

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

In the Matter of:

DOCKET NO. 20220001-EI

In re: Fuel and purchased power
cost recovery clause with generating
performance incentive factor.

_____ /

VOLUME 5
PAGES 691 - 770

PROCEEDINGS: HEARING

COMMISSIONERS
PARTICIPATING: CHAIRMAN ANDREW GILES FAY
COMMISSIONER ART GRAHAM
COMMISSIONER GARY F. CLARK
COMMISSIONER MIKE LA ROSA
COMMISSIONER GABRIELLA PASSIDOMO

DATE: Tuesday, December 6, 2022

TIME: Commenced: 10:30 a.m.
Concluded: 1:29 p.m.

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

REPORTED BY: DEBRA R. KRICK
Court Reporter

APPEARANCES: (As heretofore noted.)

PREMIER REPORTING
112 W. 5TH AVENUE
TALLAHASSEE, FLORIDA
(850) 894-0828

1 P R O C E E D I N G S

2 (Transcript follows in sequence from Volume
3 4.)

4 CHAIRMAN FAY: All right. If everyone could
5 grab their seats, we will get started on the 01
6 docket. I will give everybody a minute to get
7 settled in.

8 All right. Ms. Brownless, when you are ready,
9 please read the notice.

10 MS. BROWNLESS: By notice dated November 28th,
11 2022, this time and place has been set for hearing
12 in Docket No. 20220001-EI. The purpose of the
13 hearing is to allow parties to present closing
14 statements in lieu of briefs on the outstanding
15 issues in this docket identified by the parties at
16 the hearing held on Thursday and Friday, November
17 17th through 18th, 2022, and to take action on any
18 motions or other matters that may be pending at the
19 time of the hearing.

20 CHAIRMAN FAY: Okay. Great. Thank you, Ms.
21 Brownless.

22 Next we will move into appearances. We will
23 just start from left to right. Ms. Moncada, you
24 are recognized.

25 MS. MONCADA: Thank you, Mr. Chairman. Maria

1 Moncada for Florida Power & Light.

2 MR. BERNIER: Good morning, Commissioners.

3 Matt Bernier for Duke Energy Florida.

4 MR. MEANS: Good morning, Commissioners.

5 Malcolm Means with Ausley McMullen here
6 representing Tampa Electric.

7 MS. KEATING: Good morning, Commissioners.

8 Beth Keating from the Gunster Law Firm.

9 CHAIRMAN FAY: All right. Mr. Moyle.

10 MR. MOYLE: Jon Moyle for the Florida
11 Industrial Power Users Group.

12 CHAIRMAN FAY: Okay.

13 MR. REHWINKEL: Charles Rehwinkel with the
14 Office of Public Counsel.

15 MR. WRIGHT: Robert Scheffel Wright on behalf
16 of the Florida Retail Federation.

17 Thank you.

18 CHAIRMAN FAY: Okay. Great. And we have PCS,
19 Nucor excusal.

20 Ms. Brownless.

21 MS. BROWNLESS: Yes, sir. Suzanne Brownless
22 on behalf of the staff of the PSC. And I would
23 also like to enter an appearance for Ryan Sandy.

24 CHAIRMAN FAY: Okay. Great.

25 We will move to preliminary matters, Ms.

1 Brownless. Anything we need?

2 MS. BROWNLESS: You need to recognize the
3 Advisor.

4 CHAIRMAN FAY: Okay. Ms. -- excuse me. I was
5 going to say Mr. Hetrick, but go ahead, Mary Anne.

6 MS. HELTON: Mary Anne Helton is here as your
7 Advisor, along with your General Counsel, Keith
8 Hetrick.

9 CHAIRMAN FAY: All right. Now we are on to
10 preliminary matters. Go ahead.

11 MS. BROWNLESS: Yes, sir.

12 PCS Phosphate and Nucor have been excused from
13 today's hearing.

14 CHAIRMAN FAY: Okay. Great.

15 Any other preliminary matters at this time?

16 No. Seeing none.

17 All right. We will move into closing
18 statements. So as stated before, each party will
19 have 10 minutes to make their closing statement on
20 Issues 3A, 8 through 10, 16, 18 and 20. Any party
21 can choose to waive their closing statement if they
22 would like to. We will go in the order at the
23 presentation, which will be Duke, FPL, it FPUC,
24 TECO, OPC, FIPUG and then Florida Retail
25 Federation.

1 With that, any questions? No. We will begin.
2 Duke, you are recognized, Mr. Bernier.

3 MR. BERNIER: Thank you, Mr. Chairman. Good
4 morning, again, Commissioners.

5 In this proceeding, DEF is seeking approval of
6 its 2021 fuel cost true-up, its 2023 projected fuel
7 costs and to establish fuel factors to take effect
8 with the first billing cycle of 2023.

9 DEF is not currently seeking approval of its
10 2022 true-up amount, or to include that amount for
11 ratemaking purposes at this time. Rather, DEF made
12 the decision to defer requesting that approval in
13 order to gain a more accurate picture of the 2022
14 costs given the unprecedented volatility in the
15 natural gas markets over the past year. The
16 company made this decision because we felt it was
17 in the best interest of our customers.

18 Intervenors have argued that by not seeking a
19 midcourse correction in March, DEF should not be
20 permitted to collect the carrying costs on the
21 unrecovered balance during what OPC has termed the
22 voluntarily deferral period. For a number of
23 reasons, this contention should be rejected.

24 First, DEF complied with the rule by filing a
25 notification letter and explaining why we did not

1 feel a midcourse was practical. This approach is
2 explicitly permitted under Section 2 of the
3 midcourse rule. Following the requirements of a
4 rule simply cannot be a violation of the rule
5 spirit or intent.

6 Moreover, DEF's notification and explanation
7 for not seeking an adjustment was filed on March
8 29th. Subsequent to that filing, no intervenor
9 party took any action to challenge that
10 explanation. There was no discovery regarding the
11 letter or the reasoning contained therein. There
12 is no testimony rebutting that reason. And then
13 finally, no intervenor filed a petition or made any
14 motion asking had the Commission to modify DEF's
15 rates.

16 In short, in the face of what OPC now claims
17 was an inadequate justification for not seeking a
18 modification, they did nothing for over seven
19 months.

20 Furthermore, the phrase voluntarily deferral
21 period -- deferral period, excuse me -- is a
22 misnomer at best. I think we can all agree that
23 neither DEF nor any other utility here today has
24 the authority to change our rates without
25 Commission approval.

1 In fact, I was sitting right here in 2017 when
2 this commission denied the DEF's requested
3 midcourse adjustment, and stated: The modification
4 of the fuel factor before the next fuel clause
5 hearing is at the discretion of the Commission.
6 That is to say that had DEF requested a midcourse,
7 there is no way to know if the Commission would
8 have approved the request, or if approved, when
9 collection would have begun therefore. Therefore,
10 the voluntary deferral period is, at best, a
11 speculative period of time based on the presumption
12 that the Commission would have approved an
13 adjustment, a presumption that may not be accurate.

14 In this commission's 2017 order rejected DEF's
15 requested midcourse, it stated: Given the
16 inaccuracy of past projections, and the fact that
17 more actual data for both DEF's 2017 fuel cost and
18 kilowatt hour sales will be available at the fall
19 fuel clause hearing, we find it appropriate to
20 defer resetting the fuel factor at this time.

21 It's also worth noting that DEF -- had DEF
22 sought an adjustment instead of waiting in hopes
23 the extreme gas market volatility would abate, it
24 is entirely possible that these very intervenors
25 would have opposed such a request, as they did as

1 recently as 2021, when OPC argued that, quote,
2 "consumers have continued to struggle with the
3 unexpected impacts of a global pandemic over the
4 last year-and-a-half and many customers are playing
5 catch-up financially, therefore, we urge the
6 Commission not to require customers to pay any more
7 than absolutely necessary right now, especially if
8 that's only to speed up the recovery of money that
9 Duke will receive over time."

10 To sum up on this point, DEF should not be
11 penalized by being denied recovery of the carrying
12 costs of financing under-recovery on behalf of
13 customers. At all times, the company followed the
14 Commission's rule and acted in what it felt was the
15 best interest of customers. If customers
16 representatives felt there was a preferable
17 approach, they could, and should, have made it
18 known at that time. It is inequitable to permit
19 them to have sat back and taken no action, and
20 then, at the 11th hour, raise an objection based on
21 what should have occurred to deny recovery of
22 normal and legitimate carrying costs.

