

SCANNED ¹

BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

DOCKET NO. 040007-EI

In the Matter of
ENVIRONMENTAL COST RECOVERY
CLAUSE.



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PROCEEDINGS: PREHEARING

BEFORE: RUDOLPH "RUDY" BRADLEY
Prehearing Officer

DATE: Monday, October 25, 2004

TIME: Commenced at 9:30 a.m.
Concluded at 11:40 a.m.

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

REPORTED BY: LINDA BOLES, RPR
Official FPSC Reporter
(850) 413-6734

DOCUMENT NUMBER-DATE

FLORIDA PUBLIC SERVICE COMMISSION

11708 OCT 29 2004

FPSC-COMMISSION CLERK

1 APPEARANCES:

2 GARY V. PERKO, ESQUIRE, Hopping, Green & Sams, P.A.,
3 Post Office Box 6526, Tallahassee, Florida 32314, appearing on
4 behalf of Progress Energy Florida.

5 JEFFREY A. STONE, ESQUIRE, and RUSSELL A. BADDERS,
6 ESQUIRE, Beggs & Lane, Post Office Box 12950, Pensacola,
7 Florida 32591-2950, appearing on behalf of Gulf Power Company.

8 LEE L. WILLIS, ESQUIRE, and JAMES D. BEASLEY,
9 ESQUIRE, Ausley & McMullen, Post Office Box 391, Tallahassee,
10 32302, appearing on behalf of Tampa Electric Company.

11 R. WADE LITCHFIELD, ESQUIRE, and NATALIE SMITH,
12 ESQUIRE, Florida Power & Light Company, 700 Universe Boulevard,
13 Juno Beach, Florida 33408-0420, appearing on behalf of Florida
14 Power & Light Company.

15 JOHN T. BUTLER, ESQUIRE, Steel, Hector & Davis, LLP,
16 200 South Biscayne Boulevard, Suite 4000, Miami, Florida
17 33131-2398, appearing on behalf of Florida Power & Light
18 Company.

19 VICKI GORDON KAUFMAN, ESQUIRE, and TIMOTHY J. PERRY,
20 ESQUIRE, McWhirter, Reeves, McGlothlin, Davidson, Decker,
21 Kaufman & Arnold, P.A., 117 South Gadsden St., Tallahassee,
22 Florida 32301, appearing on behalf of the Florida Industrial
23 Power Users Group.

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1 APPEARANCES CONTINUED:

2 PATRICIA A. CHRISTENSEN, ESQUIRE, Office of Public
3 Counsel, c/o The Florida Legislature, 111 W. Madison St.,
4 Room 812, Tallahassee, Florida 32399-1400, appearing on behalf
5 of the Citizens of the State of Florida.

6 MARLENE STERN, ESQUIRE, FPSC General Counsel's
7 Office, 2540 Shumard Oak Boulevard, Tallahassee, Florida
8 32399-0850, appearing on behalf of the Commission Staff.

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P R O C E E D I N G S

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COMMISSIONER BRADLEY: Let's proceed to Docket 07. We're now on Docket 07. Are there any preliminary matters by any of the parties?

MS. STERN: It appears that there are none.

COMMISSIONER BRADLEY: Let's proceed through the draft prehearing order section by section as quickly as possible. If there are any questions, clarifications or changes, please let me know at the appropriate time. And with that we will begin going through the draft prehearing order. Section I, conduct of proceedings.

MS. STERN: No changes.

MR. BUTLER: Commissioner, I'm sorry, John Butler. A very minor matter; I'd like to ask that the word "Esquire" be added after my name on the appearances. I want to join the club.

COMMISSIONER BRADLEY: Let the record reflect the mandated change.

Section II, case background.

Section III, jurisdiction.

Section IV, procedure for handling confidential information.

Section V, post-hearing procedures.

Section VI, prefiled testimony and exhibits.

MR. BADDERS: Commissioner, we do have a change to

1 ne of our witnesses' testimony. I'm not sure if this is the
2 appropriate time to address that.

