by the Federal Energy
21 Regulatory Commission.

22 I think that this Commission was, and should
23 have been concerned about how the gain on an economy
24 transaction was reflected for purposes of flowing back
25 to the retail customers.

1 We do not dispute the basic theory that this
2 Commission had as to the disposition of the gain and
3 the flowing of that amount back to the retail
4 customers. In fact, I think that the positions
5 ultimately adopted by this Commission and Florida
6 Power & Light are the same.

7 However, the Commission did direct in its
8 order that matches under the broker should be the
9 incremental system production costs and not include
10 the costs associated with transmission service.

11 I would start by saying I don't think you
12 really intended to go that far. I don't think it was
13 noticed. And had it been noticed, I think this
14 Commission might have heard evidence as to the basis
15 for broker transactions in Florida. Simply put,
16 there's a separate legal entity that handles that,
17 handles it pursuant to agreement and contracts, and
18 those contracts and agreements are the wholesale
19 rates. And we would urge you not to go farther than
20 you need to in your language of how matches are
21 determined under the broker. And we would urge you as
22 well, and for similar reasons, not to go farther than
23 you need to in addressing the transaction price. And
24 we think you have, in effect, told the utilities that
25 you're asserting jurisdiction over the terms and

1 conditions of wholesale sales.

2 As a practical matter, I think at this point
3 it only affects Florida Power and Light because
4 Florida Power and Light has filed a wholesale tariff
5 to increase the charge that it imposes for
6 transmission service.

7 The other utilities, I believe the evidence
8 showed, were simply taking a component of what you
9 would call the gain, that is the difference between
10 the broker quotes; they were taking a component of
11 that and designating that as being associated with
12 transmission service.

13 We want to comply with the Commission's
14 order. We certainly agree with the disposition of the
15 gain. We don't think you need to go as far as you did
16 as to the jurisdiction over the broker transactions.
17 If you do wish to involve yourself in that, I would
18 suggest that you really do need to look at the
19 corporate documents, the operating agreements and the
20 underlying contracts that relate to the broker's
21 operation. Thank you.

22 **COMMISSIONER CLARK:** Mr. Childs, I just want
23 to be clear.

24 Your argument that matches under the broker
25 system should exclude transmission costs. In other

1 words, transmission costs should not affect
2 transaction costs.

3 **MR. CHILDS:** Well, no, my position really
4 is, Commissioners, that this Commission should not say
5 what the match should be based upon and should not say
6 what the transaction price is because that's a
7 wholesale rate, term and condition.

8 Our position was that, if you have the
9 Order, on Page 2 it shows that Florida Power and Light
10 Company proposed that how it thought it would be
11 treated under the broker for this separate additional
12 charge was to have that affect the seller's quote,
13 which would affect the price at which the broker
14 transaction would take place, and then there would be
15 a separate billing for transmission service in
16 addition.

17 There's a table that shows that on Page 2 of
18 the Order. If you don't have it, or if you care, I
19 can let you see it.

20 **COMMISSIONER CLARK:** I want to -- so what
21 you're saying is that the transaction -- what you
22 quote as the price at which you're willing to sell is
23 what you determine it should be as part of a wholesale
24 transaction.

25 **MR. CHILDS:** It is. And it's part of the

1 agreement between the parties. That's part of the
2 contract.

3 **COMMISSIONER CLARK:** And it could be that we
4 will have a mismatch in the sense that you may be
5 including costs in the amount you're willing to quote
6 as a wholesale transaction that somebody else may not.

7 **MR. CHILDS:** I don't really think so. No, I
8 don't. I think that we've used the hypotheticals and
9 I think that's one of the difficulties. We use the
10 hypothetical that everybody sells as a quote for a
11 sale of 20 and a quote for a buy at 30, and so you get
12 the \$10 difference and divide by two.

13 Florida Power and Light doesn't do that.
14 Their margins are much smaller. It's the coal
15 generating units that are selling a lot of the power.
16 So we're not -- I mean, the implication is, is that
17 our total differential is different, so it changes a
18 quoting on the broker. And I don't think as a
19 practical matter that happens that much.

