

BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

In the Matter of:

ENVIRONMENTAL COST RECOVERY
CLAUSE.

DOCKET NO. 150007-EI

PROCEEDINGS: PREHEARING CONFERENCE

COMMISSIONER
PARTICIPATING: CHAIRMAN ART GRAHAM
PREHEARING OFFICER

DATE: Monday, October 19, 2015

TIME: Commenced at 2:25 p.m.
Concluded at 2:33 p.m.

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

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

1 APPEARANCES:

2 JAMES D. BEASLEY, J. JEFFRY WAHLEN, ASHLEY M.
3 DANIELS, ESQUIRES, Ausley & McMullen, Post Office Box
4 391, Tallahassee, Florida 32302, appearing on behalf of
5 Tampa Electric Company.

6 JEFFREY A. STONE, RUSSELL A. BADDERS, STEVEN
7 R. GRIFFIN, ESQUIRES, P.O. Box 12950, Pensacola, Florida
8 32591-2950, appearing on behalf of Gulf Power Company.

9 DIANNE M. TRIPLETT, ESQUIRE, 299 First Avenue
10 North, St. Petersburg, Florida 33701; and MATTHEW R.
11 BERNIER, ESQUIRE, 106 East College Avenue, Suite 800,
12 Tallahassee, Florida 32301-7740; appearing on behalf of
13 Duke Energy Florida, Inc.

14 JOHN T. BUTLER, R. WADE LITCHFIELD, and MARIA
15 J. MONCADA, ESQUIRES, 700 Universe Boulevard, Juno
16 Beach, Florida 33408-0420, appearing on behalf of
17 Florida Power & Light Company.

18 JON C. MOYLE, JR., and KAREN PUTNAL, ESQUIRES,
19 Moyle Law Firm, P.A., 118 North Gadsden Street,
20 Tallahassee, Florida 32301, appearing on behalf of
21 Florida Industrial Power Users Group.

1 APPEARANCES (Continued):

2 J.R. KELLY, PUBLIC COUNSEL; CHARLES REHWINKEL,
3 DEPUTY PUBLIC COUNSEL; and PATRICIA CHRISTENSEN,
4 ASSOCIATE PUBLIC COUNSEL, ESQUIRES, Office of Public
5 Counsel, c/o The Florida Legislature, 111 West Madison
6 Street, Room 812, Tallahassee, Florida 32399-1400,
7 appearing on behalf of the Citizens of the State of
8 Florida.

9 JAMES W. BREW, OWEN J. KOPON and LAURA A.
10 WYNN, ESQUIRES, Xenopoulos & Brew, P.C., 1025 Thomas
11 Jefferson Street, NW, Eight Floor, West Tower,
12 Washington, DC 20007, appearing on behalf of White
13 Springs Agricultural Chemicals, Inc. d/b/a PCS Phosphate
14 - White Springs.

15 CHARLES W. MURPHY, ESQUIRE, Florida Public
16 Service Commission, 2540 Shumard Oak Boulevard,
17 Tallahassee, Florida 32399-0850, appearing on behalf of
18 the Florida Public Service Commission.

19 MARY ANNE HELTON, ESQUIRE, Advisor to the
20 Commission, 2540 Shumard Oak Boulevard, Tallahassee,
21 Florida 32399-0850, appearing as advisor to the Florida
22 Public Service Commission.

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APPEARANCES (Continued):

CHARLIE BECK, General Counsel, Florida Public
Service Commission, 2540 Shumard Oak Boulevard,
Tallahassee Florida, appearing as General Counsel to the
Florida Public Service Commission.

P R O C E E D I N G S

1
2 **CHAIRMAN GRAHAM:** Okay. I figure the sooner
3 we get started, the sooner we can get done.

4 We will call this prehearing to order. Let
5 the record show it is Monday at 2:00, and this is the
6 fuel clause prehearing.

7 Staff, if -- excuse me. Staff, if I can get
8 you to read the notice, please.

9 **MS. MAPP:** By notice issued October 5th, 2015,
10 this time and place is set for a Prehearing Conference
11 in the following dockets: 150001-EI, 150002-EG,
12 150003-GU, 150004-GU, and 150007-EI. The purpose of the
13 prehearing is set out in the notice.

