BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

| | |
|---|---|
| In re: Fuel and purchased power cost recovery clause and generating performance incentive factor. | DOCKET NO. 990001-EI<br>ORDER NO. PSC-99-0757-FOF-EI<br>ISSUED: April 19, 1999<br>**TRANSMISSION RECONSIDERATION** |

The following Commissioners participated in the disposition of this matter:

JOE GARCIA, Chairman
SUSAN F. CLARK
JULIA L. JOHNSON

ORDER ON RECONSIDERATION DETERMINING APPROPRIATE TREATMENT OF TRANSMISSION REVENUES AND COSTS FOR SCHEDULE C, ECONOMY ENERGY TRANSACTIONS

APPEARANCES:

JAMES A. MCGEE, ESQUIRE, Post Office Box 14042, St. Petersburg, Florida 33733-4042
On behalf of Florida Power Corporation (FPC).

MATTHEW M. CHILDS, ESQUIRE, Steel Hector & Davis LLP, 215 South Monroe Street, Suite 601, Tallahassee, Florida 32301
On behalf of Florida Power & Light Company (FPL).

JEFFREY A. STONE, ESQUIRE, and RUSSELL A. BADDERS, ESQUIRE, Beggs & Lane, Post Office Box 12950, Pensacola, Florida 32576-2950
On behalf of Gulf Power Company (Gulf).

JAMES D. BEASLEY, ESQUIRE, Ausley & McMullen, Post Office Box 391, Tallahassee, Florida 32302
On behalf of Tampa Electric Company (TECO).

VICKI GORDON KAUFMAN, ESQUIRE, McWhirter Reeves McGlothlin Davidson Decker Kaufman Arnold & Steen, P.A., 117 South Gadsden Street, Tallahassee, Florida 32301
On behalf of the Florida Industrial Power Users Group (FIPUG).

STEPHEN C. BURGESS, ESQUIRE, Office of the Public Counsel, c/o the Florida Legislature, 111 West Madison Street, Room 812, Tallahassee, Florida 32399-1400
On behalf of the Citizens of the State of Florida (OPC).

DOCUMENT NUMBER-DATE
04924 APR 19 99
FPSC-RECORDS/REPORTING

WILLIAM COCHRAN KEATING, IV, ESQUIRE, Florida Public Service Commission, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850
On behalf of the Commission Staff (Staff).

BY THE COMMISSION:

## I. CASE BACKGROUND

The Energy Broker Network (EBN) is a mechanism for marketing non-firm, hourly, Schedule C, economy energy among participating Florida utilities. Participating members of the EBN are required to have economy coordination agreements with other members. These agreements provide a basic framework for transactions made on the EBN. Other types of economy energy sales are made by Florida's utilities outside the EBN network.

Pursuant to the Federal Energy Regulatory Commission's (FERC) Order 888, issued April 24, 1996, investor-owned electric utilities were required to unbundle transmission charges from energy sales, including Schedule C, "split-the-savings," economy sales. As a result, Florida Power & Light Company (FPL), Florida Power Corporation (FPC), The Southern Company (Southern), and Tampa Electric Company (TECO) filed amendments to their existing economy coordination agreements as a part of their Open Access Transmission tariff filings on January 1, 1997, at FERC. FERC has approved FPC's tariff filing but has not yet ruled on the tariffs filed by FPL and Southern. However, both FPL and Southern have implemented these tariffs on an interim basis, subject to refund. TECO did not provide testimony on the status of its tariff filing.

Prior to FERC Order 888, each peninsular Florida participant on the EBN used a consistent, "split-the-savings" methodology for pricing these Schedule C, economy energy sales. This pricing methodology was described in each participating investor-owned utility's (IOU) economy coordination tariffs. The revenues resulting from these sales were treated in the same manner by each participating IOU. All costs and gains were flowed through the Fuel and Purchased Power Cost Recovery Clause (fuel clause). Pursuant to our Order No. 12923, issued January 24, 1984, in Docket No. 830001-EU-B, gains on these sales were split between ratepayers and stockholders. Eighty percent of the gains was credited to retail ratepayers through the fuel clause, and the remaining twenty

percent was offered to stockholders as an incentive for making these transactions.