3 MS. STERN: That -- why don't we bring that, go
4 through that when we get to the exhibits.

5 MR. BADDERS: Okay. And also with the witnesses when
6 we go through their testimony.

7 COMMISSIONER BRADLEY: Okay. Section VII, order of
8 witnesses.

9 MS. STERN: Okay. Go ahead.

10 MR. BADDERS: Commissioner, we'd like to make a
11 change to the testimony of --

12 COMMISSIONER BRADLEY: Identify -- would you please
13 identify yourself.

14 MR. BADDERS: Russell Badders on behalf of Gulf
15 Power. We have a change to Witness Vick's testimony. We need
16 to withdraw at Page 19, Lines 1 through 18. Thank you.

17 COMMISSIONER BRADLEY: Thank you.

18 Section VIII, basic positions.

19 MS. STERN: No changes.

20 COMMISSIONER BRADLEY: Section IX, issues and
21 positions.

22 MS. KAUFMAN: Commissioner Bradley, Vicki Kaufman for
23 FIPUG. We have taken some positions on specific issues and
24 those have not changed, and we would ask that the issues that
25 we have not taken positions on be treated in the same way as in

1 the prior docket, with the exception of we just received a
2 motion from Progress Energy to supplement their testimony and
3 we have not had time to review that. I assume we'll take that
4 up at the end.

5 MS. STERN: Okay. That will be reflected in the
6 prehearing order. I think that on the generic issues, I don't
7 think there -- there are some changes to the generic issues. I
8 think Gulf, Gulf Power has some changes.

9 MR. BADDERS: That is correct. Russell Badders on
10 behalf of Gulf Power. Back on the testimony real quick, that
11 was the September 3rd, 2004, version of his testimony just for
12 clarification. We do have changes to several of the issues.
13 If you'd like, I can go through them in order.

14 Our first change is to Issue 3. The correct number
15 is 25,771,942.

16 MS. STERN: And with that, staff will change its
17 position to "Agrees with Gulf."

18 COMMISSIONER BRADLEY: Florida Power & Light, any
19 changes to your --

20 MR. BUTLER: No, Commissioner.

21 COMMISSIONER BRADLEY: None?

22 MR. BUTLER: None.

23 MR. BADDERS: We actually have several changes. Do
24 you want me to go through them one by one for each of the
25 parties or just go ahead and go through all of ours for, for

1 this section?

2 COMMISSIONER BRADLEY: Okay. Why don't we take all
3 of the changes for each individual utility.

4 MR. BADDERS: Okay. Okay.

5 COMMISSIONER BRADLEY: And let's start with Gulf.
6 Okay.

7 MR. BADDERS: We also have a change to our position
8 on Issue 4. The new number should be 25,272,642.

9 MS. STERN: And staff will change its position to
10 "Agrees with Gulf."

11 MR. BADDERS: The next issue is Issue 7, and this is
12 our table containing factors, and there's a change to each of
13 these factors. The first line, which is RS, RSVP, should be
14 changed to ".235."

15 The next rate class is GS, and that should be changed
16 to reflect "234."

17 The next series of rate classes should be "229," the
18 next is "221," the next is "214," the next is "210" and the
19 last rate class is "220."

20 MS. STERN: And staff changes its position to "Agrees
21 with Gulf." I don't believe any other utilities have changes
22 to the generic issues.

23 COMMISSIONER BRADLEY: Okay. Well, just for the
24 record, let me ask officially. Progress.

25 MR. PERKO: No changes, sir.

COMMISSIONER BRADLEY: TECO.

2 MR. BEASLEY: No changes, sir.

3 COMMISSIONER BRADLEY: And what about -- I know -- I
4 think I know where staff stands, but FIPUG and OPC.

5 MS. CHRISTENSEN: OPC has no change to its position.
6 We have no position on those issues.

7 MS. KAUFMAN: The same. I'm sorry.

8 COMMISSIONER BRADLEY: Okay. And I think Florida
9 Power & Light has stated its position.

10 MR. BUTLER: That's correct.

11 COMMISSIONER BRADLEY: Did I miss anyone? Okay.
12 Section X, exhibit list.

13 MS. STERN: Can, can we back up for one second?

14 COMMISSIONER BRADLEY: Yes.

15 MS. STERN: Are there -- I'm not sure, there might be

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19 them on the record.

