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October 30, 2001

**FEDERAL EXPRESS**

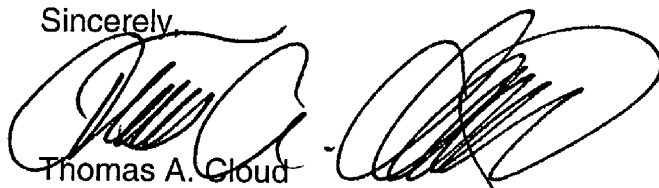
Blanca S. Bayó, Director  
Division of Records and Reporting  
2540 Shumard Oak Blvd.  
Tallahassee, Florida 32399-0870

Re: Docket No.: 010001-EI  
Publix Super Markets Inc., Petition to Intervene - 13759-01  
Pre-Hearing Statement of Publix Super Markets Inc. - 13760-01

Dear Ms. Bayó:

Enclosed please find the original and fifteen (15) copies of Publix Super Markets Inc., Petition to Intervene and the Pre-Hearing Statement of Publix Super Markets, Inc. in the above-referenced docket. A copy of each of these filings has also been provided on a 1.44MB floppy disc in Word Perfect 8.

Sincerely,



Thomas A. Cloud

GRAY, HARRIS & ROBINSON, P.A.

TAC:gcj  
Enclosures  
cc: All individuals on docketing service list  
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13759 OCT 31 01  
FPSC-COMMISSION CLERK



**BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**

In Re: Fuel and purchased power cost  
recovery clause and generating performance  
incentive factor.

DOCKET NO. 010001-EI

Filed: October 31, 2001

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**PUBLIX SUPER MARKETS INC., PETITION TO INTERVENE**

**Publix Super Markets, Inc.** ("Publix"), by and through its undersigned counsel hereby submits its Petition to Intervene in the instant proceeding pursuant to Rules 25-22.039, 28-106.201(2) and 28-106.205, Florida Administrative Code, and as grounds therefore states:

1. The name, address and telephone number of the Petitioner is:  
  
Publix Super Markets, Inc.  
c/o Thomas A. Cloud, Esquire  
Gray, Harris & Robinson, P.A.  
301 East Pine Street, Suite 1400  
Orlando, Florida 32801  
(407) 244-5624 Phone  
(407) 244-5690 Facsimile
2. Copies of all pleadings, notices and orders in this Docket should be provided to:  
  
Thomas A. Cloud, Esquire  
Gray, Harris & Robinson, P.A.  
301 East Pine Street, Suite 1400  
Orlando, Florida 32801  
(407) 244-5624 Phone  
(407) 244-5690 Facsimile
3. Statement of Substantial Interests.

Publix has a substantial interest in the outcome of this proceeding. Publix maintains corporate offices at 1936 George Jenkins Boulevard in Lakeland, Florida 33815.

DOCUMENT NUMBER - DATE

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FPSC-COMMISSION CLERK

Publix develops, owns, operates and maintains five hundred and twenty four (524) supermarket facilities throughout the State of Florida. In addition, Publix owns and operates seven distribution centers and two manufacturing facilities to service its supermarkets. The combined retail sales of Publix, as one of the ten largest supermarket chains in the United States (by volume) was fourteen billion six hundred million dollars (\$14,600,000,000) during calendar year 2000. Publix has in excess of one hundred twenty-two thousand (122,000) employees. Publix is one of the largest retail consumers of electricity in Florida and purchases significant amounts of electricity from most of the utilities (the "Utilities") filing for adjustments to its rates in this docket. The continued business operations of Publix and the effect of those rates on the costs paid by Florida consumers for their groceries are directly affected by the cost of reliable electric service.

In this proceeding, the Commission will consider issues related to the treatment of fuel recovery costs and other adjustments to the tariffs of the Utilities which directly affect the rates Publix will pay for electricity. Publix is in the unique position of owning and operating both commercial and industrial facilities throughout Florida. Status as a retail customer is sufficient standing to qualify as a party in a docket where the issues to be addressed have a direct impact on retail rates<sup>1</sup>. For these reasons, Publix's injury is immediate and of the type which is required in order to become party in these proceedings. In re: Application of South Hutchinson Service Company, 87 FPSC 10:298 (1987); Agrico

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<sup>1</sup>See Docket 001148-EI, Order No. PSC-01-0628-PCO-EI, Page 3, wherein the Commission granted full party status to Dynegy Midstream Services, Limited Partnership in the Florida Power & Light rate case stating that "Dynegy Midstream is a retail customer of FPL. Thus, its interest in the potential effect of this proceeding on its retail rates is sufficient to give it standing in this proceeding."