20 The concern that we have, though, is that
21 what we told you we were doing in this docket, and I
22 think, looking back in retrospect, and saying how did
23 we end up with showing these numbers this way, we
24 thought we were telling the Commission what we do.

25 I read the Order and I get the felling that

1 the Commission reacted, and the Staff reacted, that
2 what we're doing is telling you what we do for pricing
3 and matching and what everybody else ought to do.

4 COMMISSIONER CLARK: Yes.

5 MS. CHILDS: We weren't. We were telling
6 you what we do. What we do under our agreements.

7 COMMISSIONER CLARK: Okay. It seems like
8 there should be some uniformity so that you have the
9 next most efficient unit being dispatched.

10 MR. CHILDS: And I agree that there should
11 be uniformity. But I think that that is addressed --
12 see, we don't have a charge like the other companies.
13 We have a separate charge. But all of us have our
14 agreements with the company that runs the broker. And
15 those are what determines the quotes. So if some
16 other company imposes a separate additional wheeling
17 charge, then it would be treated -- at least I would
18 assume by the way the agreement works -- by vote of
19 the group in a particular way.

20 COMMISSIONER CLARK: And then are you saying
21 even if it's not uniform, it's none of our business
22 because it's within FERC's jurisdiction with respect
23 to wholesale? That's sort of an in-your-face way of
24 saying it but -- and I'm sure you wouldn't say that.

25 MR. CHILDS: I would want us to be much more

1 polite and differential than that. (Laughter)

2 The reason simply is, is that the companies
3 that are subject to FERC's jurisdiction all have these
4 bilateral agreements and contracts that set forth the
5 terms and conditions of the transactions, including
6 economy.

7 COMMISSIONER CLARK: Okay.

8 CHAIRMAN JOHNSON: Mr. McGee. I guess you
9 all have to switch places again.

10 MR. MCGEE: My name is Jim McGee appearing
11 on behalf of Florida Power this afternoon.

12 Commissioners, this proceeding arose from a
13 FERC Order 888 requirement that utilities break down
14 or unbundle the charges for economy broker sales and
15 do a generation component and a transmission
16 component.

17 And the question that this presented to you,
18 and that you heard testimony on back last August, was
19 whether the revenues from these newly unbundled
20 transmission charges would continue to be credited to
21 the retail fuel clause as those revenues had been
22 credited when they were considered generation based.

23 Even though transmission revenues are
24 normally, and in a traditional sense, a base rate
25 item, Florida Power's position before you was that the

1 unbundling requirement of Order 888 was really only a
2 reclassification of existing revenues, and that the
3 benefit of broker sales to the ratepayers really
4 shouldn't be reduced for a change that could be
5 regarded as cosmetic. And because of that, Florida
6 Power proposed that the reclassified transmission
7 revenues be credited back to the fuel adjustment
8 clause. And with that position before you, we were
9 pleased, and fully support the objective that you
10 identified in your Order on Page 11, in your
11 conclusion, when you said that the gains from broker
12 sales should be, to the extent possible, the same
13 before and after FERC Order 888.

14 I think it was clear in the way that
15 objective was phrased, in particular the "to the
16 extent possible" language, that you recognized that it
17 may not be possible to completely avoid Order 888
18 having some effect on the treatment of these new
19 transmission revenues. I think it's a fair statement
20 to say that your objective was to minimize the effects
21 to the extent possible. And that brings us to the
22 point of Florida Power's motion for reconsideration.

23 We ask you to recognize one relatively
24 minor, but unavoidable, effect of Order 888 on the
25 previous treatment that was given to broker sales

1 revenues.

2 This is, in effect, that I would have, at
3 least initially, characterized as a housekeeping
4 matter. It apparently has led to more confusion than
5 we might have expected. And I'd like to try to go
6 through very quickly why the point on the allocation
7 or separation of broker revenues between the retail
8 and wholesale jurisdictions is particularly important
9 in Florida Power's case.

10 Let me say to begin with, broker sales
11 revenues have always been jurisdictionally separated
12 when they were credited to the retail fuel clause. So
13 the question really isn't whether -- the question
14 isn't if new broker transmission revenue should be
15 separated when they are credited to the clause, but
16 how they should be separated.