Gulf Power Company (Gulf) is part of the Southern Company Corporate Power Pool and, while not a participant in the Peninsular Florida EBN, makes economy sales on a "split-the-savings" basis. Gulf's parent company, Southern, also does not participate in the EBN. However, Gulf has applied our previous order in this docket, Order No. PSC-98-0073-EI, to all its economy sales. Gulf has also applied the 20 percent stockholder incentive, approved in our Order No. 12923, to all its economy sales. Gulf's situation is discussed below.

Prior to FERC Order 888, the utilities did not separately identify transmission revenues associated with EBN transactions between adjoining utilities. As a result of the FERC requirement to unbundle transmission rates within economy energy sales, each IOU participating in the EBN implemented different pricing and/or cost recovery methods for EBN sales. We addressed these varied treatments at our August 14-15, 1997, fuel clause hearing. The Office of Public Council (OPC) and the Florida Industrial Power Users Group (FIPUG) intervened in the proceeding.

On January 13, 1998, we issued Order No. PSC-98-0073-FOF-EI, determining the appropriate treatment of transmission revenues and costs for Schedule C, economy energy transactions made on the EBN. Our order required that the gains from these sales should, to the extent possible, not change as a result of FERC Order 888, so that retail ratepayers would be held harmless to the FERC Order. Our order also required that any transmission revenues from these sales be credited to the fuel clause and allocated to the wholesale and retail jurisdictions using an energy-related allocation factor, consistent with the normal procedure used in the fuel adjustment clause.

On January 28, 1998, FPL and FPC filed Motions for Reconsideration of Order No. PSC-98-0073-FOF-EI and Requests for Oral Argument. Oral argument was heard at our April 28, 1998, Agenda Conference. FPC requested that we reconsider our order to require that transmission revenues from EBN sales be allocated based on a transmission-related (demand-related) allocation factor, rather than an energy-related allocation factor. FPL argued that our order incorrectly implied jurisdiction over the pricing of wholesale sales.

On August 10, 1998, we issued Order No. PSC-98-1080-FOF-EI, granting FPC's Motion for Reconsideration and clarifying our previous order to address FPL's jurisdictional concerns. We conducted an evidentiary hearing on February 12, 1999, concerning the appropriate method of allocation between retail and wholesale jurisdictions for transmission revenues associated with economy energy sales made over the EBN. On the date of the hearing, FPC filed a request for leave to substitute Karl H. Wieland in place of William C. Slusser, Jr., as FPC's witness for this proceeding due to a death in Mr. Slusser's family. Because Mr. Wieland was fully qualified to address the subject of this proceeding and no party objected to the substitution, we granted FPC's request. FPL, FPC, Gulf, TECO, OPC, and FIPUG participated in the hearing and filed post hearing statements and/or briefs.

## II. DECISION

### A. FERC Treatment of Non-Firm Transmission Revenues

According to testimony provided by FPC witness Wieland, FERC requires that revenues from non-firm transmission services (including EBN sales) be reflected as a revenue credit when firm transmission rates are established. FPL, Gulf, TECO, and OPC concur with FPC's interpretation of the FERC requirement. FIPUG took no position on this issue.

As noted by Gulf witness Howell, FERC Order 888 states at page 304, "...revenue from non-firm [transmission] services should continue to be reflected as a revenue credit in the derivation of firm transmission tariff rates." Southern's Open Access Transmission Tariff complies with this policy by crediting the most current non-firm transmission revenues against firm transmission costs in the annual determination of firm transmission rates. This procedure effectively lowers firm transmission rates for wholesale customers. Gulf witness Howell also noted that Southern's most recent annual determination of firm transmission rates included the crediting of non-firm transmission revenues. FPC witness Wieland testified that FPC has "always recognized revenues for non-firm transmission service as a credit in establishing its firm wholesale transmission rates." Further, witness Wieland testified that in compliance with FERC Order 888, FPC's Open Access Transmission Tariff has separately identified transmission revenues from economy sales and credits these revenues in the determination of firm transmission rates. FPL's Open Access Transmission Tariff also reflects the crediting of non-firm transmission revenues in the

setting of firm transmission rates. As stated above, FERC has approved FPC's tariff filing but has not yet ruled on the filings of FPL and Southern. TECO did not provide testimony concerning the status of its tariff filing.

