

From: Patrick K. Wiggins [patrick@wigglaw.com]
Sent: Tuesday, March 08, 2011 10:56 AM
To: Filings@psc.state.fl.us
Cc: Hoffman Ken; Kaufman Vicki Gordon; Bradley Cecilia; Alexander Stephanie; McWhirter John; Jennifer Crawford; Scott.Goorland@fpl.com; Moore Dan; Klepper Russel
Subject: Docket No. 1000358-EI - AFFIRM Summary Letter of Concerns
Attachments: AFFIRM Letter Summary of Concerns.pdf



AFFIRM Letter
Summary of Concerns

a. Person responsible for this electronic filing:

Patrick K. Wiggins
Post Office Drawer 1657
Tallahassee, FL 32302
850-212-1599
patrick@wigglaw.com

b. Docket No. 1000358-EI

c. Document is being filed on behalf of AFFIRM

d. There are a total of 6 pages in the attached document.

e. The attached document is AFFIRM's Summary Letter of Concerns (Letter to Ms. Jennifer Crawford dated March 7, 2011).

Thank you,

Patrick K. Wiggins
Attorney for AFFIRM
850-212-1599
F: 850-906-9104

PATRICK K. WIGGINS, P.A.

March 7, 2011

Ms. Jennifer Crawford
Office of the General Counsel
2540 Shumard Oak Boulevard
Tallahassee, FL

Re: Docket No. 100358-EI Investigation into the Design of Commercial Time-of-Use rates by Florida Power & Light, pursuant to Order No. PSC-10-0153-FOF-EI.

Dear Ms. Crawford:

To facilitate staff's investigation into the design of Florida Power & Light's commercial time of use (TOU) rates, I thought it useful to provide a brief summary of AFFIRM's concerns. As you are aware, we attempted to place these concerns before the Commission for determination in both Docket 080677-EI (Petition for increase in rates by Florida Power & Light Company), and in Docket 100001-EI (Fuel and purchased power cost recovery clause with generating performance incentive factor). The instant docket is, in fact, a direct result of those efforts. In this regard, we appreciate the Commission's willingness to review these important rate design issues.

AFFIRM's Basic Perspective

AFFIRM represents multi-location commercial customers with franchise and/or corporate locations served by all investor owned electric utilities in Florida, including FPL. AFFIRM intervened for the first time in the recent rate cases of FPL and Progress Energy Florida (PEF) for the following reasons:

1. Base rates are established for the primary purpose of recovering demand related costs. It is well established that demand costs should be allocated to a utility's customers based on the contributions of those customers to the utility's peak periods. We believe that the standard for determining the validity of a utility's rate structure is whether *in fact* demand costs are allocated to the utility's customers based on the contributions of those customers to the utility's peak periods. Moreover, we believe that where a utility's rate structure skews the allocation of demand costs, then the imposition of the disproportionate costs on the customers must be explicitly and specifically justified.
2. We also believe that, for rate purposes, all customers' contributions to the system peak should be measured only during those hours when the utility's system peaks (whether annually or monthly) *are most likely to occur*. We believe that when a customer's contribution to the system peak is measured in an hour that is almost never a system peak hour – as is the case with FPL - such measurement is unfair because this results in an excess allocation of demand related costs to customers whose individual peaks occur outside of the utility's peak periods.
3. We believe that FPL's pricing imposes excess allocation of demand costs on AFFIRM's

members. Our members operate seven days per week with two or three shifts per day. The pattern of electric usage of these customers is characterized by disproportionately high consumption during off-peak periods and peak electric usage occurring outside the utility's historical peak periods. (For purposes of this statement, the term "peak period" means the hours during which system peaks are observed to occur, and not the hours that are designated as peak by FPL and currently embedded within the structure of the GSDT Rate.)

4. We believe that FPL's pricing shows no consideration for economies of scale offered by multi-location customers.
5. We believe that FPL's existing menu of rate offerings does not currently comply with the Energy Policy Act of 2005 (EPA 2005) which states, "each electric utility shall provide individual customers upon customer request, a time-based rate schedule under which the rate charged by the electric utility varies during different time periods and reflects the variance, if any, in the utility's costs of generating and purchasing electricity at the wholesale level."
6. We believe that the existing time of use rates for medium commercial customers (21-499 kW), GSDT and HLFT, would result in higher costs to AFFIRM members than the standard GST rate. This is in part because the structure of FPL's existing time of use rates for medium commercial customers (21-499 kW), GSDT and HLFT, use improperly defined On-Peak and Off-Peak periods as described above. Moreover, the SDTR rate, the third time based rate offered by FPL to medium commercial customers, is designed for low load factor customers who typically experience lower usage during the summer months. Likely participants include customers involved in the agricultural and educational sectors and churches.
7. As reflected in AFFIRM's testimony submitted in Docket No. 100001, we find and believe that there is no correlation whatsoever between (a) FPL's definition of On-Peak and Off-Peak periods for base rate purposes and (b) hourly system fuel costs as reflected by the hourly system lambda and load shape data.