17 This was a simple question before 888 came
18 out. 100% of the economy revenues that came into a
19 utility were based on the seller's generation costs.
20 And because they were based on generation costs, they
21 were separated between the two jurisdictions, retail
22 and wholesale, based on the -- on how each
23 jurisdiction utilized those generation -- the
24 utilities assets used for the generation that made the
25 sales possible.

1 But when 888 came along, they properly
2 recognized that broker sales actually require the use
3 of both generation and transmission facilities of the
4 selling utility, and the order therefore required the
5 utilities charge for both uses: the use of generation
6 facilities and the use of transmission facilities.

7 It follows then that transmission revenues
8 that are now associated with broker sales need to be
9 separated based on each jurisdiction's proportionate
10 usage of the transmission facilities involved, just as
11 the remaining revenues that continue to be generation
12 related are separated based on how the jurisdictions
13 use generation facilities.

14 This distinction between the separation of
15 generation-based revenues in one hand and
16 transmission-based revenues on the other would be
17 academic if each jurisdiction used the utility's
18 generation assets in the same proportion that they use
19 the transmission assets. Unfortunately, in Florida
20 Power's situation this isn't the case.

21 Florida Power's retail customers use about
22 95% of the energy that's produced by the company's --
23 by the company's system of generation. And as a
24 result of that usage, they also support the cost of
25 95% of those facilities through their base rates. But

1 the same retail customers use and support in their
2 base rates only about 75% of the transmission system,
3 and the remaining portion that isn't reflected in the
4 retail rates are reflected in Florida Power's
5 wholesale firm customers' rates.

6 The reason for this disparity is Florida
7 Power has several large wholesale customers who have
8 their own generation but use Florida Power's
9 transmission system to move that out to their
10 customers. So that results in a higher usage by
11 wholesale customers of transmission rather than
12 generation facilities.

13 Since the wholesale customers support only
14 about 5% of Florida Power's generating system, it's
15 appropriate that they be credited with only about 5%
16 of the generation related revenues that come about
17 from these broker sales. But by the same token, these
18 customers should be credited with 25% of the
19 transmission related charges that come into Florida
20 Power because they support, through their base rates,
21 25% of that transmission system.

22 The Order's conclusion on this included the
23 transmission revenues in with the generation revenues
24 and separated all of them between the two
25 jurisdictions on that same 95/5% basis. It means we

1 have transmission related revenues that are being
2 separated and assigned to the jurisdictional classes
3 based on generation usage. It's a mismatch. And, in
4 fact, your order recognized that this treatment, based
5 on the support of the systems, is really appropriate.
6 I think your reasoning was correct. The conclusion
7 that was drawn from it went somewhat astray.

8 You stated on Page 8 of your Order that "We
9 have clearly stated that revenues from nonseparated in
10 this case broker sales should be credited to retail
11 customers to compensate them for supporting the
12 investment used in making these sales."

13 When we apply that into the current post
14 Order 888 situation, this is just as true for
15 wholesale customers. Each of the classes should
16 receive their fair share of these transmission
17 revenues based on their proportionate usage of the
18 transmission system that allows the sales to be made.

19 Apart from the effect that Order 888 has had
20 on the allocation of transmission revenues to the
21 retail and wholesale customers, there's also an effect
22 on Florida Power itself, which is of some concern.

23 **COMMISSIONER CLARK:** I just wanted to be
24 clear, Mr. McGee. You said 5% of generation should go
25 to wholesale and 25% of transmission, and that's

1 pre-Order 888, or is that something that occurs
2 afterwards?

3 **MR. MCGEE:** Pre-Order 888 we had no
4 transmission revenues that were associated with broker
5 sales. They were all generation related and so they
6 were all allocated on the basis of how we used the
7 generation.

8 **COMMISSIONER CLARK:** Just so I'm clear, what
9 was your argument with respect to the housekeeping for
10 pre-Order 888? Have you touched that issue yet?