20 MS. STERN: If there are, we should hear them now.

21 COMMISSIONER BRADLEY: Okay. Why don't we start with
22 Gulf since you nodded first.

23 MR. BADDERS: Yes, Commissioner. There are several
24 changes to our company-specific issues. The first one is 12A.
25 It is my understanding that Gulf Power and staff have come to

1 an agreement on language. I'm not sure who has the final
2 edition. I believe what appears here in the prehearing order
3 is the final.

4 MS. STERN: Do you have a copy of the draft that I
5 brought down this morning and that I e-mailed out Friday
6 afternoon?

7 MR. BADDERS: I do.

8 MS. STERN: Okay. The language that is in the draft
9 e-mailed out Friday afternoon is the language we agreed to.
10 That's my understanding. And that's also the language that's
11 in the draft that you have, Commissioner Bradley.

12 MR. BADDERS: Then my understanding, Commissioner
13 Bradley, is that all of the issues that are shown and the
14 positions for the company-specific for Gulf Power are correct
15 and we are in agreement with them.

16 MS. STERN: Okay. Well, then it seems that none of
17 the other utilities have changes to the utility-specific
18 positions. I'm not sure if FIPUG or OPC have changes.

19 MS. CHRISTENSEN: I have no changes. But I did want
20 to draw your attention back to Issue 8, which is a generic
21 issue, and we would put in "Agrees with staff." It was -- it
22 looks like it was an oversight as far as taking a position. So
23 at this time if we could just amend that to "Agrees with
24 staff."

25 COMMISSIONER BRADLEY: As it relates to basic issues?

1 Basic issues?

2 MS. CHRISTENSEN: On, on Issue 8.

3 COMMISSIONER BRADLEY: Section VIII, basic positions?

4 MS. CHRISTENSEN: Yes, with that one.

5 COMMISSIONER BRADLEY: Okay. Let the record so
6 reflect OPC's position.

7 Any other changes to company-specific issues?

8 MR. BUTLER: None for FPL.

9 COMMISSIONER BRADLEY: Florida Power & Light says no.
10 What about TECO?

11 MR. BEASLEY: No changes.

12 COMMISSIONER BRADLEY: Progress.

13 MR. PERKO: No changes.

14 COMMISSIONER BRADLEY: Gulf has stated its changes.

15 think the record should reflect that staff, FIPUG and OPC

16 have no changes, is that correct, as it relates to

17 company-specific issues?

18 MS. KAUFMAN: Well, simply the comment that I made at
19 the beginning that where we've taken no position, we would just
20 like to maintain that.

21 MS. CHRISTENSEN: Similarly, except for Issue 8 where
22 we would agree with staff on the billing issue.

23 COMMISSIONER BRADLEY: Okay. Are we now ready for
24 Section X?

25 MS. STERN: Yes.

1 COMMISSIONER BRADLEY: Okay. Section X, exhibit
2 list.

3 MR. BADDERS: Gulf Power again has a change here.
4 Witness Vick's exhibit JOV-1, we need to withdraw Pages
5 10 through 26, as well as the last three lines of the index.

6 COMMISSIONER BRADLEY: Okay. Any other changes to
7 the exhibit list?

8 MR. BUTLER: None for FPL.

9 COMMISSIONER BRADLEY: TECO.

10 MR. BEASLEY: None for us.

11 COMMISSIONER BRADLEY: Progress.

12 MR. PERKO: No changes.

13 COMMISSIONER BRADLEY: Anyone else?

14 Okay. Section -- are we ready for Section XI?

15 MS. STERN: Yes.

16 COMMISSIONER BRADLEY: Proposed stipulations.

17 MS. STERN: Okay. It appears that on the generic
18 issues we have, staff has stipulations with all utilities on
19 Issues 1, 3, 5, 6 and 7, and on those issues FIPUG and OPC take
20 no position. The prehearing, prehearing order will reflect
21 that.

22 On Issue 8 I believe all parties, the position is the
23 same. There's a complete stipulation on that.

24 On Issues 2 and 4 staff has partial stipulations with
25 TECO, FPL and Gulf, and on those issues FIPUG and OPC take no

1 position.

2 On the company-specific issues, first FPL, Issue 9A,
3 staff has a stipulation with FPL and FIPUG -- OPC, with OPC
4 aking no position.