Chemical Co. v. Dept. of Env't'l. Reg., 406 So.2d 478 (Fla. 2d DCA 1981), rev. denied 415 So.2d 1359 (Fla. 1982).

4. Statement of Disputed Issues of Material Fact.

The following are issues of material fact of this Docket:

- ISSUE 1: What are the appropriate final fuel adjustment true-up amounts for the period January, 2000 through December, 2000?
- ISSUE 2: What are the appropriate estimated/actual fuel adjustment true-up amounts for the period, 2001 through December, 2001?
- ISSUE 3: What are the appropriate total fuel adjustment true-up amounts to be collected/refunded from January, 2002 to December, 2002?
- ISSUE 4: What are the appropriate levelized fuel cost recovery factors for the period January, 2002 to December, 2002?
- ISSUE 5: What should be the effective date of the fuel adjustment charge and capacity cost recovery charge for billing purposes?
- ISSUE 6: What are the appropriate fuel recovery line loss multipliers to be used in calculating the fuel cost recovery factors charged to each rate class/delivery voltage level class?
- ISSUE 7: What are the appropriate fuel cost recovery factors for each rate class/delivery voltage level class adjusted for line losses?
- ISSUE 8: What is the appropriate revenue tax factor to be applied in calculating each investor-owned electric utility's levelized fuel factor for the projection period January, 2002 to December, 2002?
- ISSUE 9: What is the appropriate benchmark level for calendar year 2001 for gains on non-separated wholesale energy sales eligible for a shareholder incentive as set forth by Order No. PSC-00-1744-PAA-EI, in Docket No. 991779-EI, issued September 26, 2000, for each investor-owned electric utility?

- ISSUE 10: What is the appropriate estimated benchmark level for calendar year 2002 for gains on non-separated wholesale energy sales eligible for a shareholder incentive as set forth by Order No. PSC-00-1744-PAA-EI, in Docket No. 991779-EI, issued September 26, 2000, for each investor-owned electric utility.
- ISSUE 11: Has each investor-owned electric utility taken reasonable steps to manage the risks associated with its fuel transactions through the use of physical and financial hedging practices?
- ISSUE 12: What is the appropriate regulatory treatment for gains and losses from hedging an investor-owned electric utility's fuel transactions through futures contracts?
- ISSUE 13: What is the appropriate regulatory treatment for the premiums received and paid for hedging an investor-owned electric utility's fuel transactions through options contracts?
- ISSUE 14: What is the appropriate regulatory treatment for the transaction costs associated with an investor-owned electric utility hedging its fuel transactions?
- ISSUE 15: What is the appropriate regulatory treatment for capital projects with an in-service date on or after January 1, 2002, that are expected to reduce long-term fuel costs?
- ISSUE 16: What is the appropriate rate of return on the unamortized balance of capital projects with an in-service date on or after January 1, 2002, that are expected to reduce long-term fuel costs?
- ISSUE 17: If an investor-owned electric utility exceeds the ceiling on its authorized return on common equity, can and/or should the Commission reduce by a commensurate amount recovery of prudently-incurred expenditures through the Commission's fuel and purchased power cost recovery clause?
- ISSUE 17A: Should voluntary funding of the Gas Research Institute (GRI) surcharge be recovered through the fuel and purchased power cost recovery clause?

#### COMPANY-SPECIFIC FUEL ADJUSTMENT ISSUES

Florida Power & Light Company

- ISSUE 18A: For the period March 1999, to March 2001, did FPL take reasonable steps to manage the risk associated with changes in natural gas prices?
- ISSUE 18B: Is FPL's aerial survey method of its coal inventory at Plant Scherer as stated in Audit Disclosure No. 1 of Audit Control No. 01-053-4-1 consistent with the method set forth in Order No. PSC-97-0359-FOF-EI, in Docket No. 970001-EI, issued March 31, 1997?
- ISSUE 18C: What is the appropriate regulatory treatment for sales of natural gas and transportation capacity made by FPL to an affiliated company?
- ISSUE 18D: What is the appropriate regulatory treatment for sales of natural gas and transportation capacity made by FPL to an unaffiliated company?
- ISSUE 18E: How should FPL allocate the costs associated with its sales of natural gas to Florida Power and Light Energy Services?
- ISSUE 18F: What is the appropriate regulatory treatment of Florida Power and Light Energy Services' revenues and costs made to customers within FPL's service area?
- ISSUE 18G: What is the appropriate regulatory treatment of Florida Power and Light Energy Services' revenues and costs made to customers outside of FPL's service area?
- ISSUE 18H: Are the costs associated with Florida Power & Light Company's purchase of 50 MW firm capacity and associated energy from Florida Power Corporation reasonable?
- ISSUE 18I: Are the costs associated with Florida Power & Light Company's purchase of approximately 1,000 MW of capacity and associated energy from Progress Energy Ventures, Reliant Energy Services, and Oleander Power Project L. P. reasonable?
- ISSUE 18J: Should the Commission allow Florida Power & Light Company to recover through the fuel and capacity cost recovery clauses payments made to Cedar Bay resulting from litigation between FPL and Cedar Bay?