11 **MR. MCGEE:** The contrast that we were
12 drawing is that before 888 we had a simple question of
13 allocating all of the costs based on generation cost
14 responsibility. Now we have a relatively small
15 component of those same revenues that have been
16 classified as transmission, and I think properly so,
17 because the transmission system is used. But your
18 Order required they continue to be allocated between
19 the two jurisdictions. The benefit of these credits
20 be allocated to the two jurisdictions based on how the
21 generation system was used, even though they were
22 transmission related --

23 **COMMISSIONER CLARK:** Are you saying because
24 Order 888 required the unbundling of transmission
25 costs, then separate allocation should be made for

1 purposes of jurisdiction? There should be one
2 allocation per generation assets and one allocation --
3 excuse me. One allocation for generation revenues and
4 one allocation for transmission revenues because of
5 how those assets are used.

6 **MR. MCGEE:** Exactly. I think that's
7 required by the FERC order. But I think it's also
8 fair because that's the way the two jurisdictions
9 actually support and pay for those through their
10 rates. The effect on Florida Power is sort of the
11 flip side of --

12 **CHAIRMAN JOHNSON:** I'm sorry, you say you
13 think that that is required by the order?

14 **MR. MCGEE:** Under FERC Order 888, Florida
15 Power has to assign the wholesale customers with a
16 share of the transmission revenues from broker sales
17 that are equal to the 25% share of transmission cost
18 responsibility that they support in their base rates.
19 So when these revenues come in, we will book per the
20 FERC requirement 25% of them to the wholesale
21 business. That gets credited to them. We have
22 ongoing rate cases each and every year with the
23 wholesale customers, unlike on the retail side. So
24 these are not only booked to them but they actually
25 are reflected in the wholesale customers' base rates.

1 **CHAIRMAN JOHNSON:** And then on the
2 generation side?

3 **MR. MCGEE:** Then on the generation side --
4 well, let me finish up with the transmission revenues.

5 FERC will insist, and we believe properly
6 so, that 25% of these revenues that come in be
7 credited to wholesale business. Under your order,
8 though, we will have to allocate 95% -- let me back
9 that up a little bit.

10 The transmission revenues are going to be
11 allocated under your Order 95% to the retail
12 jurisdiction. Under FERC Order 888, 25% will be
13 allocated to the wholesale jurisdiction. It's pretty
14 clear to see that we will be taking in, in effect, for
15 every dollar of transmission revenues that are
16 received by Florida Power, we will credit back to our
17 customers \$1.20.

18 Your Order set as a guideline for reaching
19 its decision a finding that said to the extent
20 possible, stockholders and ratepayers should not be
21 harmed by the FERC order.

22 When we get into a situation where we have
23 this interjurisdictional conflict that requires us to
24 allocate to the customers more revenues than we're
25 taking in, then we reach a result that's contrary to

1 the guideline that you established in indicating if it
2 was possible, you wanted to avoid harm to either the
3 utilities or the ratepayers. And given that we had
4 that assurance that that result would be avoided where
5 it was possible, we believe that reconsideration of
6 the use of a transmission separation factor for
7 jurisdictionalizing transmission revenues is both
8 appropriate and necessary. And we would ask you to
9 reconsider your order accordingly.

10 **CHAIRMAN JOHNSON:** Maybe it's because it's
11 late in the day, but explain that to me again. Our
12 order requires 95% allocation, but you're saying --
13 but FERC requires 25% allocation of the wholesale, and
14 ours require 95% of retail -- or explain that again.

15 **MR. MCGEE:** We have always, in Florida
16 Power's case, allocated 95% of economy revenues coming
17 into us to the retail jurisdiction. That was because
18 those revenues were always considered entirely
19 generation related. Now we have a piece of them, a
20 portion of those total revenues that have been
21 classified as transmission related now.

22 **CHAIRMAN JOHNSON:** Okay.

23 **MR. MCGEE:** And despite that, your order
24 requires that we continue the same practice that we
25 followed in the past, where all of the revenues,

1 including the transmission ones, are allocated 95% to
2 retail, 5% to wholesale.

3 What we think should have been the proper
4 result is that you pull out that small transmission
5 piece and allocate that based on the way the
6 transmission system is used by our retail and
7 wholesale customers, and that would give you a 75/25
8 split.

9 **CHAIRMAN JOHNSON:** Okay. I see what you're
10 doing.

