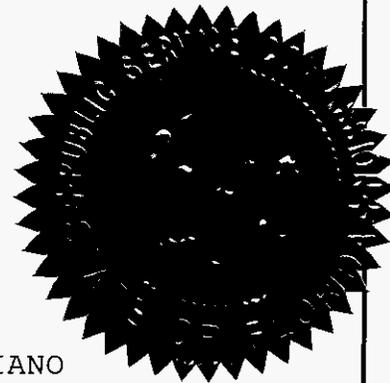


BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

In the Matter of:

DOCKET NO. 090505-EI

REVIEW OF REPLACEMENT FUEL COSTS
ASSOCIATED WITH THE FEBRUARY 26,
2008 OUTAGE ON FLORIDA POWER &
LIGHT'S ELECTRICAL SYSTEM.



PROCEEDINGS: AGENDA CONFERENCE
ITEM NO. 5

COMMISSIONERS
PARTICIPATING: COMMISSIONER NANCY ARGENZIANO
COMMISSIONER LISA POLAK EDGAR
COMMISSIONER NATHAN A. SKOP
COMMISSIONER DAVID E. KLEMENT
COMMISSIONER BEN A. "STEVE" STEVENS III

DATE: Tuesday, January 26, 2010

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

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

DOCUMENT NUMBER-DATE

00776 FEB-3-09

FPSC-COMMISSIONER CLERK

P R O C E E D I N G S

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3 **CHAIRMAN ARGENZIANO:** Okay. We're back on.
4 And let's move to Item Number 5. And, staff. Lisa.

5 **MR. GRAVES:** Good morning, Commissioners.

6 **CHAIRMAN ARGENZIANO:** You're not Lisa.

7 **MR. GRAVES:** Robert Graves with Commission
8 staff.

9 Item 5 is staff's recommendation concerning a
10 proposed resolution of issues put forth by Florida Power
11 & Light, the Office of Public Counsel and the Office of
12 the Attorney General. The resolution which is attached
13 to the recommendation states that FPL will bear the
14 replacement power costs attributable to the
15 February 26th, 2008, outage. The amount of replacement
16 power costs and the method of refunding these costs are
17 not contemplated in this recommendation, but will be
18 deliberated at a hearing currently scheduled for the
19 17th and 18th of March. Staff is recommending that the
20 Commission adopt the proposed resolution.

21 And one quick note, since the filing of
22 staff's recommendation, the Florida Industrial Power
23 Users Group has adopted the resolution.

24 **CHAIRMAN ARGENZIANO:** Commissioner Skop.

25 **COMMISSIONER SKOP:** Thank you, Madam Chair.

1 I just have a couple of questions probably
2 directed to Public Counsel, maybe Ms. Bradley and staff
3 on the proposed resolution of issues. And I think my
4 concern would be that I know that this issue seems to
5 address only the replacement power costs. But the
6 Commission -- again, the day the outage happened I wrote
7 a letter to the Chairman requesting that we conduct an
8 investigation and that was not done, so, you know, FERC
9 and FRCC investigated.

10 But I'm not sure from the Commission's
11 perspective outside of replacement power costs, which
12 are the subject of this docket, if there are any other
13 additional costs that, that would come into play. And,
14 and that's my concern with the proposed stipulation here
15 that have been entered into by the parties.

16 If you look at 1A, you know, essentially FPL
17 does not admit imprudence or any other improper action
18 or failure with regard to the event or reserves its
19 rights and, you know, just basically discusses that this
20 is in relation to replacement power costs.

21 I just want to make sure that Public Counsel
22 or the Attorney General's Office are not asking the
23 Commission or themselves to give away any other rights.
24 And the point I'd like to make is that with respect to
25 the event in question, you know, certainly there was an

1 incident at the substation, and that begs a question,
2 you know, who, who incurs the costs for repairing the
3 substation? Is that a separate issue? Have we not got
4 to that? Are we giving away any rights in relation to
5 those other things that to my knowledge we haven't even
6 looked at? Not that I really want to, but, again, I
7 think it's, it's a question that is relevant to ask to
8 the extent that we're not giving anything up here.

9 **MR. BECK:** Commissioner, Charlie Beck with the
10 Office of Public Counsel. And, Commissioner, I think
11 the short answer to that is those, those sorts of
12 matters are not addressed one way or the other by this
13 agreement.

14 Again, this agreement, this, this docket is a
15 spinoff from the fuel docket. And so the only issue
16 that we purported to look at is the replacement fuel
17 outage costs. And we viewed this as similar to, as you
18 would in a civil suit, you would have a liability stage
19 and a damages phase. And this agreement I think settles
20 the liability phase without FPL admitting imprudence or
21 not. They're simply accepting liability for it so that
22 we can move on to the damages phase as it were. As far
23 as anything else, it's not part of the agreement in one
24 way or the other.

25 **COMMISSIONER SKOP:** Okay. And I just wanted

1 to make sure that, you know, if other issues were to
2 arise, that by virtue of entering into this agreement
3 that neither the parties nor the Commission would be
4 precluded from addressing those issues as a result of
5 this agreement.

6 **MR. BECK:** That's my understanding.

7 **COMMISSIONER SKOP:** All right. Thank you. I
8 have no further questions.

9 **CHAIRMAN ARGENZIANO:** Mr. Butler, any
10 comments?

11 **MR. BUTLER:** I agree with Mr. Beck's
12 characterization. That's how we understand it as well.

13 **CHAIRMAN ARGENZIANO:** Okay. Ms. Bradley?

14 **MS. BRADLEY:** I would concur.

15 **CHAIRMAN ARGENZIANO:** Okay. Any discussion or
16 comments, questions? Okay. Do I have a motion?

17 **COMMISSIONER SKOP:** Move to approve staff
18 recommendation for Issues 1 and 2.

19 **COMMISSIONER STEVENS:** Second.

20 **CHAIRMAN ARGENZIANO:** All those in favor, say
21 aye.

22 (Simultaneous vote.)

23 Opposed, same sign.

24 The motion is adopted. Thank you.

25 (Agenda Item 5 concluded.)

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STATE OF FLORIDA)
 :
COUNTY OF LEON) CERTIFICATE OF REPORTER

I, LINDA BOLES, RPR, CRR, 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 2nd day of February, 2010.

Linda Boles
LINDA BOLES, RPR, CRR
FPSC Official Commission Reporter
(850) 413-6734