14 **CHAIRMAN GRAHAM:** Okay. I think we need to
15 take appearances.

16 **MR. BUTLER:** Good afternoon, Mr. Chairman.
17 John Butler appearing on behalf of Florida Power & Light
18 Company in the 01, 02, and 07 dockets. I'd also like to
19 enter an appearance for Wade Litchfield and Maria
20 Moncada in those three dockets, and for Jessica Cano in
21 the 01 docket only. Thank you.

22 **MR. BERNIER:** Good afternoon, Mr. Chairman.
23 Matt Bernier for Duke Energy Florida, and making an
24 appearance in the 01, 02, and 07 dockets. I'd also like
25 to enter an appearance for Dianne Triplett in those same

1 dockets and John Burnett in the 01 docket only. Thank
2 you.

3 **MR. BEASLEY:** Good afternoon, Chairman Graham.
4 James D. Beasley appearing with J. Jeffry Wahlen, Ashley
5 M. Daniels in the 01, 02, and 07 dockets for Tampa
6 Electric.

7 **MR. BADDERS:** Good afternoon, Chairman.
8 Russell Badders on behalf of Gulf Power Company in the
9 01, 02, and 07 dockets. I'd also like to enter an
10 appearance for Jeffrey A. Stone and Steven R. Griffin in
11 the same dockets.

12 **MS. KEATING:** Good afternoon, Mr. Chairman.
13 Beth Keating with the Gunster Law Firm here this
14 afternoon for FPUC in the 01 and 02 dockets. Also here
15 for FPUC in the 03 dockets, as well as Florida City Gas.
16 And in the 04 docket appearing for FPUC, FPUC Fort
17 Meade, FPUC Indiantown Division, Chesapeake, and Florida
18 City Gas.

19 **MS. PUTNAL:** Good afternoon, Chairman Graham.
20 I'm Karen Putnal. I'm here today on behalf of the
21 Florida Industrial Power Users Group. I'd like to make
22 an appearance in the 01, 02, and 07 dockets, and also
23 enter an appearance for Jon Moyle in those same dockets.
24 Thank you.

25 **MR. LAVIA:** Good afternoon, Mr. Chairman.

1 J. LaVia with the Gardner Law Firm making an appearance
2 in the 01 docket on behalf of the Florida Retail
3 Federation. I'd also like to make an appearance for my
4 law partner Robert Scheffel Wright in the same
5 01 docket. Thank you.

6 **MR. KOPON:** Good afternoon, Mr. Chairman.
7 Owen Kopon for PCS Phosphate/White Springs in the 01,
8 02, and 07 dockets. And I'd also like to make an
9 appearance for James Brew and Laura Wynn.

10 **MR. REHWINKEL:** Good afternoon, Mr. Chairman.
11 Let me try to do this. Charles J. Rehwinkel with the
12 Office of Public Counsel making an appearance in all
13 dockets, along with J. R. Kelly in all dockets.

14 In the 02 docket that would -- the appearance
15 would be additionally with Patricia Christensen. In the
16 03 docket, Patricia Christensen also. In the 04 docket,
17 I am the only one making an appearance in addition to
18 Mr. Kelly. And in the 07 docket, Patricia Christensen
19 also.

20 Let me go back to the 01 docket. The
21 appearances will also be Patricia Christensen, John
22 Truitt, and Erik Sayler in addition to myself and
23 Mr. Kelly. Thank you.

24 **CHAIRMAN GRAHAM:** Okay.

25 **MR. HORTON:** Mr. Chairman, Norman H. Horton,

1 Jr., appearing in the 04 docket for Sebring Gas.

2 **CHAIRMAN GRAHAM:** That's the 04 docket?

3 **MR. HORTON:** Yes, sir. The 04 docket.

4 **CHAIRMAN GRAHAM:** Okay.

5 **MS. MAPP:** Kyesha Mapp appearing in the
6 03 docket, Suzanne Brownless -- and making an appearance
7 for Suzanne Brownless, Danijela Janjic, and John
8 Villafrate in the 01 docket; Lee Eng Tan and Bianca
9 Lherisson in the 02 docket; Leslie Ames and Kelley
10 Corbari in the 04 docket; and Charles Murphy in the 07
11 docket.

