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090001-EI

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FEA  
Post Hearing Brief

1. Captain Shayla L. McNeill, 139 Barnes Ave, Suite 1 Tyndall AFB, FL 32403 is the person responsible for this electronic filing;
2. The filing is to be made in Docket 090001-EI, In re: Fuel and Purchased Power Cost Recovery Clause;
3. The filing is made on behalf of the Federal Executive Agencies (FEA);
4. The total number of pages is 6; and
5. The attached document is The FEA Post Hearing Brief.

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FPSC-COMMISSION CLERK

**BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**

In re: Fuel and Purchased Power     )  
Cost Recovery Clause                    )

Docket No.: 090001-EI  
Filed: Nov 12, 2009

**THE FEDERAL EXECUTIVE AGENCIES'**  
**POST HEARING BRIEF**

The Federal Executive Agencies (FEA) has no position with regard to the remaining issues concerning Florida Public Utilities Company.

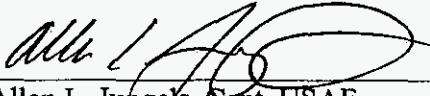
Regarding issues 8, 9, 10, 12, 13 and 15 for Gulf Power Company (Gulf), there are three concerns that were raised by the Florida Industrial Power Users Group (FIPUG) that FEA will comment on briefly.

1. With regard to Plant Scherer, Gulf is seeking to recover the fuel costs associated with the plant although the plant is not included in base rates. The position of the FEA is that the earlier decision not to include Plant Scherer in base rates indicates the commission previously determined the plant did not benefit rate payers in Florida. Costs that do not benefit rate payers should not be recovered, to include fuel costs.
2. The documents provided seem to indicate that Gulf is paying affiliates for capacity required to meet the minimum reserve requirement, while at the same time selling electricity to affiliates at a cost below the cost of production which in part necessitate the capacity payments.
3. The documents provided seem to also indicate that, on average, Gulf is selling electricity to affiliates at a lower price than it would cost to produce the electricity itself and buying electricity at a higher price than it would have been able to produce the electricity itself. This is the case though it appears Gulf ratepayers used approximately 40 percent less power than Gulf's estimates show it is capable of producing.

The second and third concerns both relate to the question of whether Gulf acted prudently with regard to spot market purchases from and sales to affiliates. Gulf failed to put any evidence in the record to demonstrate the prudence of the sales and purchases made resulting in a failure to justify the transactions that do not appear to be at arms length.

In Fla. Power Corp. v. Cresse, 413 So. 2d 1187 (FL 1982), the Florida Supreme Court said, "The requirement that utilities demonstrate the reasonableness of their fuel costs is not improper or unusual. 'Burden of proof in a commission proceeding is always on a utility seeking a rate change, and upon other parties seeking to change established rates.'" The evidence Gulf put forth in testimony, both prefiled and live, failed to demonstrate that the recovery requested is reasonable. The explanation by Mr. Ball in his live testimony that the inference drawn by FIPUG is not correct and instead is the result of using a marginal cost approach to determine when to produce electricity and when to purchase it may be a start toward answering the concerns, but it is not enough.

Presumably, it would have been possible to demonstrate how using the method Mr. Ball described could cause the average cost of electricity bought from and sold to affiliates to move so far from the average cost of production, and at least conceptually in the wrong directions from a ratepayer perspective. However, Gulf did not present any evidence to demonstrate how this actually occurred. Gulf did not carry its burden on this issue. Therefore, Gulf should not be allowed to recover these costs through the fuel adjustor.

  
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## CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing FEA Post Hearing Brief has been furnished by electronic mail (e-mail) this 12th day of November, 2009, to the below-mentioned parties:

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