23 Another issue I would like to briefly discuss
24 is the issue of rate transparency discussed at
25 length at last month's hearing. To be clear, DEF

1 has been open and transparent about the amount of
2 2022 under-recovery, which was included in the July
3 actual estimated filing, the September projection
4 filing, and finally was discussed at the hearing.

5 It is true that DEF did not include the rate
6 impact of the under-recovery in its September
7 projection filing for the simple reason that DEF
8 was not seeking to be collect the under-recovery at
9 that time. When DEF seeks to collect the
10 under-recovery, it will provide an updated total,
11 as well as the bill impacts for each customer
12 class, and will provide customers with all required
13 notice.

14 Notwithstanding that the bill impacts weren't
15 included in the projection filing, the information
16 necessary for any party to calculate the
17 approximate rate impact was made available. This
18 was made abundantly clear by the fact that both OPC
19 and the Retail Federation performed the necessary
20 calculations and provided their results at hearing
21 via questions posed to Mr. Dean, and through FRF's
22 Exhibit 74. On top of that, any party that felt
23 insufficient information was provided, could have
24 simply asked for whatever information they felt was
25 missing, either formally through discovery, or

1 informally by picking up the phone, as DEF has a
2 long history of working with customer
3 representatives on these matters.

4 In short, there can be no claim of lack of
5 transparency when the necessary information was
6 available to calculate the rate impacts, and
7 readily available from DEF had a party chose to
8 request it.

9 In sum, we ask that you approve our positions
10 and the remaining issues in our proposed fuel
11 recovery rates.

12 Thank you.

13 CHAIRMAN FAY: Okay. Great. Thank you, Mr.
14 Bernier.

15 Next we will move to FPL. Ms. Moncada, you
16 are recognized when you are ready.

17 MS. MONCADA: Thank you.

18 Good morning, Commissioners. Thank you for
19 the opportunity to deliver closing remarks in lieu
20 of briefs.

21 As was stated, most of the issues in this
22 docket were the subject of stipulations that you
23 already have approved, and the only outstanding
24 issues for FPL are 8, 9, 10, 16, 18 and 20. And
25 that all boils down to the question of what is the

1 appropriate 2022 under-recovery amount that should
2 be included in the factor to be implemented in
3 January of 2023? Which, at this point, is just
4 about three weeks away.

5 FPL submits that the 2022 under-recovery
6 should be excluded from the calculation of the
7 January factor because, as amply demonstrated by
8 evidence presented by us during the hearing,
9 extraordinary circumstances impacted the natural
10 gas market in 2022 causing extreme, unprecedented
11 volatility in prices.

12 In a year like this, it is appropriate for FPL
13 to collect actuals through the end of the year, and
14 bring to you a calculation that is not subject to
15 continued significant swings. We recognize that
16 the typical approach is to include an actual
17 estimated number for the current year that is
18 rolled into the following year's factor.

19 This typical approach does not align with the
20 extraordinary circumstances experienced this year.
21 And a reasonable and temporary deviation from that
22 typical approach is appropriate.

23 FPL's position is supported by substantial
24 record evidence from the hearing. Allow me to run
25 through the essential arguments of the intervenors.

1 OPC argues that we violated the spirit of the
2 midcourse correction rule, and that FPL's request
3 to exclude the 2022 under-recovery from the January
4 factor is an illegal departure from non-rule
5 policy.

6 The argument regarding the midcourse
7 correction rule ignores the plain language of Rule
8 25-6.0424, which expressly allows utilities to
9 include an explanation of why a midcourse
10 correction is not practical. FPL did just that in
11 its April 15th letter, which explained that market
12 factors were impacting natural gas prices in a
13 manner that made filing a midcourse petition
14 impractical at that time, and that we would
15 continue to monitor market conditions.

16 In July, we made our actual estimated filing,
17 as required by the Order Establishing Procedure.
18 And in that filing, we stated that the market had
19 become even more volatile, so we would not be
20 filing a midcourse, and we would not roll the 2022
21 under-recovery into the January factor. We
22 reiterated this position in our September 2nd
23 projection filing.

24 And in response to the notice and our filings,
25 intervenors did nothing. No discovery. No

1 petition. No motion challenging or claiming that
2 we violated any rules or policies. Instead, they
3 came to the Commission in November, essentially
4 arguing that we should have raised bills earlier
5 for customers through a midcourse correction which,
6 we must bear in mind, typically comes with a
7 compressed timeframe and, thereby, would have
8 exacerbated bill impacts.

9 FPL believes its approach under these
10 circumstances of the 2022 natural gas market has
11 been appropriate. FPL's approach also provides
12 customers the benefit of greater bill stability.

13 To the extent it is non-rule policy to include
14 the current year figure in the projected fuel
15 factor, Florida law allows the Commission to
16 authorize such a departure. Specifically, Florida
17 Statutes, Section 120.68(7)(e)3 recognizes that an
18 agency may reach a decision that departs from an
19 agency policy or prior agency practice as long as
20 the deviation is explained by the agency. FPL's
21 expert evidence demonstrates why a deviation is
22 warranted.

23 FPL Witness Yupp explained that in his 20 plus
24 years, he has not seen movement in natural gas
25 prices such as what we had this year. He

1 summarized four factors that disrupted the
2 supply/demand balance, which the market was
3 reacting to during 2022 on a realtime basis. We
4 had the war in Ukraine. We had a June through
5 August period that included the second highest
6 number of cooling degree days in the past eight
7 years. We had limited capability to switch over to
8 coal. And all the while, the U.S. became the
9 world's largest exporter of LNG.

10 He explained that volatility in February of
11 2022 was four times the historical average, and
12 that was before the extremes experienced in the
13 summer, when there was an explosion at the Freeport
14 LNG facility that precipitated prices going from
15 over \$8 to about 5.50, and then over the next 26
16 days went back up again to almost \$9.

17 In terms of FPL's fuel costs, this means that
18 in a month-and-a-half, we had \$1 billion swing
19 upward, followed by a swing in the opposite
20 direction of more than \$1 billion. And these
21 swings reflect projected costs just for the second
22 half of the year. It doesn't even include the
23 first six months. Despite all of this disruption
24 in the market, intervenors still argued that FPL
25 should have started collecting sooner.

1 Again, FPL's witnesses explained that the
2 volatility was precisely the reason why we did not
3 do so. Mr. Yupp explained that during 2022, there
4 was never a point in time when he was comfortable
5 that the estimate for the year was the appropriate
6 number to use as the basis for collecting the costs
7 from customers. And Mr. Bores testified that if
8 FPL had instituted a midcourse correction each time
9 we tripped the 10-percent threshold, we would have
10 come before you, Commissioners, five times to
11 change bills in different directions.

12 It's important to note that the volatility was
13 especially acute during the summer, which is
14 precisely when FPL's actual estimated and
15 projection filings were due.

16 Florida retail asserted during its
17 cross-examination that deferral violates the
18 matching principle. Mr. Bores explained that FPL
19 considered other factors that outweigh a slight
20 delay.

21 Repeated changes to the bill to keep up with
22 our moving over- and under-recovery positions would
23 have subjected customers to significant bill
24 instability. FPL chose not to whipsaw customers in
25 this manner. Instead, FPL will provide customers

1 the benefit of greater bill stability by waiting
2 for year-end actuals, making a filing in January,
3 and aiming for an April 1 implementation date. And
4 because that's a lag of only three months, we
5 expect that the costs will be recovered from the
6 same customers who caused them.

7 Additionally, FPL has considered external
8 factors our customers are dealing with, such as
9 high -- actually record high levels of inflation,
10 interest rate pressure, paying more for fuel at the
11 pump, and expensive grocery bills. For that
12 reason, FPL's intent is to recover the costs over
13 21 months. This approach benefits customers by
14 avoiding rate shock, while also avoiding the risk
15 of pancaking charges on customer bills.

16 FIPUG argues that commercial customers want to
17 be able to plan, and should receive notice of what
18 they will expect. Mr. Bores testified that there
19 certainly were and, indeed, are avenues for
20 commercial customers to talk to their customer
21 advisers about bill impacts.

22 Again, Commissioners, FPL disclosed to all
23 parties months ago its plan to exclude the 2022
24 under-recovery figure from the January factor. And
25 again, when we make our filing in January,

1 customers will receive appropriate notice.

2 OPC appeared to argue that because 2023 also
3 could be impacted by the same factors as 2022,
4 there is nothing unique about this year. And while
5 it is possible that the factors could also impact
6 2023, FPL's evidence showed that the market for
7 next year is far more solid than what we
8 experienced during 2022. In fact, Mr. Yupp
9 testified that the mid-July commodity price that we
10 used for our 2023 projection has seen some
11 movement, but overall has been pretty stable.