More generally, AFFIRM believes that the public welfare is better served when electric service pricing is aligned with cost causation. AFFIRM believes that proper price signals serve to increase system utilization and reduce the need for new generation facilities, and create incentives for customers to use technology that gives them greater control over their electric usage and related costs. Simply put, *when* the customer uses power is as important as how much the customer uses. FPL's pricing structure should be revised to more accurately reflect this reality.

Key Points

AFFIRM urges Staff's evaluation of the following issues in the subject docket. For both Fuel and Base Rates:

1. Summer and winter On-Peak and Off-Peak pricing should NOT be the same. All data indicates significant differences in both load and lambda during summer and winter months.

Consideration should be given to creating a third pricing tier (such as a shoulder period or a super off-peak period) that will allow reflection of cost variances and that will align the customer revenue burden more closely with cost causation.

- The FPL system annual summer peak ALWAYS occurs between 3 pm and 6 pm (HE 1600 to HE 1800). The summer On-Peak period should be redefined and priced accordingly. Note that during the 16 year period 1994 through 2008, only once (June 1996 @ HE 1500) did a monthly peak occur outside this three hour period and it did not represent the annual summer peak. This single outlying data point can be disregarded. See table below:

FPL System Monthly Peak Hour Occurrence During Summer Months (APR-OCT)

Year	APR	MAY	JUN	JUL	AUG	SEP	OCT	Summer Peak	
								Day	Hour
1994	1700	1800	1700	1700	1700	1700	1700	Jun 24	1700
1995	1800	1800	1700	1700	1600	1700	1700	Jun 09	1700
1996	1700	1600	1500	1700	1700	1700	1700	Jul 24	1700
1997	1800	1700	1700	1700	1700	1700	1700	Aug 14	1700
1998	1700	1700	1700	1700	1700	1700	1700	Jun 05	1700
1999	1700	1700	1600	1700	1700	1600	1800	Sep 30	1600
2000	1700	1700	1700	1700	1700	1700	1700	Aug 25	1700
2001	1800	1800	1600	1700	1700	1700	1700	Aug 16	1700
2002	1700	1800	1600	1700	1700	1700	1700	Aug 01	1700
2003	1800	1700	1700	1700	1700	1700	1600	Jul 09	1700
2004	1800	1700	1700	1700	1700	1700	1700	Jul 14	1700
2005	1600	1800	1600	1700	1700	1700	1700	Aug 17	1700
2006	1700	1700	1700	1700	1700	1700	1700	Aug 02	1700
2007	1700	1700	1700	1600	1600	1700	1700	Aug 10	1600
2008	1700	1700	1700	1700	1700	1700	1700	Aug 07	1700
2009	1600	1600	1700	1600	1700	1700	1700	Jun 22	1700

- The data table in Attachment 2 of the AFFIRM Response filed in this docket¹ shows FPL summer monthly peak day load shapes for 2006, 2007 and 2008. The FPL system load on monthly peak days for the threehour period HE 1600 to HE 1800 is clearly higher than the adjacent three hour blocks (noon to 3 p.m. and 6:00 p.m. to 9:00 p.m.). A condensed version of the data table is provided in Appendix 1. This further supports more precisely defining the summer On-Peak period as 3 p.m. to 6 p.m.
- During the winter months of November and March, and the summer months of April and October, ALL hours could be considered Off-Peak and priced accordingly. Because FPL uses 12 CP cost allocation, some consideration would have to be given to allocating capacity and energy

¹ Response of the Association for Fairness in Rate Making to FPL Study Report Review and Analysis of a Potential Multi-Period Time-of-Use Rate for Commercial & Industrial Customers Docket No. 100358-EI September 3, 2010 (PSC Document #07441-10)

costs during such Off-Peak months. Nevertheless, both the cost and load data warrants designating these months as Off-Peak.

