

**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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**PRE-HEARING STATEMENT OF PUBLIX SUPER MARKETS INC.**

**Publix Super Markets, Inc.** ("Publix"), pursuant to Order No. PSC-01-0665-PCO-EI, hereby files the following as its Prehearing Statement.

**A. APPEARANCES:**

**Thomas A. Cloud, Peter Antonacci and W. Christopher Browder**, Gray, Harris and Robinson, P.A., 301 S. Bronough Street, Suite 600, Tallahassee, Florida 32301 on behalf of Publix.

**B. WITNESSES:**

<b>Witness</b>	<b>Issues Addressed</b>
No Witnesses	

**C. EXHIBITS:**

<b>Witness</b>	<b>Exhibit</b>	<b>Title</b>
No Exhibits		

**D. STATEMENT OF BASIC POSITION:**

TECO is attempting to increase its retail rates based on fuel recovery adjustments at a time when other electric utilities are maintaining the same fuel recovery rates or are in fact lowering such fuel recovery rates. Further, TECO is claiming an under-recovery of fuel costs while at the same time showing excessive profits. The fuel related cost increases which have prompted TECO to seek an increase in its rates has 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

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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. Retail customers are forced to pay through approved tariff rates the costs incurred by TECO to construct, operate and maintain its low cost coal-fired generating assets. At the same time, retail customers are failing to realize the benefit of such low cost generation capability. Instead, retail customers continue to pay significantly higher fuel costs for wholesale electricity generated by higher cost facilities. TECO's practice of allocating high cost wholesale purchases by TECO entirely to native retail customers drives retail prices higher. The retail customers are in effect subsidizing TECO's long-term wholesale contracts.

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.

**E. STATEMENT OF ISSUES AND POSITIONS:**

**GENERIC FUEL ADJUSTMENT ISSUES**

**ISSUE 1:** What are the appropriate final fuel adjustment true-up amounts for the period January, 2000 through December, 2000?

**Publix:** Until the Commission can 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, TECO should not be permitted to collect any of its true-up request.

**ISSUE 2:** What are the appropriate estimated/actual fuel adjustment true-up amounts for the period, 2001 through December, 2001?

**Publix:** Until the Commission can 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, TECO should not be permitted to collect any of its true-up request.

**ISSUE 3:** What are the appropriate total fuel adjustment true-up amounts to be collected/refunded from January, 2002 to December, 2002?

**Publix:** Publix has no position at this time but reserves the right to take a position on this issue by the date of the prehearing conference.

**ISSUE 4:** What are the appropriate levelized fuel cost recovery factors for the period January, 2002 to December, 2002?

**Publix:** Until the Commission can 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, TECO's fuel factor should not be increased.

**ISSUE 5:** What should be the effective date of the fuel adjustment charge and capacity cost recovery charge for billing purposes?

**Publix:** Until the Commission can 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, it would be premature to set an effective date of the fuel adjustments.

**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?

**Publix:** Publix has no position at this time, but reserves the right to take a position on this issue by the date of the prehearing conference.

**ISSUE 7:** What are the appropriate fuel cost recovery factors for each rate class/delivery voltage level class adjusted for line losses?

**Publix:** Publix has no position at this time, but reserves the right to take a position on this issue by the date of the prehearing conference.

**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?

**Publix:** Publix has no position at this time, but reserves the right to take a position on this issue by the date of the prehearing conference.

**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?

**Publix:** Publix has no position at this time, but reserves the right to take a position on this issue by the date of the prehearing conference.

**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.

**Publix:** Publix has no position at this time, but reserves the right to take a position on this issue by the date of the prehearing conference.

**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?

**Publix:** Publix has no position at this time, but reserves the right to take a position on this issue by the date of the prehearing conference.

**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?

**Publix:** It is premature to determine a methodology for recovery until a transparent electricity futures exchange is in place and the utilities have developed operating experience. Without such an exchange, unless utilities waive all claims to confidentiality for such transactions, meaningful regulation in the sunshine cannot take place.

**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?

**Publix:** It is premature to determine a methodology for dealing with future contracts until derivative contracts are in place and utilities have actual operating experience for analysis.

**ISSUE 14:** What is the appropriate regulatory treatment for the transaction costs associated with an investor-owned electric utility hedging its fuel transactions?

**Publix:** Transaction costs should be dealt with after the fact rather than based on forecasts of a highly volatile market.

**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?

**Publix:** Such projects should be recovered through base rates, assuming the utility proves that its actions have been prudent.

**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?

**Publix:** Capital costs should be recovered through base rates to avoid an unreasonable regulatory dichotomy which guarantees full recovery of some capital costs while the profitability of base rates is ignored.

**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?

**Publix:** No, but the Commission can enter a proposed agency action order which reduces rates in a manner similar to the enumerated cost recovery mechanisms. If a hearing is requested, it can be held in conjunction with the other cost recovery proceedings.

**ISSUE 17A:** Should voluntary funding of the Gas Research Institute (GRI) surcharge be recovered through the fuel and purchased power cost recovery clause?

**Publix:** No.

## 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?

**Publix:** Publix has no position at this time, but reserves the right to take a position on this issue by the date of the prehearing conference.

**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?

**Publix:** Publix has no position at this time, but reserves the right to take a position on this issue by the date of the prehearing conference.

**ISSUE 18C:** What is the appropriate regulatory treatment for sales of natural gas and transportation capacity made by FPL to an affiliated company?

**Publix:** Publix has no position at this time, but reserves the right to take a position on this issue by the date of the prehearing conference.

**ISSUE 18D:** What is the appropriate regulatory treatment for sales of natural gas and transportation capacity made by FPL to an unaffiliated company?