12 Finally, FIPUG made the argument during its
13 opening statement that there have been other
14 periods when gas prices were in the teens.
15 Commissioners, saying that prices were higher in a
16 prior period says nothing about the volatility in
17 that year.

18 Mr. Yupp explained that the other year when
19 there was a notable spike was 2008; but in that
20 year, there was a very steady run-up in prices
21 followed by a steep decline down. And by contrast,
22 in 2022, we saw repeated changes in the price
23 moving both up and down repeatedly.

24 For all of these reasons, FPL asks that the
25 Commission approve our position on Issues 8, 9, 10,

1 16, 18 and 20, which reflect that the 2022
2 under-recovery will not be included in the January
3 factor; and FPL should be allowed to make a filing
4 in January that will reflect 12 months of actuals,
5 with the goal to implement the adjusted factor on
6 April 1st.

7 This concludes my statement. Thank you,
8 Commissioners.

9 CHAIRMAN FAY: Okay. Thank you, Ms. Moncada.
10 Next we will move to Ms. Keating. You are
11 recognized.

12 MS. KEATING: Thank you, Commissioners. I
13 appreciate the opportunity.

14 Commissioners, I think you have heard just
15 about everyone over the course of this hearing, and
16 you will probably hear more today, acknowledge that
17 fuel prices have escalated to an unprecedented
18 level over the course of this year, and there has
19 been extreme volatility, and consequently, that's
20 resulted in significant under-recoveries for all
21 the companies, including FPUC.

22 And as you are well aware, FPUC is, by far,
23 the smallest of the IOUs. So as you might expect,
24 FPUC approached the issue of recovery from a
25 somewhat different perspective. Consequently, it

1 crafted what FPUC believes to be a balanced
2 approach for the company and its customers. That
3 approach is reflected in the 2023 factors for FPUC
4 that were approved as part of the stipulations at
5 hearing.

6 As reflected in the testimony of Witness
7 Napier, the company proposed to recover its
8 significant under-recovery over a period of three
9 years. As such, only one-third of the
10 under-recovery was included in the calculation of
11 the company's cost recovery factors that you have
12 approved.

13 Because the company's proposal involves an
14 extended deferral of what is a very significant
15 amount for a company the size of FPUC, the company
16 is asking that it be allowed its short-term debt
17 rate to the amount deferred beyond next year. This
18 will prevent the company from being penalized for
19 its proposal, which it's offered because it fully
20 appreciates the impact that recovery of the full
21 amount in 2023 would have on its customers bills.

22 The issue that the intervenors have, as we now
23 understand it, is with the application of interest
24 at the commercial paper rate to the under-recovered
25 amount in 2022, that the company did not include in

1 its midcourse correction. There are several
2 problems with their position.

3 First, FPUC asked for and was granted a
4 request for a midcourse correction. Therein, the
5 company clearly stated the amount for which it was
6 seeking recovery, what it was asking to leave out
7 of the adjustment to its cost recovery factors, and
8 why.

9 The Commission's order was, likewise, clear.
10 No intervenors spoke at the Agenda Conference at
11 which the company's request was approved. No
12 intervenor reached out to FPUC regarding any
13 concern regarding its request. And no intervenor
14 filed a motion for reconsideration of the
15 Commission's order approving the company's request.

16 The Commission's order was issued July 20th,
17 2022. As such, the company proceeded as directed,
18 applied the revised factors, and continued to
19 monitor the market and the impacted on its
20 under-recovery in 2022. The company didn't even
21 know that a company-specific issue was being added
22 until October 28th. Didn't know that the
23 intervenors had a position on it until November
24 2nd. And frankly, didn't even understand what that
25 position meant until the hearing.

1 Over this period of time, it's continued to
2 apply interest at the commercial paper rate to the
3 amount deferred in 2022, just as it has in every
4 other year. And its factors that you have approved
5 are calculated with that interest included. To
6 accept the intervenors' position would not only
7 unfairly penalize the company in 2022. It would
8 necessitate that you revisit approval of the
9 company's factors and recalculate them to exclude
10 six months of interest.

11 Moreover, any action to do so would equate to
12 retroactive ratemaking, given that all parties were
13 on notice of FPUC's intent. The Commission
14 approved the company's requested midcourse, and no
15 intervenor objected or sought consideration. To
16 now exclude interest on the amount approved for
17 continued deferral would be contrary to the
18 regulatory policy against retroactive ratemaking.
19 It would also promote regulatory uncertainty, and
20 generate some very real due process concerns as
21 well. Again, FPUC has tried to do the right thing,
22 and it has been transparent regarding its plans.

23 With regard to staff's position, that's a
24 little more challenging to address, since staff
25 hasn't taken a position.

1 Your policy to apply interest and deferred
2 amounts was established back in 1980 by Order 9273,
3 where the Commission concluded that the application
4 of interest was equitable and would reduce any
5 incentive to biased projections one way or the
6 other.

7 The Commission further recognized that
8 applying interest was appropriate because the level
9 of under-recovery or overrecovery will influence
10 the levels of the company's short-term borrowings.
11 And, yes, in that order, the Commission chose the
12 commercial paper rate.

13 The issue for FPUC is that this is an extended
14 deferral of a significant amount. By comparison,
15 when the Commission was contemplating interest in
16 1980, it was looking at extending the recovery
17 period from just two months to six months. In that
18 order, the sum total of the Commission's analysis
19 on why commercial paper was appropriate was that it
20 was termed independent of the regulatory process,
21 and can be readily determined. It was also based
22 on the testimony of witnesses for two of the larger
23 companies, FPL and TECO.

24 At the time, FPUC only had a one-month
25 recovery lag, so interest wouldn't really have been

1 an issue.

2 While you may also hear that commercial paper
3 is appropriate for the under-recovery because
4 that's what applied -- what is applied to
5 over-recoveries returned to customers, I ask you to
6 bear in mind that there is never a three-year lag
7 in returning over-recoveries to ratepayers. Again,
8 I emphasize, FPUC is only seeking to apply the
9 short-term debt rate to the under-recovered amount
10 that's being deferred beyond 2023.

11 For FPUC, its parent company short-term debt
12 rate really is the interest applicable, or the
13 value of money for the company. Commercial paper
14 as a financing instrument is really only available
15 to much larger companies that are rated by one of
16 the rating agencies. FPUC's parent Chesapeake
17 can't even buy commercial paper without paying a
18 premium, plus a fee to a rating agency. So the
19 company will, in fact, lose money even if the
20 commercial paper rates applied.

21 Commissioners, the under-recovery was beyond
22 the company's control, and it took steps to address
23 it by seeking a midcourse correction. A company
24 the size of FPUC, with the same obligation to serve
25 as other companies, just can't be put in the

1 position of taking a significant hit in 2022, much
2 less losing even greater amounts over the next
3 couple of years.

4 At this point, you have approved FPUC's
5 proposed factors, which incorporate just one-third
6 of the unrecovered amount. As such, we ask that
7 you approve the company's request to apply interest
8 on the deferred two-thirds at the company's
9 short-term debt rate, and not remove interest
10 applied for the last half of 2022.

11 Thank you, Commissioners.

12 CHAIRMAN FAY: Okay. Thank you.

13 Let's see. Next we will move to, Mr.
14 Rehwinkel -- no, excuse me, TECO. Go ahead, Mr.
15 Means, you are recognized.

16 MR. MEANS: Thank you, Mr. Chairman, and good
17 morning, Commissioners.

18 I would like to begin by noting that the
19 majority of issues in this docket are not in
20 dispute. Indeed, the consumer parties do not
21 challenge Tampa Electric's 2021 true-up amount, or
22 the projected 2023 costs, which are two of the
23 three components of the company's 2023 fuel cost
24 recovery factors. The only contested issues
25 remaining in this docket center on the last

1 component, Tampa Electric's projected
2 under-recovery for the year 2022.

3 The consumer parties' positions on these
4 issues essentially boil down to one point. They
5 think Tampa Electric should have started recovering
6 this amount sooner. As I will explain through five
7 main points today, Tampa Electric's actions were
8 reasonable, prudent and procedurally proper.

9 I will also note that I agree with the
10 arguments raised by my colleagues at FPL and DEF,
11 but I will not repeat them here.

12 First, I would like to emphasize that Tampa
13 Electric has been forthright about the existence of
14 a projected under-recovery, and consistent
15 regarding its wait and see approach to that
16 under-recovery.

17 In April, Tampa Electric filed a notice in
18 this docket declaring that the company was
19 projecting an under-recovery balance for 2022.
20 That notice plainly announced the company's
21 intention to forego immediate recovery of that
22 balance in the hope that high fuel prices was
23 moderate.

