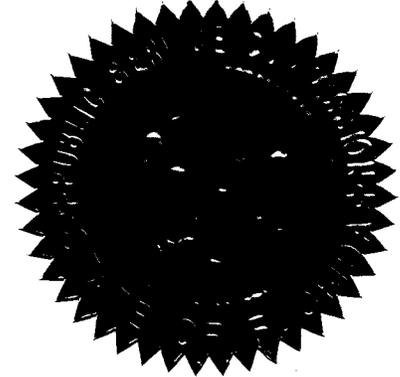


BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

DOCKET NO. 080612-EI

IN THE MATTER OF:

PETITION OF GULF POWER COMPANY FOR
APPROVAL OF NEGOTIATED RENEWABLE
ENERGY POWER PURCHASE AGREEMENT
WITH BAY COUNTY, FLORIDA.



PROCEEDINGS: AGENDA CONFERENCE
ITEM NO. 8

BEFORE: CHAIRMAN MATTHEW M. CARTER, II
COMMISSIONER LISA POLAK EDGAR
COMMISSIONER KATRINA J. McMURRIAN
COMMISSIONER NANCY ARGENZIANO
COMMISSIONER NATHAN A. SKOP

DATE: Tuesday, December 16, 2008

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

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

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FPSC-COMMISSION CLERK

1 PARTICIPATING:

2 STEVE GRIFFIN, ESQUIRE, and STEVE WRIGHT,
3 representing Gulf Power Company.

4 ROBERT SCHEFFEL WRIGHT, ESQUIRE, representing Bay
5 County, Florida.

6 STEVE GARL, representing the Florida Public Service
7 Commission staff.

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P R O C E E D I N G S

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3 CHAIRMAN CARTER: We are back on the record. And
4 with that, Commissioners, we are now on Item 8.

5 Staff, you are recognized.

6 MR. GARL: Thank you, Mr. Chairman. I'm Steve Garl
7 from Commission staff. Commissioners, Item 8 is a petition
8 from Gulf Power Company requesting approval of a negotiated
9 renewable energy power purchase agreement with Bay County,
10 Florida. The agreement executed on September 5th, 2008,
11 requires Gulf to purchase all energy produced by the Bay County
12 Resource Recovery Facility from municipal solid waste at a
13 fixed price for six years. There is no capacity payment
14 associated with the agreement. The cost of the purchased
15 energy is below the cost of energy from Gulf's own resources or
16 alternate sources. The cost benefit is expected to produce
17 savings of approximately \$1.8 million over the term of the
18 contract. Staff recommends approval of the agreement. Staff
19 and representatives from Gulf Power are available to answer any
20 questions you may have. Thank you, Mr. Chairman.

21 CHAIRMAN CARTER: Thank you. From the company.

22 MR. GRIFFIN: Good morning, Commissioners. Steve
23 Griffin with the Beggs & Lane Law Firm. Also with me are Steve
24 Wright and behind him Mr. Homer Bell from Gulf Power.

25 CHAIRMAN CARTER: Mr. Wright.

1 MR. WRIGHT: Thank you, Mr. Chairman. Schef Wright
2 representing Bay County. Here to answer questions. We support
3 the staff recommendation. Thank you.

4 CHAIRMAN CARTER: Thank you. Commissioner Skop,
5 you're recognized.

6 COMMISSIONER SKOP: Thank you, Mr. Chairman. I just
7 had some quick questions with respect to the staff
8 recommendation. I'm generally in support of approving the
9 staff recommendation, but I had two quick questions either to
10 Bay County or Gulf but I'll refer them to Gulf.

11 I guess staff had mentioned that in terms of the
12 contractual language that Gulf will receive all of the
13 renewable attributes but there is some discrepancy as to
14 whether monetary consideration may be included in the term
15 mutually agreed upon by the parties. But it's my understanding
16 and I just wanted to ask Gulf for the record that would it be
17 Gulf's interpretation of paragraph nine of the underlying
18 contract that all of the RECs are owned by Gulf and no
19 additional payment?

20 MR. GRIFFIN: That's correct, Commissioner.

21 COMMISSIONER SKOP: Okay. Thank you. And then with
22 respect to the energy price, the as-available energy cost, the
23 four curves for that, what were they projected on in terms of
24 when the projections were made?