5. AFFIRM believes FPL's cost of fuel and purchased power should be recovered over time periods (preferably three time periods) that reflect a correlation between the fuel recovery factors and the incurrence of recoverable costs during those same hours, and that the use of currently defined On-Peak and Off-Peak periods for fuel cost recovery should be immediately corrected to establish a linkage between FPL's periodic cost of fuel and purchased power and the time periods over which such costs are recovered. These changes were addressed in the AFFIRM Testimony by Russell L. Klepper submitted on behalf of AFFIRM in Docket No. 100001-EI.

AFFIRM believes that its positions in the matters discussed above are fully supported by both data and policy. We believe that customers should be allowed to receive electric service under time based rates that correctly reflect the variance in FPL's wholesale costs. This would be consistent with national energy policy as set forth in EPAct 2005 and help to ensure jobs for our future with secure, affordable and reliable energy. We further believe that a neutral review of the data and applicable regulatory policy under state and federal law will conclude that the current design of FPL's commercial time of use rates must be changed to both avoid unfair treatment of a class of customers and to promote better and more efficient use of electric power.

Sincerely,



Patrick K. Wiggins
Attorney for AFFIRM

cc: Docket No. 100358-EI (efiling)
Parties of Record & Interested Persons (email)
Scott Goorland, Esq., FPL (email)
Dan Moore, Energy Services Group, LLC

APPENDIX 1

**AFFIRM Response Attachment 2
Condensed Table**

AFFIRM Report Attachment 2

Florida Power & Light

Analysis of SUMMER Monthly Peak Day System Load Data for 2006, 2007, and 2008

Note - 2009 Summer Data has been omitted due to FPL reporting errors and inconsistencies between FERC Form 1, p. 401(b) and FERC Form 714 data

M	D	Y	day	Hr13	Hr14	Hr15	Hr16	Hr17	Hr18	Hr19	Hr20	Hr21		
4	20	6	4	16490	17457	18118	18649	18975	18762	18156	17255	17178	Apr Pk =	18975
5	8	6	1	16953	17766	18344	18812	19321	19172	18682	17829	17608	May Pk =	19321
6	15	6	4	19317	20086	20615	20901	21123	20997	20472	19680	19123	Jun Pk =	21123
7	26	6	3	19765	20384	20991	21342	21493	21248	20518	19536	19053	Jul Pk =	21493
8	2	6	3	20018	20765	21346	21649	21819	21475	20973	20054	19657	Aug Pk =	21819
9	1	6	5	19031	19648	19697	19146	18667	21585	20777	16483	16222	Sep Pk =	21585
10	19	6	4	17557	18354	18895	19300	19440	19101	18468	18490	17701	Oct Pk =	19440
					19124			20142			18758			
4	27	7	5	16069	16673	17071	17407	17626	17456	16896	16022	15839	Apr Pk =	17626
5	4	7	5	17216	17980	18487	18856	19021	18713	17872	16943	16738	May Pk =	19021
6	22	7	5	18620	19442	20021	20299	20584	20397	19868	18892	18143	Jun Pk =	20584
7	18	7	3	20370	21019	21421	21764	21746	21463	20784	19740	19384	Jul Pk =	21764
8	10	7	5	20620	21363	21750	21999	21923	21525	20615	19680	19449	Aug Pk =	21999
9	13	7	4	19185	20046	20649	20914	21142	20798	19945	19241	18823	Sep Pk =	21142
10	18	7	4	18264	19028	19480	19756	19880	19378	18664	18726	18005	Oct Pk =	19880
					19275			20126			18584			
4	28	8	1	15411	15988	16437	16750	16997	16800	16429	16006	15986	Apr Pk =	16997
5	21	8	3	18298	18987	19544	20048	20315	20121	19663	18781	18506	May Pk =	20315
6	5	8	4	18978	19612	20069	20388	20589	20289	19681	18871	18425	Jun Pk =	20589
7	21	8	1	19443	20148	20621	20903	20970	20653	20110	19120	18750	Jul Pk =	20970
8	7	8	4	19556	20229	20658	20842	21084	20955	20378	19455	19133	Aug Pk =	21084
9	3	8	3	18446	19115	19658	20108	20417	20187	19484	18736	18630	Sep Pk =	20417
10	10	8	5	17134	17810	18235	18618	18755	18181	17255	17126	16438	Oct Pk =	18755
					18780			19713			18427			