We agree with FPC, FPL, Gulf, TECO, and OPC that the evidence presented on this issue supports the position that FERC requires revenue from non-firm transmission services subject to FERC jurisdiction to be reflected as a revenue credit in the derivation of firm transmission service rates. However, it is yet to be seen whether there will be exceptions to this FERC policy. For example, Gulf witness Howell stated that Southern currently has a verbal settlement agreement with the parties in Southern's Open Access Transmission Tariff docket which does not provide for the crediting of these revenues. Under the settlement agreement, Southern's firm transmission rates will be fixed for an indeterminate period of time. If the settlement agreement is approved, the non-firm revenue credits will not be updated annually so long as the fixed transmission rate contemplated by the settlement agreement remains in effect. According to witness Howell, although FERC has not yet ruled on this settlement agreement, FERC's staff has agreed to the settlement in principle.

## B. Jurisdictional Allocation of EBN Transmission Revenues

As stated above, FPC's Motion for Reconsideration is based on its contention that transmission revenues from EBN economy energy sales should be allocated using a transmission-related allocation factor. FPC argues that the requirement in our previous order to allocate these revenues based on an energy-related factor places FPC in an inter-jurisdictional conflict which will result in an under-recovery for FPC. As discussed above, FERC Order 888 requires that these non-firm transmission revenues be credited in the determination of firm transmission rates.

FPC uses a 12 coincident peak methodology to determine jurisdictional transmission cost responsibility. Based on this methodology, FPC's current transmission-related allocation is approximately 75 percent retail and 25 percent wholesale. FPC's current energy-related allocator is 95 percent retail and 5 percent wholesale. Thus, as FPC states in its Motion for Reconsideration:

> Because of Order 888, Florida Power must credit its wholesale customers with a share of transmission revenues from economy sales equal to the share of transmission

> cost responsibility supported by its wholesale business, *i.e.* 25%. If Florida Power must also credit 95% of the same transmission revenues to its retail fuel clause because of the retail class's unrelated energy cost responsibility, it will obviously be forced to credit more revenues than it receives.

FPC further argues that allocating these transmission revenues based on an energy-related factor does not adequately compensate wholesale customers for their support of the transmission investment used in making these sales. FPC points out that its wholesale customers support 25 percent of its investment in transmission assets. Allocating these revenues based on energy will only allocate 5 percent of these revenues to wholesale customers.

TECO agrees with FPC that allocating these transmission revenues based on an energy-related factor will conflict with FERC Order 888. TECO further agrees that this policy will not properly compensate wholesale customers for their contribution to the transmission assets used to make these economy energy sales. Therefore, TECO agrees with FPC that these revenues should be allocated based on a transmission-related allocations factor.

FPL and Gulf agree with FPC and TECO in principle. However, FPL and Gulf believe that due to the costs involved in implementing the change and the lack of potential benefits, it is not practical to allocate these revenues based on a transmission-related allocations factor. Therefore, FPL and Gulf believe that an energy-related allocator should be used as required by Order No. PSC-98-0073-FOF-EI. OPC and FIPUG agree that the transmission revenues from EBN sales should continue to be allocated based on energy. For the reasons stated below, we find that transmission revenues associated with economy energy transactions over the EBN should continue to be allocated using an energy-related allocation factor.

First, in Order No. PSC-98-0073-FOF-EI, we found that gains from these sales should, to the extent possible, not change as a result of FERC Order 888, so that retail ratepayers would be held harmless to the FERC Order. We still believe that FERC Order 888 should be transparent to retail ratepayers, and we find that using a transmission-related allocation factor conflicts with this goal.

As discussed in our previous order, buy and sell quotes on the EBN were based on incremental system costs and any applicable variable O&M costs prior to FERC Order 888. Transmission costs were not included in EBN quotes. The gain from these sales was defined as revenues from the sale, less incremental system costs and any variable O&M costs. As stated above, this gain was split 80%/20% between ratepayers and stockholders pursuant to Order No. 12923. Subsequent to FERC Order 888, FPC and TECO identify a portion of the existing gain from EBN sales as transmission revenues; FPC and TECO are not charging an additional transmission charge for transmission on EBN transactions. FPL is charging an additional transmission charge which is effectively split with the buyer. While Gulf does not participate in the EBN, Gulf has added a separate transmission charge on economy sales made under existing economy coordination agreements.