25 MR. WRIGHT: As far as timing?

1 COMMISSIONER SKOP: Timing. Well, I know the timing.
2 But in terms of were those projections on a forward curve based
3 recently, i.e., in parallel with the declining fuel prices that
4 we've seen or were they, were they made previously where
5 forward prices would be high in relation to a high spot price?

6 MR. WRIGHT: I understand. The offer price that we
7 offered to Bay County was determined in June or July rather.
8 When we filed the petition, we had new, new, new prices and new
9 fuel costs available and that's what was in the petition, and
10 that's where the savings that was mentioned of \$1.8 million.

11 COMMISSIONER SKOP: I'm sorry.

12 MR. WRIGHT: That's where the savings of \$1.8 million
13 came from, from the August run. Since that time we've gone
14 back and looked because of the volatility in the market, and
15 the overall cost savings for the customers based on today's
16 prices is \$1.2 million, but it's still cost-effective.

17 COMMISSIONER SKOP: Okay. And I guess to that point,
18 again, I support the contract, but I thought it might be useful
19 to, for staff and for the stakeholders to offer some insight as
20 to how I review these contracts as they come before me. I
21 guess first and foremost, you know, the first thing I would
22 check for is whether the domestic or foreign counter-party is
23 properly registered to do business in the state. In the
24 instant case it's not applicable because the county doesn't
25 have to register with the Department of State. The second

1 thing I look for is the net present value, it being positive,
2 which this contract clearly there is.

3 What gives me a little pause, and I think this is a
4 policy issue that the Commission may wish to consider on a
5 forward-going basis and this is why I've taken the time to do
6 this, is that on Page 5 of the recommendation staff makes the
7 caveat that the cost, and it's in the middle of the page, as
8 the cost of as-available energy during the cooler months,
9 October through May, is projected to be less than contracted
10 rate, I guess what they're saying is that if the unit does not
11 perform well during the summer months, there's the potential of
12 turning a cost-savings arrangement into a cost-ineffective
13 proposition. And I wanted to expand upon that.

14 I have no problem with this and I can distinguish it
15 from a long-term contract to the extent that this contract is
16 for six years, so it's relatively short-term. But one of the
17 things looking beyond just merely stopping at is there a net
18 present value is I guess staff should potentially look at the
19 appropriateness of a fixed price contract versus one that's
20 indexed to fuel. And the reason that I say that is that if
21 fuel and the projected net present value is based upon a high
22 spot fuel price that we've seen previously to the recent
23 declines, then the forward curves that that pricing is based
24 upon are incrementally higher. And if we lock in at that
25 price, then fuel declines, then the consumers may be paying

1 effectively more than they otherwise would. So if you lock in
2 at the high price, the consumer is not able to leverage any
3 downside cost of fuel reduction. Likewise too, if you lock in
4 at the high price, there's limited upside benefit to the
5 consumer to the extent that prices will not likely rise
6 significantly higher than that.

7 So putting that into perspective, if fuel, if fuel
8 costs declined in the future significantly, then theoretically
9 Gulf would remain obligated to pay the contracted amount and
10 would recover the costs from the ratepayers through the fuel
11 clause. The term of this contract is short, six years, so
12 again I'm not overly concerned. But I have seen in my career a
13 case where in the great State of California the Governor, Gray
14 Davis, decided that he was going to get the state involved in
15 purchasing power for the state, and during the time of the
16 California energy crisis he locked in contracts at a
17 significantly high price. And when fuel came down and the spot
18 price of electricity came down, the state was faced with some
19 serious financial issues associated with that.

20 So one can draw some parallels from this, is that
21 normally constant price is okay. I'd rather set it when fuel
22 prices are low. That way you can leverage significant upside.
23 Here if we set it, although there's positive net present value,
24 there may be significantly more positive net present value if
25 we were cognizant of what price we were actually setting it at.

1 But here again not a concern, a short-term contract. It's just
2 something from a policy perspective that I would ask staff to
3 take a look at on a forward-going basis as the Commission sees
4 more and more of these contracts. And I think through the
5 discussions I have, staff would agree that it's a valid point
6 that just merely stopping at the net present value -- you know,
7 that's a quick screening analysis and I think it's a good one.
8 But putting a little bit more additional analysis and thought
9 into that saying where are we at in terms of fuel pricing to
10 the extent that if prices recede significantly, is the consumer
11 going to be paying more than they should, and if the pricing
12 was set more lower in a fixed price contract, then that net
13 present value, if fuel prices decline, could be significantly
14 more than it would be. So it looks to me like this could be
15 marginal depending upon some things. But, again, making it
16 short, I'm not overly concerned because it's a short-term.