**Publix:** Publix has no position at this time, but reserves the right to take a position on this issue by the date of the prehearing conference.

**ISSUE 18E:** How should FPL allocate the costs associated with its sales of natural gas to Florida Power and Light Energy Services?

**Publix:** Publix has no position at this time, but reserves the right to take a position on this issue by the date of the prehearing conference.

**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?

**Publix:** Publix has no position at this time, but reserves the right to take a position on this issue by the date of the prehearing conference.

**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?

**Publix:** Publix has no position at this time, but reserves the right to take a position on this issue by the date of the prehearing conference.

**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?

**Publix:** Publix has no position at this time, but reserves the right to take a position on this issue by the date of the prehearing conference.

**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?

**Publix:** Publix has no position at this time, but reserves the right to take a position on this issue by the date of the prehearing conference.

**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?

**Publix:** Publix has no position at this time, but reserves the right to take a position on this issue by the date of the prehearing conference.

**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?

**Publix:** Publix has no position at this time, but reserves the right to take a position on this issue by the date of the prehearing conference.

#### **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?

**Publix:** Publix has no position at this time, but reserves the right to take a position on this issue by the date of the prehearing conference.

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

**Publix:** Publix has no position at this time, but reserves the right to take a position on this issue by the date of the prehearing conference.

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

**Publix:** Publix has no position at this time, but reserves the right to take a position on this issue by the date of the prehearing conference.

**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?

**Publix:** Publix has no position at this time, but reserves the right to take a position on this issue by the date of the prehearing conference.

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

**Publix:** Publix has no position at this time, but reserves the right to take a position on this issue by the date of the prehearing conference.

**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.?

**Publix:** Publix has no position at this time, but reserves the right to take a position on this issue by the date of the prehearing conference.

#### **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?



**Publix:** Publix has no position at this time, but reserves the right to take a position on this issue by the date of the prehearing conference.

**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?

**Publix:** Publix has no position at this time, but reserves the right to take a position on this issue by the date of the prehearing conference.

### **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?

**Publix:** Tampa Electric should be required to prove that the amounts it pays to its transportation affiliate are competitive with rates charged by competitive water carriers where waterborne transportation competition is in place.

**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?

**Publix:** No. Publix believes that the Commission should audit the transportation costs incurred by TECO for transportation services provided by its affiliates which exceed the 2000 waterborne transportation benchmark price for transportation services.

**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?

**Publix:** No.

**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?

**Publix:** No.

**ISSUE 21E:** Is Tampa Electric's lease of 39 portable generators to provide 70 MW of peaking capacity reasonable?

**Publix:** Publix has no position at this time, but reserves the right to take a position on this issue by the date of the prehearing conference.

**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?

**Publix:** Publix has no position at this time, but reserves the right to take a position on this issue by the date of the prehearing conference.

**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?

**Publix:** Yes.

**ISSUE 21H:** Should separated wholesale sales be charged average system fuel costs and should non-separated sales be charged system incremental costs?

**Publix:** Yes.

**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?

**Publix:** Yes.

**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?

**Publix:** Yes.

**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?

**Publix:** Yes.

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

**Publix:** Until the Commission can 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, the fuel factor should not be approved.

### **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?

**Publix:** Publix has no position at this time, but reserves the right to take a position on this issue by the date of the prehearing conference.

**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?

**Publix:** Publix has no position at this time, but reserves the right to take a position on this issue by the date of the prehearing conference.

**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?

**Publix:** Publix has no position at this time, but reserves the right to take a position on this issue by the date of the prehearing conference.

### **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?

**Publix:** Publix has no position at this time, but reserves the right to take a position on this issue by the date of the prehearing conference.

**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?

**Publix:** Publix has no position at this time, but reserves the right to take a position on this issue by the date of the prehearing conference.

## **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?

**Publix:** Publix has no position at this time, but reserves the right to take a position on this issue by the date of the prehearing conference.

**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?

**Publix:** Publix has no position at this time, but reserves the right to take a position on this issue by the date of the prehearing conference.

## **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?

**Publix:** Publix has no position at this time, but reserves the right to take a position on this issue by the date of the prehearing conference.

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

**Publix:** Publix has no position at this time, but reserves the right to take a position on this issue by the date of the prehearing conference.

**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?

**Publix:** Publix has no position at this time, but reserves the right to take a position on this issue by the date of the prehearing conference.

**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?

**Publix:** Publix has no position at this time, but reserves the right to take a position on this issue by the date of the prehearing conference.

**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?

**Publix:** Publix has no position at this time, but reserves the right to take a position on this issue by the date of the prehearing conference.

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

**Publix:** Publix has no position at this time, but reserves the right to take a position on this issue by the date of the prehearing conference.

## **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:** Publix has no position at this time, but reserves the right to take a position on this issue by the date of the prehearing conference.

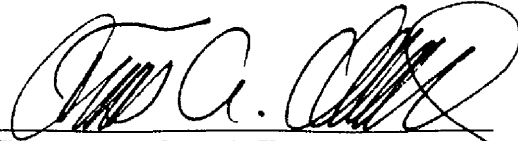
## **F. STIPULATED ISSUES:**

None.

**G. PENDING MOTIONS:**

Publix has the following motion pending:

Publix Petition to Intervene



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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:

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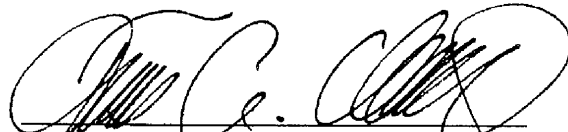
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