ISSUE 18K: What is the status of Florida Power & Light Company's request to recover costs associated with the contract dispute with Cedar Bay through the fuel and Capacity Cost Recovery Clauses?

Florida Power Corporation

ISSUE 19A: Has Florida Power Corporation confirmed the validity of the methodology used to determine the equity component of Electric Fuels Corporation's capital structure for calendar year 2000?

ISSUE 19B: Has Florida Power Corporation properly calculated the market price true-up for coal purchases from Powell Mountain?

ISSUE 19C: Has Florida Power Corporation properly calculated the 2000 price for waterborne transportation services provided by Electric Fuels Corporation?

ISSUE 19D: For the period March 1999, to March 2001, did Florida Power take reasonable steps to manage the risk associated with changes in natural gas prices?

ISSUE 19E: Were Florida Power's replacement fuel costs for the unplanned outage at Crystal River Unit 2, commencing on June 1, 2000, reasonable?

ISSUE 19F: Should the Commission allow Florida Power to recover payments made to Lake Cogen, Ltd. resulting from litigation between Florida Power and Lake Cogen, Ltd.?

Florida Public Utilities Company

ISSUE 20A: As stated in Audit Disclosure No. 1 in Audit Control No. 01-053-4-2, did Florida Public Utilities Company charge its ratepayers in its GSD class a fuel cost recovery factor that was less than the Commission-approved fuel cost recovery factor for that class?

ISSUE 20B: If Florida Public Utilities Company did charge its ratepayers in its GSD class a fuel cost recovery factor that was less than the Commission-approved fuel cost recovery factor for that class, what are the appropriate corrective actions Florida Public Utilities Company should take?

Tampa Electric Company

- ISSUE 21A: What is the appropriate 2000 waterborne coal transportation benchmark price for transportation services provided by affiliates of Tampa Electric Company?
- ISSUE 21B: Has Tampa Electric Company adequately justified any costs associated with transportation services provided by affiliates of Tampa Electric Company that exceed the 2000 waterborne transportation benchmark price?
- ISSUE 21C: For the period January 1998, to December 2000, were Tampa Electric Company's decisions regarding its wholesale energy purchases from and its wholesale energy sales to Hardee Power Partners reasonable?
- ISSUE 21D: For the period January 1998, to December 2000, were Tampa Electric Company's decisions regarding its wholesale energy purchases from and its wholesale energy sales to non-affiliated entities reasonable?
- ISSUE 21E: Is Tampa Electric's lease of 39 portable generators to provide 70 MW of peaking capacity reasonable?
- ISSUE 21F: Is Tampa Electric's proposal to refund \$6.37 million from 1999 earnings to its ratepayers from January 2002, to March 2002, reasonable?
- ISSUE 21G: Should TECO be ordered to cease its current practice of allocating 100% of replacement power costs to retail customers and be ordered to allocate a pro rata share of all replacement power purchases to wholesale operations?
- ISSUE 21H: Should separated wholesale sales be charged average system fuel costs and should non-separated sales be charged system incremental costs?
- ISSUE 21I: Should the Commission open a docket to require TECO to quantify the magnitude of the past overcharges to retail customers due to its inappropriate management of its long-term wholesale contracts?
- ISSUE 21J: Should the Commission hold TECO's proposed \$86 million fuel true-up in abeyance pending the outcome of the new docket recommended in Issue 21I?
- ISSUE 21K: Should the Commission open a docket to conduct an investigation of TECO's affiliate transactions and its



procurement of power for its wholesale customers to determine whether TECO's actions regarding affiliate transactions are prudent and beneficial to retail customers?

ISSUE 21L: Should the Commission approve TECO's requested fuel factor?