17 The last thing I would look for is the pricing on the
18 RECs. I think my concern has been answered. Although there
19 was some uncertainty from staff, it was clear to me from
20 reading provision nine of the contract that the RECs inure to
21 the benefit of the company with no additional monetary
22 consideration. It's just mutually agreed upon to deliver the
23 attributes.

24 I'm equally -- my concern is equally mitigated there
25 too to the extent there's not really a huge voluntary market

1 for municipal solid waste RECs. So, again, I think this is a
2 good idea. I don't mean to stand in the way of progress, but I
3 just wanted to kind of articulate some insight into how I
4 review things. And hopefully staff will look at things on a
5 forward-going basis. Because I think if this were a long-term
6 contract, again, those forward curves and when that pricing was
7 set would be a little bit more important in terms of having a
8 little bit more forethought and analysis put into that extra
9 step. But with that, Mr. Chairman, if there are no additional
10 questions --

11 CHAIRMAN CARTER: One second, Commissioner. Hang on
12 a second, Commissioner.

13 Are you finished with your comments?

14 COMMISSIONER SKOP: Yes.

15 CHAIRMAN CARTER: Thank you. Commissioner McMurrin,
16 you're recognized.

17 COMMISSIONER McMURRIAN: Thank you, and I appreciate
18 those comments, Commissioner. I just want to be clear and I
19 guess I want to make sure that staff is clear about what it is
20 we're asking them, I guess, to do going forward.

21 But, but before I do that I guess I want to try to
22 clarify with you, of course these contracts come to us whenever
23 the parties decide that they've come to some kind of agreement
24 and they propose it to us. And I guess I'm a little bit -- I
25 just want to be clear about the timing issue I think that

1 you're bringing up and what it is we'll be looking for.
2 Because I think we, we take the contract that's brought to us,
3 we analyze whether or not it's a good deal for the ratepayers,
4 all things considered. And the fact of what fuel prices are
5 doing at any given time, I think we would just have to take
6 those into account at the time the contract is brought to us.
7 And I guess I'm just trying to be clear about what it is you're
8 asking them to analyze. And I also want at some point to hear
9 from them.

10 COMMISSIONER SKOP: Thank you. I think what I'm
11 asking staff to analyze is that the current trend seems to be
12 to enter into a constant price contract which may offer some
13 near-term net present value to the ratepayers over the term of
14 the contract. But if fuel prices significantly decline and
15 that price was set at the high end of the, of the price
16 spectrum, then consumers would be theoretically paying more
17 than they otherwise should be.

18 What I'm trying to inspire staff to do is perhaps
19 from a policy perspective having a contract that's not fixed
20 price but rather indexed to the fuel costs, whether it be
21 indexed to natural gas or what have you, might be more
22 appropriate. Because as fuel goes up, the as-delivered price
23 goes up. But as fuel goes down to historical levels, the
24 pricing moves up and down. The consumers are, you know,
25 protected both ways. Here if you set the price and the price

1 is determined to be high but offering some current net present
2 value and fuel prices recede, then that present value may
3 evaporate to some degree or it could have been much more than
4 it should have if the price were set low.

5 So I guess in a nutshell what I'm, what I'm saying is
6 that on a long-term contract I think I would shy away from a
7 constant dollar payment and move towards something that would
8 be indexed to the fuel to represent the, the avoided cost
9 payment.

10 COMMISSIONER McMURRIAN: So you're saying, and I'm
11 not trying to be argumentative, I'm trying to make sure I
12 understand, you're saying that when they analyze the contracts
13 that are brought to us, that you would like them to take that
14 into account in providing us an analysis. I don't -- you're
15 not saying, I don't think, that we should get into the
16 business, I guess, of telling the parties that that's what the
17 contract should contain. It's either -- in other words, I'm
18 just trying to make sure that we're still analyzing what the
19 parties have put before us and making a decision on that
20 without sort of getting into telling the parties what the
21 contract should say. And I think that we can suggest what we
22 think would make the contract better if we had concerns with
23 it, but I'm just trying to make sure that's what you're talking
24 about is the staff's analysis.