12 **CHAIRMAN GRAHAM:** Okay. Was that --

13 **MS. HELTON:** Mary Anne Helton. I'm here as an
14 advisor for you in all of the dockets.

15 **MR. BECK:** And Charlie Beck, General Counsel.

16 **CHAIRMAN GRAHAM:** Is that all the appearances?

17 Okay. So the order of the dockets today are
18 going to be the 03 docket, then the 04 docket, then the
19 02 docket, then the 07 docket, and then the 01 docket.

20 * * * * *

21 **CHAIRMAN GRAHAM:** Proceed to Docket No. 7.

22 All right. Staff, preliminary matters.

23 **MR. MURPHY:** Yes, sir. Staff is hopeful that
24 most issues can be stipulated in this docket and
25 witnesses excused. Staff will continue to work towards

1 this end. If an agreement can be reached in the next
2 few days, the Prehearing Order will need to be modified
3 to reflect an agreement. And if an agreement is
4 reached, staff proposes to circulate an amended draft
5 before the order is issued.

6 **CHAIRMAN GRAHAM:** Does anybody have any other
7 preliminary matters? Okay. Once again, like before,
8 we'll proceed through the Draft Prehearing Order, once
9 again, section by section. Feel free to stop me if
10 there's anything you want to change or add or whatever.

11 Section No. I. Section No. II. Section
12 No. III. Section No. IV. Section No. V.

13 **MR. MURPHY:** Yes. Staff has prepared a
14 Comprehensive Exhibit List which includes all prefiled
15 exhibits and also includes those exhibits staff wishes
16 to include in the record. Staff hopes that any eventual
17 stipulation will extend to the exhibits in this docket.

18 FIPUG has raised objections to the expertise
19 of all witnesses for whom areas of expertise were not
20 listed in the prefiled testimony. The companies filed
21 this information on October 14th. Having had an
22 opportunity to review the information, does FIPUG have
23 an objection to the expertise of any witnesses and, if
24 so, whom?

25 **CHAIRMAN GRAHAM:** FIPUG, do you have any

1 objections to any witnesses in the 07 docket?

2 **MS. PUTNAL:** Thank you. Unfortunately this
3 docket is not quite as clear as the 02 docket as of this
4 point, but we will work with staff and parties to refine
5 FIPUG's position by close of business tomorrow on that
6 issue.

7 **CHAIRMAN GRAHAM:** So you'll have specific
8 witnesses and specific issues?

9 **MS. PUTNAL:** Yes, if any, as to their
10 expertise.

11 **CHAIRMAN GRAHAM:** Okay. Staff, is that okay
12 with you?

13 **MR. MURPHY:** Yes. Thank you.

14 **MS. PUTNAL:** Thank you.

15 **CHAIRMAN GRAHAM:** Anybody else on Issue V?
16 Let's move to Issue VI, order of witnesses.

17 **MR. MURPHY:** Yes. If agreement can be reached
18 to excuse any witnesses, staff will confirm with each
19 Commissioner that the witness can be excused. If no
20 Commissioner has a question for these witnesses, the
21 witnesses may be excused from the hearing and his or her
22 testimony and exhibits entered into the record at the
23 hearing as though read.

24 **MR. REHWINKEL:** Mr. Chairman?

25 **CHAIRMAN GRAHAM:** Yes, sir.

1 **MR. REHWINKEL:** Public Counsel's office
2 submitted revised positions to the parties and staff
3 earlier today and indicated in our transmittal email
4 that we at this time have no questions for any witness
5 except Gulf Power's Mr. Vick. So to that extent we
6 would be willing to stipulate to the excusal of all
7 witnesses but Mr. Vick.

8 **CHAIRMAN GRAHAM:** Okay. Anybody else in
9 Section VI?

10 **MR. BUTLER:** Mr. Chairman?

11 **CHAIRMAN GRAHAM:** Yes, sir.

12 **MR. BUTLER:** Just if I may inquire of FIPUG's
13 counsel whether she is aware of any positions or any
14 dispute with FPL's witnesses for this docket. It's not
15 clear to me whether what she said earlier applies to all
16 of the utilities or specifically with respect to Gulf.