Gulf Power Company

ISSUE 22A: Were Gulf Power's replacement fuel costs for the unplanned outage at Crist Unit 2, commencing on August 2, 2000, reasonable?

ISSUE 22B: As stated in Audit Disclosure No. 3 of Audit Control No. 01-053-1-1 and Audit disclosure No. 3 of Audit Control No. 01-023-1-1, did Gulf Power Company overstate Interchange Sales reported for the year ended December 31, 2000, by \$385,796?

ISSUE 22C: If Gulf Power Company did overstate Interchange Sales reported for the year ended December 31, 2000, by \$385,796, what are the appropriate corrective actions that Gulf Power Company should take?

#### GENERIC GENERATING PERFORMANCE INCENTIVE FACTOR ISSUES

ISSUE 23: What is the appropriate generation performance incentive factor (GPIF) reward or penalty for performance achieved during the period January, 2000 through December, 2000 for each investor-owned electric utility subject to the GPIF?

ISSUE 24: What should the GPIF targets/ranges be for the period January, 2002 through December, 2002 for each investor-owned electric utility subject to the GPIF?

#### COMPANY-SPECIFIC GENERATING PERFORMANCE INCENTIVE FACTOR ISSUES

Tampa Electric Company

ISSUE 24A: Should the actual 2000 heat rates for the Big Bend Units #1 and #2 be adjusted for the flue gas desulfurization's (FGD) impact on Tampa Electric's 2000 reward/penalty?

ISSUE 24B: Should the heat rate targets for the year 2002 for Big Bend units #1 and #2 be adjusted for the FGD's impact on Tampa Electric's eventual 2002 reward/penalty?

#### GENERIC CAPACITY COST RECOVERY FACTOR ISSUES

ISSUE 25: What are the appropriate final capacity cost recovery true-up amounts for the period January, 2000 through December, 2000?

ISSUE 26: What are the appropriate estimated/actual capacity cost recovery true-up amounts for the period January, 2001 through December, 2001?

ISSUE 27: What are the appropriate total capacity cost recovery true-up amounts to be collected/refunded during the period January, 2002 through December, 2002?

ISSUE 28: What are the appropriate projected net purchased power capacity cost recovery amounts to be included in the recovery factor for the period January, 2002 through December, 2002?

ISSUE 29: What are the appropriate jurisdictional separation factors to be applied to determine the capacity costs to be recovered during the period January, 2002 through December, 2002?

ISSUE 30: What are the projected capacity cost recovery factors for each rate class/delivery class for the period January, 2002 through December, 2002?

#### COMPANY-SPECIFIC CAPACITY COST RECOVERY FACTOR ISSUES

##### Gulf Power Company

ISSUE 31: What is the appropriate adjustment to Gulf Power Company's total recoverable capacity payments to reflect the former capacity transactions embedded in the company's base rates, as reflected on line 8 of Schedule CCE-1?

Publix reserves the right to address other issues as its interests may arise.

#### 5. Ultimate Facts Alleged.

The Commission must do a full review of the fuel adjustments requested by TECO and the effect of such adjustments on retail rates. TECO is attempting to increase its retail rates based on fuel recovery adjustments which have resulted not from rising fuel prices in the operation of TECO's generation assets, but from TECO's practice of allocating high cost wholesale electricity purchases to native retail customers while providing its wholesale customers with TECO's lowest cost generation and purchased power. This practice unfairly burdens TECO's retail customers. It forces them to bear the high costs of replacement power that TECO must purchase in the wholesale markets to replace the low cost power from TECO's generation assets which is provided to its wholesale customers.

The Commission should not permit TECO's 2002 fuel rates to be adjusted from current levels until a determination on these proceedings is completed. The Commission should also require TECO to more fairly allocate the costs associated with expensive replacement power between retail and wholesale customers. Finally, the Commission should determine if TECO's wholesale costing, hedging and pricing practices with its affiliates is prudent and if such practices unfairly burden its retail customers and favor wholesale transactions.

6. Applicable Statutes and Rules

Applicable statutes and rules in this proceeding include, but are not limited to:

Chapter 366, Florida Statutes

Florida Administrative Code Chapter 25

Florida Administrative Code Rule 28-106.

7. Affected Agency

The affected agency is the Florida Public Service Commission, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850.

**WHEREFORE**, Publix respectfully requests the Commission enter an Order authorizing it to intervene in this Docket with full party status.



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## CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by US Mail to the following parties of record and interested parties, this 30th day of October, 2001:

### Parties of Record:

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