24 In July, the company included a projected
25 under-recovery dollar amount in the company's

1 actual estimate filing.

2 In September, the company filed testimony that
3 addressed the under-recovery. Again, the company
4 plainly stated that fuel prices remained volatile,
5 and that the company would wait to recover the
6 under-recovery when the actual balance was more
7 certain.

8 At the final hearing in November, Tampa
9 Electric witness Penelope Rusk presented the
10 company's projected under-recovery as of October
11 31st, the company's plan for addressing that
12 under-recovery, as well as projected bill impacts
13 for residential, commercial and industrial
14 customers. Tampa Electric has, thus, been
15 transparent and consistent regarding the
16 under-recovery and the company's approach to it.

17 Second, the company's decision to defer
18 recovery was reasonable under the circumstances.
19 This commission has long held that the prudence of
20 a utility's actions should be judged in terms of
21 the facts that were known at the time the decision
22 was made.

23 Here, the uncontroverted evidence shows that
24 fuel prices were extremely volatile throughout
25 2022. Witness Rusk evidence to that the company

1 was concerned this level of volatility could lead
2 to multiple rate changes or to an overrecovery.
3 Under these circumstance, it was reasonable for
4 Tampa Electric to prioritize rate stability and
5 certainty through a wait-and-see approach.

6 Third, the wisdom of Tampa Electric's approach
7 was ultimately vindicated by later developments.
8 Witness Rusk testified that the company's projected
9 under-recovery for 2022 has declined over the last
10 few months from a peak in September. The company's
11 decision to defer recovery until the under-recovery
12 balance was more certain will accordingly
13 mitigating customer bill impacts.

14 Fourth, the company's actions were
15 procedurally proper. Tampa Electric made each of
16 the required filings at the time set out in the
17 Order Establishing Procedure. No party objected to
18 any of those filings at the time they were filed.

19 Furthermore, Tampa Electric's decision to
20 forego filing a midcourse correction this year was
21 consistent with the midcourse correction rule. The
22 plain language of that rule gives the company the
23 choice to either file a midcourse correction or to
24 explain why it is not doing so. Tampa Electric
25 satisfied the rule bill filing the April letter,

1 citing the significant volatility in the natural
2 gas market as grounds for not filing a midcourse
3 correction at that time.

4 In short, the company's actions in this docket
5 were procedurally proper and were consistent with
6 the applicable order and rule.

7 Fifth, and finally, the company has outlined a
8 reasonable plan for seeking recovery of its 20 --
9 actual 2022 fuel under-recovery with a filing in
10 January of 2023. The consumer parties will have an
11 opportunity to contest the proposed recovery period
12 and the proposed carrying costs when that filing is
13 made.

14 As witness Rusk testified, it Tampa Electric's
15 approach only delays recovery of the under-recovery
16 balance by two to three months as compared to the
17 normal timeline. Setting aside the 2022
18 under-recovery amount, the other components of the
19 company's 2023 fuel cost recovery factors are not
20 in dispute.

21 As I mentioned previously, the consumer
22 parties do not challenge the 2021 true-up or the
23 2023 projection. Since these amounts are not in
24 dispute, and since the company proposed a
25 reasonable plan for addressing the 2022

1 under-recovery, we ask that you approve the
2 company's positions on all contested issues and
3 approve the company's proposed 2023 fuel factors.

4 Thank you.

5 CHAIRMAN FAY: Okay. Thank you, Mr. Means.

6 All right. Next we will move to Mr.
7 Rehwinkel. You are recognized when you are ready.

8 MR. REHWINKEL: Thank you, Mr. Chairman. I
9 have prepared remarks that I am going to give you
10 today.

11 The evidence at the November 17-18 hearing
12 compels that the Commission adopt the following
13 customer requests. At the outset I need to state
14 that I am authorized to represent that PCS
15 Phosphate, who has been granted excusal for
16 logistical reasons, concurs in the specific
17 requests that start with the phrase "we request".
18 The rest of this argument is mine.

19 Commissioners, we request accurate costs and
20 accurate bills. For DEF, the official record
21 showed \$750 million in actual under-recovered costs
22 that should not have been deferred. We now have
23 heard evidence that DEF's actual under-recovered
24 costs are about 1.2 billion. FPL is around two
25 billion, and TECO just south of 500 million.

1 We request no carrying costs on elective
2 deferred balances for the large utilities July 1 --
3 for the period July 1 through April 1, 2023. The
4 OPC believed that a show cause docket should be
5 opened against each company for failure to follow
6 the rule, or failing that, some serious measure
7 needs to be taken to ensure that this never happens
8 again, whether an over- or under-recovery occurs.

9 We request reasonable recovery periods. No
10 compression for the period of this deferred amount.

11 We request no more than a commercial paper
12 rate carrying cost on the unrecovered balance
13 starting no sooner on the day the collection of the
14 under-recovery balance begins.

15 We request recovery periods that are not
16 artificially constrained by the unilateral
17 elections made by the companies to defer the
18 beginning of collection of these costs into the
19 March to April 2023 timeframe. This is approaching
20 a full year, given that the midcourse correction
21 letters were file filed in March and April of 2022.

22 We request full transparency about projected
23 2023 fuel costs, and we want to know if corrections
24 are expected for 2023. The customers have had
25 enough surprises.

1 We request that you ensure that the hearing on
2 the January midcourse correction filings made as
3 promised in the hearing, and as you have heard
4 today, must protect 100 percent of the rights that
5 customers would have had in this proceeding. These
6 filings cannot be handled as a simple tariff item
7 at an Agenda since customers were prohibited
8 interested raising the issues in the fuel hearing
9 as being premature. The opportunity for discovery,
10 cross-examination, argument and briefing on the
11 issues that will have matured upon those filings
12 must be provided. We do not expect to have an
13 Agenda item type review with time constrained
14 presentation opportunities. Proceedings on the
15 midcourse corrections' petitions that are
16 forthcoming should be scheduled separate from the
17 Agenda.

18 We request that the Commission take reasonable
19 steps to strongly urge a more direct dialogue among
20 the utilities and their customers. That would be
21 welcome.

22 We request that all companies must be in the
23 same proceeding, and probably FPUC should be there
24 too.

25 We request that you defer ruling on the FPUC

1 short-term debt carrying costs. Customers should
2 not be whipsawed by being barred from
3 cross-examination in this proceeding on the subject
4 of carrying costs and recovery periods while FPUC
5 is given a precedent setting, a potentially
6 precedent setting determination that will apply as
7 precedent to FPL, DEF and TECO.

8 While there was an expression from the Chair
9 that cross-examination about carrying costs and
10 recovery period was off limits, the fact that FPUC
11 is seeking relief on both elements raises a due
12 process concern for intervenor parties who are
13 representing customers of other utilities. This
14 argument touches on this incongruity.

15 The Commission appears to be set to make a
16 determination for FPUC about carrying costs and
17 period, but counsel for intervenors in the other
18 three dockets will be muzzled, and they will
19 potentially face a precedent that will be final,
20 and they will have no opportunity to shake the
21 outcome of that case unless you defer ruling and
22 consider all cases at the same time. This
23 inconsistency cannot stand in this docket.

24 The OPC has no objection to FPUC putting in
25 proposed rates for 2023 as proposed. But it is our

1 view that you must defer a final decision on any
2 true-up based on looking at all four companies
3 together as to carrying costs and recovery period.
4 FPUC cannot be a precedent for the other three
5 utilities. You did not allow cross-examination on
6 this issue. You struck the issue. You are legally
7 barred from making any binding decision on it in
8 this phase of the fuel docket.

9 I will say that OPC has encouraged that DEF
10 has indicated it will propose a recovery period of
11 at least 12 months using the commercial paper rate.
12 TECO has indicated it will do the same, but is
13 likely to propose a longer recovery period. FPUC
14 has not fully divulged its intentions as to the
15 carrying cost, but went out of its way to note that
16 it was carrying the now \$2 billion balance, quote,
17 with all sources of our capital structure. This is
18 known as the WACC, and it includes a shareholder
19 profit element.

20 The OPC urges the Commission to make it clear
21 to all utilities that allowing a shareholder gain
22 on the human misery of war influenced gas prices as
23 both unseemly and against public interest.

24 We request a definitive ruling that this
25 circumstance will never happen again. We believe

1 -- the Public Counsel believes that a sanction for
2 violating the midcourse correction rule is required
3 to keep this from happening again.