11 **MR. MCGEE:** If I have any time left, I'd
12 like to reserve it to respond to the comments of
13 Mr. Burgess and Ms. Kaufman.

14 **CHAIRMAN JOHNSON:** Before you begin, at some
15 point, does Staff intend to kind of respond to some of
16 the issues that were raised, or just prepare to
17 respond in a recommendation or --

18 **MS. PAUGH:** It's my understanding that
19 procedurally we're not allowed to. We can respond in
20 the recommendation. We can also answer Commissioners
21 questions. But to carry on a dialogue with the
22 parties posthearing, I have been advised is
23 inappropriate.

24 **CHAIRMAN JOHNSON:** Okay. So you all
25 intend -- all of the arguments raised, you're going to

1 be responding through your written recommendation.

2 MS. PAUGH: That's correct. And, again, we
3 can answer your questions, if you had them.

4 COMMISSIONER CLARK: Why can't you engage in
5 a dialogue? We are all here. I mean, it's not like
6 it's ex parte or anything. It was noticed. I can
7 understand if you haven't noticed as participating in
8 the oral argument, maybe it's unfair because they
9 haven't anticipated your being able to answer that.

10 MS. PAUGH: I believe the reasoning is that
11 this is posthearing. It's not like a PAA proceeding.
12 And if we're going to ask and answer questions, we
13 need to be in the hearing, a noticed hearing format,
14 not in this forum.

15 MS. DAVIS: Commissioner, maybe I can help.

16 Traditionally, oral argument is presented by
17 the parties when they think the Commission has erred
18 in its decision by overlooking a fact or misconstruing
19 the law. Staff then analyzes the arguments and
20 presents their analysis and response by virtue of the
21 written recommendation that's filed subsequently. So
22 the oral argument is really the parties show to
23 explain to you why there are errors.

24 COMMISSIONER CLARK: But that doesn't
25 explain why it's inappropriate for the Staff to

1 participate.

2 **MS. DAVIS:** Well, it's not the purpose of an
3 oral argument.

4 **COMMISSIONER CLARK:** Okay.

5 **CHAIRMAN JOHNSON:** Public Counsel.

6 **MR. BURGESS:** I'm Steve Burgess here on
7 behalf of Public Counsel representing the Citizens of
8 the State of Florida.

9 We intend to respond to Florida Power
10 Corporation. We do not intend to respond to Florida
11 Power and Light consistent with our written submission
12 to the Commission.

13 We agree with FIPUG in their pleading that
14 procedurally this is not a proper issue for
15 reconsideration, and that it is simply restaging an
16 argument that failed before the Commission the first
17 time around.

18 But in addition to that I'd like to point
19 out three reasons substantively that the Commission
20 should reject Florida Power Corporation's posture in
21 this case.

22 First, as Mr. McGee indicated, this is
23 simply a cosmetic change. This is an artificial
24 change. To call this a charge, a new charge, is
25 fiction. In fact, everything is exactly the same.

1 The Commission has kept the transaction price the same
2 and the cost to the seller is exactly the same. By
3 definition, then, the profit to the seller is exactly
4 the same so there's no reason to change the benefit to
5 whom this returns. There's no reason to carve out an
6 amount that currently is going to the retail
7 jurisdiction and transfer it to the wholesale
8 jurisdiction.

9 The second reason that this should not be
10 changed --

11 **COMMISSIONER CLARK:** Mr. Burgess, let me ask
12 you about that. It sure seems like that the
13 allocations ought to match -- allocation of revenue
14 should match the allocation of investment. And if
15 FERC is, in fact, allocating 75% of the transmission
16 facilities to the wholesale --

17 **MR. MCGEE:** 25.

18 **COMMISSIONER CLARK:** 25, I'm sorry. And 75
19 to the retail, if we continue with the kind of
20 allocation you have, more revenues will be allocated
21 to retail than the investment justifies. And as a
22 result, they are getting more money on the retail side
23 and not enough on the wholesale side and you have a
24 mismatch.

25 **MR. BURGESS:** You touched on one of the

1 points I wanted to make. And that is even if you
2 accept all of Florida Power Corp's philosophy and
3 argument on this, the fact of the matter is that until
4 FERC reestablishes the firm transmission rate, it is
5 entirely inappropriate to credit back the nonfirm
6 transmission revenues to those customers.