17 **MS. PUTNAL:** Thank you. It would apply to all
18 of the utilities' witnesses.

19 **MR. BUTLER:** Okay. Thank you.

20 **MS. PUTNAL:** Thank you.

21 **CHAIRMAN GRAHAM:** Anybody else on Section VI?
22 Section VII. Section VIII.

23 **MR. MURPHY:** Yes, sir. The Order Establishing
24 Procedure requires that a party take a position at this
25 Prehearing Conference unless good cause is shown why the

1 party can't take a position at this time. If a party
2 fails to take a position, the Prehearing Order will
3 reflect no position for that party on those issues. If
4 a party wishes to change a position, please submit your
5 position in writing no later than close of business
6 tomorrow.

7 **MR. REHWINKEL:** Mr. Chairman, the Public
8 Counsel in their revised positions has submitted
9 language that would facilitate a Type 2 stipulation on
10 all issues except a subset of the issue related to
11 Gulf's CCR recovery, and it's so indicated in the email
12 in the revised position. So just for the record, our
13 positions on all utilities except Gulf would facilitate
14 a Type 2 position, and for Gulf -- Type 2 stipulation,
15 and for Gulf a Type 2 stipulation except on the state
16 permit related to the Scholz plant.

17 **MR. MURPHY:** And, Mr. Rehwinkel, just to
18 clarify, for all the other issues, there are fallouts
19 through others, but you agree to whatever is there with
20 the exception of the fallout.

21 **MR. REHWINKEL:** That's correct. The fallout
22 impact of the Scholz issue would still maintain a
23 contested status but only as to that fallout impact.

24 **MR. MURPHY:** Thank you.

25 **MR. FRAZIER:** Anybody else? Anything else in

1 Section VIII? Section IX, exhibit list.

2 **MR. MURPHY:** Staff will prepare a
3 Comprehensive Exhibit List for the purpose of numbering
4 and identifying the exhibits at hearing. Staff will
5 provide the exhibit list to the parties as soon as
6 possible.

7 **CHAIRMAN GRAHAM:** Anything else on Section IX?
8 Section X.

9 **MR. MURPHY:** Yes. Staff has proposed
10 stipulation of all issues in this docket. There are
11 some which appear to be unable to be stipulated.

12 **CHAIRMAN GRAHAM:** Section XI.

13 **MR. MURPHY:** There are no pending motions.

14 **CHAIRMAN GRAHAM:** Section XII.

15 **MR. MURPHY:** I believe there's one pending
16 confidentiality request, and staff is working on it.

17 **CHAIRMAN GRAHAM:** Any idea when we're going to
18 have that done?

19 **MR. BUTLER:** Mr. Chairman, if that one is for
20 FPL, we actually had noted that it has been ruled upon.
21 Charlie, is that the -- for the Audit 15-014-4-1?

22 **MR. MURPHY:** The only one I'm aware of being
23 outstanding, I believe, is Gulf.

24 **MR. BUTLER:** Oh, okay. My bad.

25 **MR. MURPHY:** We'll do it.

1 **CHAIRMAN GRAHAM:** Okay. All right. Anything
2 else in Section XII? Section XIII.

3 **MR. MURPHY:** If the issues are stipulated, a
4 bench decision may be possible. If no agreement is
5 reached, briefs will be due on November 13th.

6 **CHAIRMAN GRAHAM:** Okay. Once again, opening
7 statements will be five minute. Briefs are limited to
8 30 pages. Everybody understands that?

9 Are there any other matters to come before us
10 for this docket?

11 **MR. MURPHY:** Staff is not aware of any.

12 **CHAIRMAN GRAHAM:** Okay. We will adjourn the
13 prehearing for Docket 07.

14 (Prehearing Conference adjourned.)
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1 STATE OF FLORIDA)
 :
2 COUNTY OF LEON) CERTIFICATE OF REPORTER

3
4 I, LINDA BOLES, CRR, RPR, Official Commission
5 Reporter, do hereby certify that the foregoing
6 proceeding was heard at the time and place herein
7 stated.

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

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

18 DATED THIS 20th day of October, 2015.

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LINDA BOLES, CRR, RPR
FPSC Official Hearings Reporter
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