4 We had initially decided not to ask for a
5 sanction, but there were two events that occurred
6 that changed our mind. FPL Witness Bores testified
7 about what the term practical actually means, and
8 he and others suggested that it wasn't customers
9 fault that the companies didn't follow the rule.

10 The midcourse correction rule requires the
11 companies to come in for a midcourse correction
12 unless they demonstrate that it would not be
13 practical. The explanations given as to why no
14 petition was filed was just that, an explanation,
15 but not a demonstration.

16 I am kind of curious as to what the Commission
17 told the JAPC about the basis for not following the
18 mandate back when the rule was adopted.

19 Demonstrate means to prove or to show clearly.
20 The narrative words on the letters not rise to the
21 level of demonstrating that matching the recovery
22 of under-collections to current customers was not
23 practical.

24 The definition of practical as provided by
25 Miriam Websters on-line dictionary as of, relating

1 to, or manifested in practice or action, not
2 theoretical.

3 There was nothing impractical about doing what
4 FPL had just done in January, and what DEF and TECO
5 had each done in the previous 12 months, which was
6 to quickly put in place a correction to a massive
7 under-collection in an environment that allows
8 true-ups, up or down.

9 Witness Bores, perhaps unwittingly, actually
10 gave a textbook illustration of what practical
11 really means in the context of the rule in his
12 answer to FRF counsel's question.

13 Question: My question for you, then, is could
14 -- could FPL initiate recovery of some additional
15 amount, say, \$810 million on an annualized basis as
16 of January 1st, 2023, as a means of getting ahead
17 unrecovering the current under-recovery?

18 Answer: I think the best way to answer that
19 is for me is I don't think that seems practical.
20 From a mechanics standpoint, I don't know whether
21 that could be done or not, and maybe you are
22 suggesting a random amount. I don't know from a
23 mechanics standpoint, but I think, from a practical
24 standpoint, given where we are in this year
25 already, which is now almost, you know, just

1 basically one month left to go, it seems to make
2 sense to let that finish out and then have a
3 complete set of actuals for 2022. That's my
4 opinion.

5 That's what practical means in the rule that
6 you adopted. It doesn't mean do whatever you want
7 and explain, and you have an option to not apply
8 the rule.

9 In April of this year, it would have been
10 practical from a mechanics standpoint to file a
11 midcourse correction petition. Taking a -- taking
12 a wait-and-see approach was merely speculative and
13 preferential to the utilities. It was not at all
14 driven by practicality, as defined by Mr. Bores.

15 These companies have a history of coming in
16 for timely recovery in both directions, and with a
17 variety of recovery periods. The sit on it and
18 wait approach is unprecedented and is not
19 contemplated by your rule.

20 The practicality of the most recent five
21 midcourse corrections that were implemented in the
22 past 14 months are based on information that can be
23 found in the public record in the midcourse
24 correction orders.

25 DEF came in in July of '21, four-month

1 recovery period. TECO, July of '21, four-month
2 recovery period. FPL came in in November, one-year
3 recovery period. DEF came in in December of last
4 year with an eight-month recovery period. And TECO
5 in January of this year with an eight-month
6 recovery period. They are all over the board, and
7 there is no got to have it at the beginning of the
8 year for stability purposes.

9 A July 1 implementation date would have given
10 a minimum of six months recovery, but clearly a
11 longer period could have been requested. This
12 commission has a history of granting relief in less
13 than 60 days, as we demonstrated at the hearing.

14 In only one recent instance was the rate
15 change timed to begin on January 1st. The other --
16 and that was FPL. The other four instances were
17 based on simply following the rule, and a rate
18 change has occurred with varying remaining recovery
19 periods in the calendar year.

20 This commission should ignore the notion
21 raised by Mr. Bores that FPL would have had to file
22 five midcourse petitions last year. This is
23 nonsense, as a midcourse process can take 60 to 120
24 days, as shown recently, and there are not five
25 such periods in a 12-month period, and each

1 correction balance would add to the denominator
2 such that the next 10 percent is a larger number,
3 there would not have been multiple rate increases
4 under the facts in the record.

5 In any event, such hindsight is no more useful
6 to the Commission than the fact that the plan to
7 wait for moderation was a dismal failure in
8 hindsight.

9 Collecting the balances now approaching \$4
10 billion sooner, rather than later, would have
11 helped spread the pain, but more importantly would
12 have let customers plan their budgets.

13 This entire deferral process was a failure,
14 and we believe it never should be repeated. There
15 was no good or prudent reason to sit on these huge
16 balances waiting for some pie-in-the-sky
17 reductions. The true-up process is designed to
18 protect customers and companies alike, and it
19 should work without subjectivity.

20 CHAIRMAN FAY: Mr. Rehwinkel, you have
21 exceeded your time, but I will allow you to go
22 ahead and --

23 MR. REHWINKEL: Okay. Thank you, Mr.
24 Chairman.

25 We urge -- let me just go to the conclusion

1 here.

2 We believe it is the duty of this agency to
3 regulate, and to do that in the public interest.
4 Because of -- let me just conclude here.

5 I want to address finally this audacious
6 notion that the -- that somehow it's our fault that
7 the companies didn't follow the rule. We have
8 never, and there is no precedent that filing the
9 midcourse correction letter gives a point of entry.
10 The fact that there is not a petition filed means
11 that there is nothing to act on.

12 The burden is not with the customers. The
13 fuel projections are based on the confidential
14 forward curves, and that information is largely
15 within the possession of the companies.

16 Commissioners, at the end of the day, our most
17 important ask is zero carrying costs on the
18 voluntary deferral, and we ask you to take whatever
19 steps are possible to make sure that this never
20 happens again, and that the rule is followed, and
21 that the EA adjustments are made and followed.

22 Thank you.

23 CHAIRMAN FAY: Okay. Thank you, Mr.

24 Rehwinkel.

25 Next, Mr. Moyle.

1 MR. MOYLE: Thank you, Mr. Chairman.

2 I am going to use my time to provide some
3 remarks that I prepared, but then I am also going
4 to talk about some of the comments that I have
5 heard, and make some other -- other points.

6 So thank you for the opportunity to have a
7 chance to share with you some thoughts. It's a
8 little different. Usually we are filing briefs.
9 Today we are making oral arguments. We appreciate
10 the flexibility.

11 And I thought today, listening to you all say,
12 thank you and good-bye to two senior PSC staff
13 members got me thinking about the rich history that
14 this commission has. And I started thinking about
15 the history of the fuel clause, and why -- why it's
16 in place, as I have been told, and I understand it,
17 and its purpose. And I think, as you all are
18 making policy and making decisions, that -- that
19 you ought not to stray far from -- from that
20 purpose of the fuel clause.

21 And you heard during the hearing, there was
22 some questions about regulatory lag and matching.
23 And my understanding of why the fuel clause was put
24 in place is because fuel has historically been
25 volatile. Natural gas, you have had countless

1 witnesses throughout the years come and, you know,
2 provide projections of natural gas, and it moves
3 around like a lot of markets. We had conversations
4 with some of the witnesses about the range of
5 movement.

6 And while everyone is saying, oh, this is
7 extremely different and volatile, I think we take
8 exception with that. There has been international
9 events that have taken place, Venezuela, we went
10 through a few of them during the testimony.

11 So the point is, is that the fuel clause was
12 put in place to allow utilities to not have to wait
13 to get money for a long period of time, to take out
14 the risk associated with fuel and make it a zero
15 sum game, where they could come in and say, you
16 know, we are off on the fuel and we need to make
17 this correction. And as Mr. Rehwinkel indicated,
18 those typically happen in pretty quick fashion.
19 They come in. You file. You look at it and you
20 act on.

21 These facts in this case are antithetical to
22 the purpose of the fuel clause, because -- because
23 I believe, and I think the evidence shows, that
24 what's happened here, particularly with the 2 --
25 2022 fuel costs, you heard every one of the lawyers

1 for the utilities say, yeah, we will be getting to
2 that in January. We will be -- we will be seeking
3 to recover 2022 in January.

4 That's not how the fuel clause is supposed to
5 work. That's not how it's designed to work. It's
6 supposed to, you know, be something you can use
7 quickly to get the -- get the money back.

8 And my note is, is that what has happened
9 here, these facts today are antithetical and akin
10 to kicking the fuel cost recovery can down the
11 road, and that's what you are dealing with. And
12 consequently, you are having to handle issues like
13 interest, and all of these other collateral issues.
14 It just did not work as it was drawn up.

15 So the question is, what do you -- what do you
16 do about it? I mean, I think to the point OPC
17 made, this didn't work very well this year, and
18 this kicking the can down the road is not something
19 that benefits the consumers.