7 **COMMISSIONER CLARK:** And there hasn't yet
8 been that reallocation.

9 **MR. BURGESS:** That is a matter that I think
10 was not addressed head-on in the hearing. I would
11 look to the closest that I could find in testimony
12 that actually addressed that issue, was on Page 203
13 and 204 of the transcript. And it appears pretty
14 clear from that, to me at least, that it was a matter
15 that was in the future. When FERC does credit nonfirm
16 transmission revenues to firm transmission rates, we
17 will then be out the money. But until they do --

18 **COMMISSIONER CLARK:** Say that slowly again.
19 When it does credit nonfirm transmission revenues --

20 **MR. BURGESS:** Well, let me just say the
21 transmission revenues that are in question in this
22 case.

23 **COMMISSIONER CLARK:** Okay.

24 **MR. BURGESS:** That is, the transmission
25 revenues for the economy sales.

1 **COMMISSIONER CLARK:** And they are nonfirm.

2 **MR. BURGESS:** They are nonfirm.

3 **COMMISSIONER CLARK:** Okay.

4 **MR. BURGESS:** That my understanding of the
5 argument at the base of this is that FERC will credit
6 that revenue in the establishment of the firm
7 transmission rates, and that that's where they take
8 into their jurisdiction that 25%.

9 **COMMISSIONER CLARK:** Okay.

10 **MR. BURGESS:** And my point would be until
11 such time as that has happened, then you've got an
12 automatic overearning situation. Because you've got
13 the current rates established by FERC on the firm
14 transmission rates reflecting -- contemplating no
15 credit of these nonfirm transmission revenues, and
16 until such time as they do, then you put the company
17 in automatic overearnings posture.

18 And the only other point I would make is
19 that what we have right now is an issue that companies
20 are buyers and sellers. And when they come in
21 periodically each company is a buyer and a seller of
22 economy sales. Florida Power Corporation is a buyer
23 and seller of economy sales at the periodic time at
24 which we determine what the proper amount is. And
25 when they are a purchaser, this transmission is

1 treated simply as fuel.

2 COMMISSIONER CLARK: As what?

3 MR. BURGESS: As fuel. As just part of the
4 fuel cost. It's not differentiated. And it's
5 captured through the fuel adjustment clause.

6 COMMISSIONER CLARK: Okay.

7 MR. BURGESS: And it seems to me that again,
8 until something is done that captures it somewhere
9 else and removes it from the equation -- unless you --
10 if you are treating it as a separated item for
11 purposes of the revenues -- in other words, you're
12 removing some of the revenue that would otherwise be
13 credited back to the retail jurisdiction and taking it
14 out and giving it to the wholesale jurisdiction, if
15 you do that, it will be asymmetric if you also allow
16 them to capture 100% of the expense for the exact same
17 item and have that born within the retail
18 jurisdiction, at least until such time as we come
19 forward with some definitive statement as to what FERC
20 has done in establishment of the rates on the
21 wholesale level. Thank you.

22 CHAIRMAN JOHNSON: Ms. Kaufman.

23 MS. KAUFMAN: I'm Vicki Gordon Kaufman. I'm
24 here on behalf of the Florida Industrial Power Users
25 Group. And I want to keep my comments short.

1 I want to say that I agree with Mr. Burgess'
2 analysis of this issue. But I want to go back and
3 remind the Commission that we're here on a motion for
4 reconsideration. And this issue that Power Corp has
5 raised again was discussed at length at the hearing
6 and it also has some extensive treatment in your
7 Order.

8 And you said pretty plainly in that order
9 that you recited Power Corp's arguments, and that you
10 said straight out that you didn't agree. So I think
11 at the outset they haven't come close to meeting the
12 standard for a Motion for Reconsideration and it ought
13 to be denied on that basis.

14 And further, as Mr. Burgess has already
15 said, this is just -- the same amount of revenue is
16 coming in. Nothing has really changed here. And as
17 you found in your original order, there's no basis for
18 reallocating some of the revenue that's currently
19 going to the retail side to the wholesale customers.
20 So we think that their motion ought to be denied.