Due to the potential for gaming the 20 percent stockholder incentive provided in Order No. 12923 and the fact that FERC Order 888 imposed no additional transmission costs, we attempted "to maintain the level of gains the same as before FERC Order 888 [to] hold ratepayers harmless to the FERC order . . .." Order No. PSC-98-0073-FOF-EI, p. 6. Our order defined the gain on each sale as the total revenue less incremental system costs and any transmission charge which is separately billed to the buyer. Our order provided for continuing the 80%/20% split of such gains between ratepayers and shareholders.

In Order No. PSC-98-0073-FOF-EI, we required that the incremental system costs and gains on EBN economy sales flow through the fuel clause and be allocated based on energy, as was done prior to FERC Order 888. FPC believes that the seller's transmission revenues should be allocated using a transmission-related separations factor. However, because FPC is not charging an additional transmission charge on these sales, this would reduce the credit to retail customers through the fuel clause. Thus, while we agree that it is technically correct to use a transmission-related allocation factor, doing so would reduce the credit to retail ratepayers through the fuel clause and would therefore conflict with our previous finding that retail ratepayers should be held harmless to FERC Order 888.

Second, we find that the dollar impact of using a transmission-related allocation factor is minimal. As stated above, FPC asserts that the requirement of Order No. PSC-0073-FOF-EI to allocate transmission revenues using an energy-related factor

would result in an under-recovery for FPC, due to a conflict between our order's requirement and FERC's requirement to credit 25 percent of these revenues in the determination of firm transmission rates. According to FPC's calculations, a $16,215 reduction in the credit to retail customers through the fuel adjustment clause for the period April 1998 through September 1998 would result if FPC's proposed allocation methodology is used. We believe that this sum is de minimis and, therefore, that any under-recovery due to an inter-jurisdictional conflict will be minimal. FPC witness Wieland even acknowledged that this sum is immaterial to FPC.

The dollar impact of FPC's proposed change in allocation methodology is even smaller for FPL and Gulf. FPL calculated the credit reduction to its retail ratepayers as approximately $3,000 for 1998. Gulf calculated the reduction in the retail credit as $1,392 for the period January 1997 through August 1998. This calculation includes <u>all</u> economy sales made by Gulf, as further discussed below. TECO did not provide testimony concerning the dollar impact of implementing FPC's proposed change in allocation methodology.

We note that the dollar impact of using a transmission-related allocation factor is highest for FPC because there is a 20 percentage point difference between FPC's transmission-related allocation factor of 75 percent and its energy-related allocation factor of 95 percent. However, for each of the other utilities, the transmission-related and energy-related allocation factors are very similar, with a differential of approximately one-half of a percentage point. For example, FPL calculated its energy-related and transmission-related allocation factors for 1998 as 98.56% and 98.05%, respectively. Therefore, transmission revenues from EBN sales would have to be very large to create a significant dollar impact on the retail credit for FPL.

We further note that utilities have increased their efforts to make more economy energy sales outside the EBN. For example, FPC witness Wieland stated that four years ago, 90 percent of FPC's economy sales were made on the EBN, while today approximately 90 percent of FPC's economy sales are made outside the EBN. Sales on the EBN have declined dramatically over the last several years, from a peak of 4.4 million megawatt-hours (MWh) in 1988, to 1.1 million MWh in 1998. It appears that this trend will continue. Therefore, we expect that the already minimal dollar impact of allocating transmission revenues from EBN sales based on transmission rather than energy will be further reduced over time.

Third, given the minimal potential benefits of using a transmission-related allocation factor, we find that requiring the use of such an allocator would create unnecessary costs and added complexity for the utilities. All four utilities involved in this docket stated that using a transmission-related allocation factor would require changes to the A and/or E schedules filed by each of the utilities in this Commission's fuel adjustment proceedings. FPL witness Dubin stated that these changes would require approximately 40 hours of programming time. Gulf estimated programming time at several days. Gulf witness Ritenour also stated that there would be ongoing costs due to the increased complexity of the schedules. FPC witness Wieland testified that these costs are insignificant, involving perhaps an hour of employee time. TECO provided no estimate of the costs involved in making these changes. Given the minimal potential benefits involved, we believe that the costs and added complexity associated with adjusting fuel clause reporting schedules for a transmission-related factor are unnecessary.