20 The point FIPUG made, and I think it's point
21 important, is we would like to have transparency
22 and timeliness with respect to what our future
23 costs are going to be.

24 And the utilities, I will say that they have
25 some conversations with us about what that's going

1 to be. I appreciated -- FIPUG appreciated TECO's
2 witness taking the stand and saying, here's what we
3 are looking at. At least that's providing
4 information that's useful so that people can plan,
5 my clients can plan, commercial businesses can
6 plan, and residential customers can plan.

7 But in this commission process, I look at it
8 like a bit of a three-legged stool. You have the
9 monopoly utilities who are before you typically.
10 You have the intervenors, the statutory Office of
11 Public Counsel, and you have the Commission. And
12 we all play, you know, separate roles. I think
13 that, moving forward, this is probably a good
14 example to try to make some improvements so that we
15 are not having to deal with this situation again,
16 and all of the uncertainty and questions that you
17 have.

18 The -- you know, the argument that, well, we
19 didn't act in accordance with how the rule and the
20 historical practice has been is because it's
21 unprecedented. You know, we -- we take exception
22 with that. There is always events that will impact
23 natural gas markets, and they are known to be
24 volatile. So then that just becomes a matter of
25 degree. If every year you can come in and say,

1 well, this and that and the other, I think that
2 would be something that could occur regularly, and
3 I don't think that is consistent with the
4 principles of matching and regulatory lag.

5 The notion that -- and these are some of the
6 comments that I heard -- that the issue should have
7 been raised by the intervenors. The intervenors
8 should have come in and, what, filed a petition to
9 increase rates? I don't -- I don't know that that
10 makes a lot of sense. I mean, we had informal
11 conversations, but I would suggest that there
12 should be responsibility to come in and share
13 information in a timely fashion so that people can
14 understand what the impacts are going to be.

15 We still don't have information about what
16 2022 is going to look like in full -- in fullness.
17 TECO has provided it. The others have said today,
18 we are going to come in in January. You will have
19 more information then. But I think that's
20 something that you all should consider requiring
21 the utilities to provide, not unlike TECO did, when
22 they took the stand in a filing; or, as the Public
23 Service Commission, provide that information to the
24 people that you regulate.

25 They said essentially -- you heard one of the

1 utilities say, well, we provided all the
2 information, but they can do the math. That, I
3 think, is a little disingenuous.

4 A couple of other points that I would like to
5 address with respect to some of the comments that
6 were made. The -- again, if you accept that you
7 are going to -- the reason this was done is because
8 the need to continue to monitor market conditions
9 and to see the direction in which prices go, that,
10 to me is a truism. That's always go to be a reason
11 that you would say, okay, well, we don't want to
12 act yet because we need to get more information.

13 With respect to what the prices are going to
14 do, waiting also always provides you more
15 information as to -- as to what the costs are
16 because you get historical information. I mean,
17 these costs, now we are going to be having filings
18 in January for 2022. That should all be historical
19 in my mind.

20 The remarks made by counsel for Florida Public
21 Utilities with respect to the appropriate interest
22 rate, respectfully -- and she went through and
23 cited an order, and went through a legal argument,
24 but that was more akin to an argument I think you
25 would hear in a rule-making proceeding, where the

1 policy arguments were made about the interest
2 rates.

3 Right now, as I understand it, you have -- you
4 have no rule with respect to interest rates to be
5 applied. And there is probably a wide array of
6 choices. You have heard commercial paper being
7 used. I think that's something that has
8 historically been used. But there are options
9 ranging from no interest rate to charging an
10 interest rate that the Chief Financial Officer sets
11 every year for legal obligations. There is a
12 statute that addresses that, and says you look at
13 the federal funds rate and you make adjustments.

14 So I think OPC is right to urge you not to
15 wade into an interest discussion and debate on
16 this, but to take a more considered approach.
17 Defer ruling on that, and get better information on
18 that.

19 And obviously, the period of time where the
20 utilities said, well, we are going to wait for
21 their own reasons that they set forth should not be
22 something that we believe that the consumers should
23 be asked to pay in the form of those increased
24 interest costs.

25 So that summarizes the remarks that I would

1 like to make. I appreciate the chance to do so,
2 and look forward to the discussion and the decision
3 that you all make today.

4 Thank you.

5 CHAIRMAN FAY: Okay. Great. Thank you, Mr.
6 Moyle.

7 All right. Mr. Wright, you are recognized
8 when you are ready.

9 MR. WRIGHT: Thank you, Mr. Chairman. Good
10 morning, Mr. Chairman, Commissioners. Schef Wright
11 on behalf of the Florida Retail Federation.

12 First, the Retail Federation and I thank you
13 for the opportunity to present argument on behalf
14 of the Federation and its members regarding the
15 important issues in this case.

16 Our argument focuses is largely on the
17 matching principle, which we talked a lot about
18 over the decades and in this docket, as the
19 overarching policy that generally guides, and
20 should always guide the Commission's fulfillment of
21 its statutory ratemaking mandate, which is simple.
22 Rates are to be fair, just, reasonable, neither
23 excessive nor insufficient, and not unduly
24 discriminatory.

25 I will begin by summarizing the problems that

1 the IOUs have created in this matter, and I will
2 conclude by stating what the Retail Federation
3 believes the Commission should do, even though
4 months late, to address the situation.

5 The legal statutory problem at hand is
6 obvious. Where the purpose of the fuel clause is
7 to ensure that costs are recovered as they are
8 incurred, the IOUs have failed miserably to follow
9 the matching principle for basically this entire
10 year, and they all pretty much admitted they had
11 been under-recovered every month since last
12 January.

13 The IOUs have charged rates that are
14 insufficient to recover the cost of fuel that they
15 were incurring to serve their customers. They
16 have, thus, sent woefully inaccurate price signals
17 to their customers. They have failed to act while
18 their cost overruns have snowballed out of control,
19 currently totaling to around \$3.7 billion. And
20 they have not informed their general body of
21 ratepayers of this fact, nor have they informed
22 their general body of ratepayers of the dramatic
23 rate impacts that are looming next year. The IOUs'
24 E-10 schedules filed in this docket present the
25 utilities projections of typical residence bills

1 for 2023. The evidence shows that neither FPL's
2 nor DEF's, nor, Tampa Electric's E-10 schedules
3 show anything relating the impending impacts of the
4 utilities' 2022 under-recoveries on customers'
5 rates in 2023.

6 Yes, I am a rate nerd. I started here in
7 1982. I moved to rates in 1984. I know how to
8 make these calculations, and I could and did advise
9 my members, the Retail Federation's members, of the
10 approximate impacts beginning this summer. The
11 utilities should have told their general body of
12 ratepayers, the Jane Does and Jim Johnsons. They
13 didn't.

14 The IOUs have failed to comply with the
15 statutory rate standards. They have failed to
16 charge fair, just and reasonable rates. They have
17 under charged their customers in 2022 by roughly
18 two -- \$3.7 billion. And they will, thus,
19 necessarily overcharge their customers in 2023
20 possibly, if they have their way, probably into
21 2024, by these respective under-recovery amounts.
22 Their rates for 2022 have not been fair, just and
23 reasonable, and their rates for 2023 and into '24
24 will not be fair, just and reasonable. This is not
25 appropriate ratemaking.

1 From the perspective of customers' interests,
2 all customers, including the Retail Federation's
3 members, need to know for planning and budgeting
4 purposes what their rates are going to be and when
5 changes are coming. All customers have a
6 compelling interest in having their rates be as low
7 as possible, consistent with the utility providing
8 safe and reliable service at the lowest possible
9 cost.

10 In this specific context, all customers have a
11 compelling interest in avoiding the cumulative
12 impacts of the carrying costs on the IOUs'
13 under-recoveries balances that have compounded, and
14 that are continuing to compound, by their
15 accounting anyway, especially where the carrying
16 charge rates themselves have escalated dramatically
17 while the IOUs sat on their hands and let the
18 meters continue to run up and up and up.

19 The proposition that the Commission has to
20 wait to act until an IOU makes a petition or
21 request is false on its face. I am going to leave
22 some words out, but I am quoting from Section
23 366.06(2): Whenever the Commission finds upon its
24 own motion that the rates charged by any public
25 utility are unjust, unreasonable, unduly

1 discriminatory or insufficient, the Commission
2 shall order and hold a public hearing giving notice
3 to the public and to the public utility, and shall
4 thereafter determine just and reasonable rates to
5 be thereafter charged. This is your jurisdiction.
6 The main problem that the PSC -- that the
7 utilities, the public utilities have created here,
8 is the violation of statutory ratemaking standards.