5 On Issues 9B, 9C, 9D, staff has a stipulation with
6 FPL, and FIPUG and OPC take no position on those issues.

7 For Progress on Issue 10A, staff, FIPUG and Progress
8 are in agreement. OPC takes no position.

9 On 10B, there is no stipulation, so that, that issue
10 will have to go to, go to hearing. That's the only issue in
11 this docket that will.

12 Issue 11A, staff has a stipulation with TECO, and OPC
13 and FIPUG take no position.

14 Moving on to the Gulf-specific issues. Issues 12A,
15 12B, 12C, 12E, staff and Gulf have a stipulation, with FIPUG
16 and OPC taking no position.

17 And on Issues 12D and 12F, staff, Gulf and FIPUG have
18 a stipulation with OPC taking no position.

19 Those, those are the stipulations. I think that,
20 that covers it.

21 COMMISSIONER BRADLEY: Thank you. Any comments?

22 Okay.

23 Section XII, pending motions.

24 MS. STERN: I believe we have a pending motion by

25 Progress

1 MR. PERKO: Commissioner, this morning Progress will
2 be filing a motion to file supplemental testimony on Issue 10B,
3 which relates to whether an adjustment should be made to remove
4 costs of repairing a water main in connection with some
5 remediation work. I've given copies of the motion to counsel
6 for the staff as well as counsel for OPC and for FIPUG, and
7 we'll be asking for relief to file the testimony which will be
8 approximately five pages long.

9 MS. STERN: At this point -- and staff just received
10 the motion this morning, so we have no position. I think at
11 this point we'll just have to show it in the prehearing order
12 as pending. And we will be conferring with you, Commissioner,
13 to decide how to rule on it sometime before the hearing.

14 COMMISSIONER BRADLEY: Let the record reflect that
15 the motion is pending. Any other pending motions?

16 Pending confidentiality matters.

17 MS. STERN: Yes, there are two pending
18 confidentiality requests, and they will be resolved before the
19 hearing.

20 MR. BADDERS: Commissioner, if I may, it appears that
21 all of my witnesses --

22 COMMISSIONER BRADLEY: Identify yourself for the
23 record.

24 MR. BADDERS: Russell Badders on behalf of Gulf
25 Power. It appears all my witnesses may be stipulated. In that

1 event, I would also ask to be excused from the hearing.

2 MS. STERN: Staff has no objection to that.

3 COMMISSIONER BRADLEY: Granted.

4 MR. BUTLER: I would make the same request with
5 spect to FPL. This is John Butler on behalf of Florida Power
6 & Light Company. It appears that all issues are stipulated
7 with respect to FPL. I'd ask that the witnesses be excused
8 :rom appearing at the hearing.

9 MS. STERN: And staff has no objection.

10 COMMISSIONER BRADLEY: Granted.

11 MR. BEASLEY: And Jim Beasley for Tampa Electric;
12 same request.

13 MS. STERN: And staff has no objection.

14 COMMISSIONER BRADLEY: Granted. Anyone else?

15 MS. STERN: Also for the ruling section, I'd like to
16 suggest that there would be a ruling that opening statements,
17 if any, not exceed ten minutes per party.

18 COMMISSIONER BRADLEY: **Let** the record reflect that
19 the prehearing officer agrees with staff.

20 Is there anything else to come before the prehearing
21 officer at this time?

22 MS. STERN: It appears not.

23 COMMISSIONER BRADLEY: If not, thank you for your
24 participation. This prehearing conference is adjourned.

25 (Prehearing conference adjourned.)

1 STATE OF FLORIDA)
2 COUNTY OF LEON)

CERTIFICATE OF REPORTER

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I, LINDA BOLES, RPR, Official Commission Reporter, do hereby certify that the foregoing proceeding was heard at the time and place herein stated.

IT IS FURTHER CERTIFIED that I stenographically reported the said proceedings; that the same has been transcribed under my direct supervision; and that this transcript constitutes a true transcription of my notes of said proceedings.

I FURTHER CERTIFY that I am not a relative, employee, attorney or counsel of any of the parties, nor am I a relative or employee of any of the parties' attorneys or counsel connected with the action, nor am I financially interested in the action.

DATED THIS 29TH DAY OF OCTOBER, 2004.

Linda Boles
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FPSC Official Commission Reporter
(850) 413-6734