Fourth, we believe that the allocation methodology should be consistent across all four utilities. We considered the option of allowing FPL and Gulf to continue using an energy-related allocation factor while allowing FPC and TECO to use a transmission-related allocation factor. However, given our findings above and for purposes of administrative simplicity, we find that the allocation methodology should be consistent among the utilities. We see no compelling reason to permit differing treatments for the same type of revenues. Using one methodology is also consistent with our decision to keep gains at the same level after FERC Order 888.

As noted above, neither Gulf nor Southern makes economy energy transactions over the EBN. However, subsequent to Order No. PSC-98-0073-FOF-EI, Gulf has applied an energy-related allocation factor to its transmission revenues from other economy sales and credited the jurisdictional portion of those revenues to the fuel clause. In addition, Gulf has applied the 20 percent stockholder incentive approved in Order No. 12923 to its non-EBN economy sales. While we believe that Gulf's interpretation and application of these orders require review, such review is beyond the scope of this proceeding. Therefore, until this matter is reviewed in a future fuel clause proceeding, Gulf should continue to apply its energy-related allocation factor to transmission revenues from its economy sales and credit the jurisdictional portion of those revenues to the fuel clause.

In summary, we find that FPC, FPL, and TECO should continue to jurisdictionally allocate transmission revenues from economy energy transactions over the EBN using an energy-related allocation factor. We also find that Gulf should continue to apply its energy-related allocation factor to transmission revenues from its economy sales and credit the jurisdictional portion of those revenues to the fuel clause.

Based on the foregoing, it is

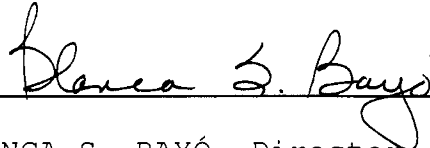
ORDERED by the Florida Public Service Commission that Florida Power Corporation, Florida Power & Light Company, and Tampa Electric Company should use an energy-related allocation factor to jurisdictionally allocate transmission revenues associated with economy energy transactions made over the Energy Broker Network and should credit the retail jurisdictional portion of these revenues through the Fuel and Purchased Power Cost Recovery Clause. It is further

ORDERED that Gulf Power Company should continue to use an energy-related allocation factor to jurisdictionally allocate transmission revenues associated with its economy energy transactions and should credit the retail jurisdictional portion of these revenues through the Fuel and Purchased Power Cost Recovery Clause. It is further

ORDERED that Florida Power Corporation's request for leave to substitute Karl H. Wieland in place of William C. Slusser, Jr., as its witness in this proceeding, is granted. It is further

ORDERED that this docket shall remain open to conduct regularly scheduled hearings, audits, and other matters, as necessary.

By ORDER of the Florida Public Service Commission this 19th day of April, 1999.



BLANCA S. BAYÓ, Director
Division of Records and Reporting

( S E A L )

WCK

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.

RECEIVED-FPSC
99 APR 19 PM 1:42
RECORDS AND
REPORTING

M E M O R A N D U M

APRIL 19, 1999

TO: DIVISION OF RECORDS AND REPORTING

FROM: DIVISION OF LEGAL SERVICES (C. KEATING) RVE WCK

RE: DOCKET NO. 990001-EI - FUEL AND PURCHASED POWER COST RECOVERY CLAUSE AND GENERATING PERFORMANCE INCENTIVE FACTOR

**TRANSMISSION RECONSIDERATION**

99-0757-FOF

---

Attached is an ORDER ON RECONSIDERATION DETERMINING APPROPRIATE TREATMENT OF TRANSMISSION REVENUES AND COSTS FOR SCHEDULE C, ECONOMY ENERGY TRANSACTIONS to be issued in the above-referenced docket. (Number of pages in order - 12)

4:38

WCK/js
Attachment
cc: Division of Electric and Gas (Harlow, Bohrmann, Wheeler)
I:990001or.wck

11/2.