9 That brings me to what the Retail Federation
10 believes the Commission should do now in this
11 proceeding. In our prehearing positions set forth
12 in the prehearing order, the Retail Federation took
13 the position that the Commission should do what it
14 can, could, to get started recovering the
15 under-recoveries. Our position was that you should
16 order them, beginning January 1, to begin
17 recovering at least 25 percent of the known
18 under-recoveries as of July 27th. We anticipated
19 at that point a bench vote in the November.
20 Obviously, that didn't happen.

21 Where we are today, the Retail Federation's
22 position is similar. The horse is long since out
23 of the barn. Letting the IOUs wait to file until
24 next month, and letting them wait to begin recovery
25 until March or April, will only exacerbate the --

1 exacerbate the violation and the problems for
2 customers.

3 They have been under-recovered every month
4 since last January, maybe a month or two exceptions
5 for one of the utilities, but basically they have
6 been under-recovered every month for this year.

7 The Retail Federation believes that the
8 Commission should require the IOUs to recover their
9 2022 under-recoveries over 12 months beginning as
10 soon as practical, ideally in January.

11 The IOUs know how to do this. Mr. Rehwinkel
12 went through this in your own record evidence and
13 orders, demonstrates they know how to do this.
14 They know how to implement midcourse corrections
15 quickly. There is no good reason for further
16 delay. They've told you what their best estimates
17 of the 2022 under-recoveries are. FPL roughly \$2
18 billion. Duke roughly 1.1 billion. Tampa Electric
19 550 million.

20 The witnesses for Duke and Tampa Electric
21 acknowledged that, while it would be tight, they
22 could probably accomplish recovery beginning in
23 January if the Commission were to order them to do
24 so. While FPL witnesses stated that, in their
25 view, it wouldn't be practical to begin recovering

1 in January, I would simply observe that FPL knows
2 how to implement a midcourse correction very
3 quickly. They did it just a year ago. They filed
4 on November 9th. Y'all acted on December 2nd. And
5 the new fuel charges were incorporated into their
6 2022 fuel charges on January 1st. They could file
7 this month. You could act in January. You could
8 at least get them into the rates in February,
9 rather than April.

10 The IOUs have kicked the can down the road for
11 over a year actually. Well, it will be over a year
12 by the time they get there. This represents an
13 egregious continuing violation of the statutory
14 requirement that rates are to be fair, just and
15 reasonable. The IOUs knew that their rates were
16 grossly insufficient. They knew that they were
17 under-recovered for basically every month of this
18 year, and their aggregate under-recoveries have now
19 snowballed to more than \$3.7 billion at the end of
20 this year.

21 Please put a stop to this violation. You have
22 the jurisdiction, you have held an appropriate
23 hearing, and you have the record evidence to act
24 now. The Retail Federation respectfully asks that
25 you order the IOUs to modify their fuel charges, or

1 to implement fuel correct-- midcourse corrections
2 for those fuel charges to begin recovery of their
3 2022 cost overruns beginning as soon as possible.
4 Our preference is January, given that we are here
5 on December 6th, you know, we would recognize that
6 February might be a more practical date.

7 We also agree that the Public Counsel's
8 position that the IOUs should not be allowed to
9 recover any carrying costs on the amounts that they
10 voluntarily decided not to recover in 2022 while
11 they were continuing to be under-recovered.

12 Consistent with the Retail Federation's
13 membership's interest, members' interest, the
14 Retail Federation is amenable to separate recovery
15 periods for commercial and industrial customers as
16 distinguished from residential customers. That's a
17 policy decision that you can make, but I want to go
18 on record assaying that. At least for the
19 commercial and industrial customers, we believe
20 that the recovery period should be the 12 months of
21 calendar year 2023, or 12 months beginning as son
22 as possible.

23 Thank you very much.

24 CHAIRMAN FAY: All right. Thank you, Mr.
25 Wright.

1 With that, we have concluded closing
2 arguments. I think what we will do -- I am just
3 looking at the time here. We have 11:30. What I
4 would like to do is break for lunch and give -- I
5 have got a lot of notes, but also give our staff
6 time to process the closing argument information
7 before providing recommendations, and then when we
8 come back, Ms. Brownless, we could -- we could just
9 walk through each issue essentially, and then
10 formally vote on that with the information that we
11 have at that time.

12 Okay. So we will plan on doing that. We will
13 be back here at one o'clock to begin the
14 recommendation, then deliberations and a decision
15 by the Commission then.

16 Thank you.

17 (Lunch recess.)

18 CHAIRMAN FAY: All right. I have one o'clock.

19 Ms. Brownless, when you are ready, I would
20 like to recognize you, and then maybe you can get
21 us in the right posture for walking through those
22 issues, how we could take votes on those, and then
23 I think if we have any additional matters after the
24 issues, we can discuss and take those up
25 separately, if that -- if that makes sense, and so

1 we might have recommendations from Commissioners
2 that precede the voting on the issues.

3 MS. BROWNLESS: Yes, sir.

4 CHAIRMAN FAY: Okay.

5 MS. BROWNLESS: The -- what I would suggest we
6 do at this time is we take each issue individually,
7 and then allow the staff to make its recommendation
8 on that issue, the Commissioners to discuss the
9 issue and vote on that issue, and then move
10 sequentially through the issues.

11 CHAIRMAN FAY: Okay. Go ahead when you are
12 ready.

13 MS. BROWNLESS: Issue 3A: Should the
14 Commission approve FPUC's request to apply its
15 parent company, Chesapeake Utility Corporation's,
16 projected short-term cost rate which deferred 2022
17 fuel cost balance?

18 MR. HIGGINS: Good afternoon, Commissioners,
19 Devlin Higgins with Commission staff.

20 Staff's recommendation on this issue is, at
21 this time, no, and as remain as is current
22 practice, FPUC should continue to apply the 30-day
23 nonfinancial commercial paper rate to any true-up
24 balance.

25 CHAIRMAN FAY: Okay. Great. Thank you.

1 So, Commissioners, do we have any questions or
2 comments on Issue 3A, which will be FPUC's issue?

3 Yeah, Commissioner Clark, you are recognized.

4 COMMISSIONER CLARK: I will ask a quick
5 question here, and I guess we are -- it's going to
6 be a little bit different than we would normally do
7 things.

8 I don't think -- I don't recall in testimony,
9 staff, hearing the difference between the
10 commercial paper rate and the short-term cost rate.
11 Do we know what that number is?

12 MR. HIGGINS: Currently, for January 2023,
13 FPUC's short-term interest rate is 4.49 percent,
14 and the published commercial rate, as published by
15 the Commission, is 3.97 percent, for roughly 52
16 basis point differential.

17 COMMISSIONER CLARK: And do we know -- I guess
18 my thought here is FPUC is, in comparison, much
19 smaller than the other utility companies. Is there
20 a reason -- is -- can staff give me a justification
21 for if their real -- is their real cost, in your
22 opinion, the 4.49 or is the real cost the 3.97?

23 MR. HIGGINS: The company has indicated it
24 would be its not at the commercial paper rate.
25 Their true cost of debt is higher than that.

1 COMMISSIONER CLARK: Thank you.

2 MR. HIGGINS: Yes, sir.

3 CHAIRMAN FAY: Any other questions?

4 Commissioner La Rosa, you are recognized.

5 COMMISSIONER LA ROSA: Thank you, Chairman.

6 So just to kind of piggyback on what was just
7 asked. There was nothing precluding them from
8 coming back later on and proving, or demonstrating
9 that there is an actual cost for them to use the
10 commercial paper rate?

11 MR. HIGGINS: To my knowledge, no, sir.

12 COMMISSIONER LA ROSA: Thank you.

13 CHAIRMAN FAY: Okay. All right.

14 Commissioners, with -- seeing that, with no other
15 questions, we could take a motion on this item,
16 either based on staff's recommendation, or if there
17 is a deviation proposed, we will take that up at
18 this time.

19 Commissioner La Rosa.

20 COMMISSIONER LA ROSA: Chair, I move to
21 approve staff's recommendation on Issue 3A.

22 CHAIRMAN FAY: Okay. We have a motion to
23 approve staff's recommendation on 3A. Do we have a
24 second?

25 COMMISSIONER GRAHAM: Second.

1 CHAIRMAN FAY: Okay. We have a motion and a
2 second.

3 All that approve recommendation for 3A say
4 aye.

5 (Chorus of ayes.)