21 **CHAIRMAN JOHNSON:** Thank you, Ms. Kaufman.
22 Any questions, Commissioners?

23 **MR. MCGEE:** Could I make one brief response.

24 **CHAIRMAN JOHNSON:** Briefly.

25 **MR. MCGEE:** To Mr. Burgess.

1 This notion that until the transmission --
2 the 25% of the transmission revenues are actually
3 credited to the rates of firm transmission customers,
4 that Florida Power is in some overearning situation is
5 a concept that's somewhat strained but it also is
6 academic at this point.

7 Florida Power has had a wholesale rate case
8 in every year since 1995. Those revenues are not just
9 being credited on the books. They are actually going
10 in to offset the expenses that form the base rates of
11 the wholesale customers.

12 **MR. BURGESS:** May I respond to that?

13 **CHAIRMAN JOHNSON:** Yes.

14 **MR. BURGESS:** Unfortunately, I don't have
15 the opportunity at this point to set a deposition of
16 Mr. McGee and find out what all the accounting
17 treatments have been and the chronology of events and
18 all of that. So I would say that the record that
19 exists in the -- from the hearing is what this would
20 have to be based on. And that's what I would suggest
21 guide the Commission in factual determination.

22 **CHAIRMAN JOHNSON:** Thank you. Questions,
23 Commissioners?

24 **COMMISSIONER CLARK:** Let me just ask, is it
25 the view of the parties a decision, if we accept

1 FP&L's -- let me put it differently. These two issues
2 are in no way related.

3 MR. BURGESS: I don't know.

4 CHAIRMAN JOHNSON: Any other questions?
5 Staff, is that it or do we -- what is the schedule?
6 When will this be back before the Commissioners?

7 MS. PAUGH: We don't have a definite time
8 frame for filing a recommendation at this time but it
9 will be as soon as we possibly can. We'll need to get
10 the transcript and review that first.

11 CHAIRMAN JOHNSON: Okay.

12 COMMISSIONER CLARK: Can I put you on notice
13 that you'll need to come talk to me. Once you file
14 the recommendation, you probably need to come walk me
15 through it.

16 MS. PAUGH: I'm sorry, probably what?

17 COMMISSIONER CLARK: You probably should set
18 up a meeting to come talk to me and walk me through
19 the recommendation.

20 MS. PAUGH: We'll be happy to do that.

21 COMMISSIONER GARCIA: When you finish
22 walking her through, walk by my office.

23 MS. PAUGH: It will be our pleasure.

24 CHAIRMAN JOHNSON: Okay, thank you.

25 (Whereupon Item 27 was concluded.)

1 STATE OF FLORIDA)
2 COUNTY OF LEON)

CERTIFICATE OF REPORTER

3 I, JOY KELLY, CSR, RPR, Chief, Bureau of
4 Reporting, Official Commission Reporter,

5 DO HEREBY CERTIFY that the Special Agenda
6 Conference in Docket No. 980001-EI was heard by the
7 Florida Public Service Commission at the time and
8 place herein stated; it is further

9 CERTIFIED that I stenographically reported
10 the said proceedings; that the same has been
11 transcribed under my direct supervision; and that this
12 transcript, consisting of 30 pages, constitutes a true
13 transcription of my notes of said proceedings.

14 DATED this 29th day of April, 1998.

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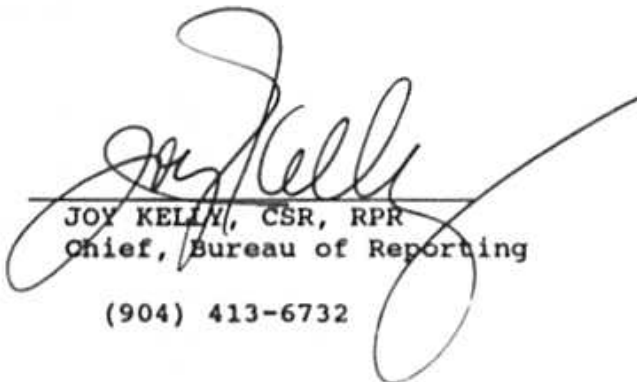
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