25 COMMISSIONER SKOP: Right. And I think if you, if

1 you, when we hear from staff, is the other question I think
2 that staff, I don't want to put words in their mouth, but I
3 think staff will probably be better able to articulate the fact
4 that in a long-term contract, if your, if your spot price was
5 high and your forward curves were incrementally higher as they
6 normally would be and you lock in a constant price and fuel
7 recedes back to historic levels, then the consumer is
8 overpaying. And all the numbers look good because it's the
9 present value and it passes the screen, at the end of the day
10 the savings could be so much more to the consumers if the price
11 was incrementally lower.

12 But on a long-term contract, again, having it linked
13 to the fuel cost, I think that staff will probably offer some
14 insight into that. So I would like to hear from staff also.

15 COMMISSIONER McMURRIAN: Thank you.

16 CHAIRMAN CARTER: You may proceed.

17 MR. GARL: Thank you, Commissioner. And you're
18 absolutely correct. In longer term scenarios, probably the
19 most reason that's been before the Commission were the four
20 nuclear plants we worked on, we looked at low, medium and high
21 estimates of future fuel costs. And as you say, Commissioner
22 Skop, this one is of such short term, only six years, probably
23 current prices or guesses over the next six years looking for a
24 low, medium and high wouldn't be all that much helpful.

25 But you make a valid point, that that is something

1 that we perhaps should present to the Commissioners on these
2 fixed price contracts, that if fuel prices change, here's what
3 you may be looking at, or maybe the breakeven point where the
4 cost of fuel drops below X dollars, that it would be
5 cost-ineffective and perhaps something that we should be
6 providing for you.

7 COMMISSIONER SKOP: Thank you. And just one
8 follow-up to staff, Mr. Chair. And that's what I'm seeking is
9 that at some point, say, the fuel price was high but fuel
10 prices recede, at some point there would be that inflection
11 point from cost-effectiveness to cost-ineffectiveness. And you
12 may never reach that cost-ineffectiveness point unless you do
13 that analysis. For instance, if, I'm going to use natural gas,
14 if natural was \$9 but went back to historic levels of \$3.50 per
15 MMBtu but you set the price at \$8, it looks attractive but it
16 may not be attractive if gas went down to \$5. You may be
17 somewhat overpaying. So, again, in the short-term it's not
18 nearly as critical, I have no problem with this, I have no
19 problem with the pricing. I think the pricing on face is good.
20 I'm just merely suggesting that on a forward-going basis that
21 we would probably take not an overly critical look but, you
22 know, at least go through the screen that there is positive net
23 present value but then make some sort of judgment call on where
24 we think that inflection point might be and how, how realistic
25 it would be that we'd hit that point during the term of the

1 contract.

2 CHAIRMAN CARTER: Thank you. And also,
3 Commissioners, I do want to say for the record to Gulf and to
4 Bay County, I think this is, shows good leadership, good
5 partnership, good community, good community relations, good
6 corporate citizen, and also dealing with a critical issue for
7 Bay County in terms of dealing with municipal solid waste.
8 And, I mean, that's a good thing. So we do appreciate the
9 company and Bay County engaging in these kind of processes.

10 Commissioner Skop.

11 COMMISSIONER SKOP: Thank you, Mr. Chair. And I'd
12 echo that. I think that the price is currently fair based upon
13 what I've seen in my own independent analysis. So I would
14 commend also not only Gulf but Bay County for entering into a
15 mutually agreeable relationship that provides additional
16 renewable energy for the State of Florida. And at the
17 appropriate time, Mr. Chair, if there's no further questions,
18 I'd move to approve staff's recommendation.

19 CHAIRMAN CARTER: You are recognized for a motion.
20 Commissioners, any questions?

21 COMMISSIONER ARGENZIANO: Second.

22 CHAIRMAN CARTER: It's been moved and properly
23 seconded that we accept staff's recommendation on Issue 8.
24 Commissioners, any further questions, concerns, debate?
25 Hearing none, all those in favor, let it be known by the sign

1 of aye.

2 (Unanimous affirmative vote.)

3 All those opposed, like sign. Show it approved.

4 (Agenda Item 8 concluded.)

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1 STATE OF FLORIDA)
 :
2 COUNTY OF LEON)

CERTIFICATE OF REPORTER

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

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

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

12 DATED THIS 19th day of December,
13 2008.

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