6 CHAIRMAN FAY: Any opposed? No.

7 With that, see Issue 3A pass consistent with
8 staff's proposed recommendation.

9 All right. Commissioners, next we will move
10 to the broader utility issues, starting with Issue
11 8. Ms. Brownless, when you are ready, you are
12 recognized.

13 MS. BROWNLESS: Thank you.

14 What are the appropriate fuel adjustment
15 actual estimated true-up amounts for the period
16 January 2022 through December 2022?

17 MR. HIGGINS: The record evidence in this case
18 indicates the actual estimated true-ups are as
19 follows:

20 For Duke Energy Florida, 1.3 --
21 \$1,308,956,670.

22 For Florida Power & Light, 1,600,000,000 --
23 658,287,443 dollars.

24 For Florida Public Utilities Company,
25 \$15,143,447.

1 For Tampa Electric Company, \$411,964,625.

2 CHAIRMAN FAY: Okay. And, staff, anything
3 else other than that?

4 MR. HIGGINS: That's it. Thank you, sir.

5 CHAIRMAN FAY: Okay. Commissioners, any
6 questions on the appropriate fuel adjustment
7 true-ups for the period January 2022 to
8 December 2022?

9 Any comments for discussion?

10 With that, we can take up a motion on Issue
11 No. 8.

12 COMMISSIONER CLARK: Move approval of staff
13 recommendation, Mr. Chairman.

14 CHAIRMAN FAY: Okay. We have a motion for
15 staff recommendation on Issue 8. Is there a
16 second?

17 COMMISSIONER GRAHAM: Second.

18 CHAIRMAN FAY: Okay. We have a motion and a
19 second.

20 All that approve say aye.

21 (Chorus of ayes.)

22 CHAIRMAN FAY: Showing none opposed, Issue 8
23 is approved consistent with staff's recommendation.

24 All right. Ms. Brownless, Issue 9 when you
25 are ready.

1 MS. BROWNLESS: What are the appropriate total
2 fuel adjustment true-up amounts to be collected
3 refunded from January 2023 through December 2023?

4 MR. HIGGINS: At this time, staff recommends
5 for Duke Energy Florida a true-up of \$175,789,361
6 under-recovered.

7 For Florida Power & Light, \$10,256,384
8 under-recovered -- over-recovered, excuse me.

9 For Florida Power & Light -- I am sorry,
10 Florida Public Utilities Company, 7,063,744
11 under-recovery.

12 And Tampa Electric Company, zero dollars.

13 CHAIRMAN FAY: Okay. Thank you, Mr. Higgins.
14 Commissioners, any questions on those numbers?
15 Any comments on the proposed numbers for the
16 2023 true-up adjustments on Issue 9?

17 With that, I will take a motion on Issue 9.

18 COMMISSIONER PASSIDOMO: Mr. Chairman, I move
19 approval of staff's recommendation on Issue 9.

20 CHAIRMAN FAY: Okay. We have a motion for
21 approval of staff's recommendation on Issue 9. Do
22 we have a second?

23 COMMISSIONER GRAHAM: Second.

24 CHAIRMAN FAY: We have a motion and a second.
25 All that approve say aye.

1 (Chorus of ayes.)

2 CHAIRMAN FAY: Showing none opposed, Issue 9
3 passes consistent with staff's recommendation.

4 All right. Ms. Brownless, when you are ready,
5 we will take up Issue 10.

6 MS. BROWNLESS: What are the appropriate
7 projected total fuel and purchased power cost
8 recovery amounts for the period January 2023
9 through December 2023?

10 MR. HIGGINS: For Duke Energy Florida, staff
11 recommends \$2,266,708,676.

12 For Florida Power & Light Company, staff
13 recommends \$4,853,323,306.

14 For Florida Public Utility Company, staff
15 recommends \$68,427,727.

16 For Tampa Electric Company, staff recommends
17 \$956,732,804.

18 CHAIRMAN FAY: Okay. Mr. Higgins, anything
19 else on that?

20 MR. HIGGINS: No, sir.

21 CHAIRMAN FAY: Okay. With that,
22 Commissioners, we have the staff recommendation for
23 numbers on Issue 10. I will take any questions for
24 staff or any comments.

25 I will take a motion on Issue 10.

1 COMMISSIONER CLARK: Move staff recommendation
2 on Item No. 10, Mr. Chairman.

3 CHAIRMAN FAY: Okay. We have a motion. Do we
4 have a second?

5 COMMISSIONER GRAHAM: Second.

6 CHAIRMAN FAY: A motion and a second.

7 Seeing the motion and a second on Issue 10 --
8 staff recommendation on Issue 10, all that approve
9 say aye.

10 (Chorus of ayes.)

11 CHAIRMAN FAY: Showing none opposed, Issue 10
12 is approved consistent with staff's proposed
13 recommendation.

14 All right. Commissioners, next we will move
15 to Issue No. 16.

16 Ms. Brownless, when you are ready.

17 MS. BROWNLESS: What are the appropriate
18 projected net fuel and purchased power cost
19 recovery and generating performance incentive
20 amounts to be included in the recovery factor for
21 the period January 2023 through December 2023?

22 MR. HIGGINS: For Duke Energy Florida, staff
23 recommends \$2,473,648,033.

24 For Florida Power & Light Company, staff
25 recommends \$5,006,253,583.

1 For Florida Public Utilities Company, staff
2 recommends \$75,491,471.

3 For Tampa Electric Company, staff recommends
4 \$962,791,158.

5 CHAIRMAN FAY: Okay. Thank you, Mr. Higgins.
6 Anything else on that?

7 MR. HIGGINS: No, sir.

8 CHAIRMAN FAY: Okay. Commissioners, we have
9 staff's recommendation on Issue 16. I will take
10 any questions for staff at this time, or any
11 comments.

12 With that, I will take up a motion on Issue
13 16.

14 COMMISSIONER CLARK: Move staff
15 recommendation, Mr. Chairman.

16 CHAIRMAN FAY: Okay. We have a motion.

17 COMMISSIONER GRAHAM: Second.

18 CHAIRMAN FAY: We have a second.

19 All that approve staff recommendation on Issue
20 16 say aye.

21 (Chorus of ayes.)

22 CHAIRMAN FAY: Showing none opposed, Issue 16
23 is approved consistent with staff's proposed
24 recommendation.

25 All right. Ms. Brownless, we will move on to

1 Issue 18 when you are ready.

2 MS. BROWNLESS: What are the appropriate
3 levelized fuel cost recovery factors for the period
4 January 2023 through December 2023?

5 MR. HIGGINS: For Duke Energy Florida, staff
6 recommends 6.257 cents per kilowatt hour.

7 For Florida Power & Light, staff recommends
8 4.036 cents per kill kilowatt hour.

9 For Florida Public Utilities, staff recommends
10 8.976 cents per kilowatt hour.

11 And for Tampa Electric, 4.825 cents per
12 kilowatt hour.

13 CHAIRMAN FAY: Okay. Anything else on that?

14 MR. HIGGINS: No, sir.

15 CHAIRMAN FAY: Okay. Commissioners, you have
16 staff's recommendation for Issue 18. I will take
17 any questions or comments on Issue 18.

18 Showing none, I will take a motion on Issue
19 18.

20 COMMISSIONER CLARK: Move approval of staff
21 recommendation, Mr. Chairman.

22 COMMISSIONER GRAHAM: Second.

23 CHAIRMAN FAY: Okay. We have a motion and a
24 second.

25 All that approve staff's recommendation on

1 Issue 18 say aye.

2 (Chorus of ayes.)

3 CHAIRMAN FAY: Showing none opposed, Issue 18
4 is approved consistent with staff's proposed
5 recommendation.

6 All right. Ms. Brownless, let's take up Issue
7 20 when you are ready.

8 MS. BROWNLESS: What are the appropriate fuel
9 cost recovery factors for each rate class delivery
10 voltage level class adjusted for line losses?

11 CHAIRMAN FAY: Go ahead, Mr. Higgins, when you
12 are ready.

13 MR. HIGGINS: Yes, sir. In the interest of
14 brevity, the factors, as they are numerous, can be
15 found on Order No. PSC-20220390-PHO-EI, which is
16 the Prehearing Order in this case. For Duke Energy
17 Florida, those rates can be found on page 38. For
18 Florida Power & Light, those rates can be found on
19 pages 39 through 40. For Florida Public Utilities
20 Company, those rates can be found on pages 40
21 through 41, and for Tampa Electric Company on page
22 41.

23 CHAIRMAN FAY: Okay. And so those numbers
24 will be consistent with the numbers as stated in
25 the prehearing order on those pages.

1 Commissioners, do I have any questions on those
2 numbers?

3 Okay. With that, any comments?

4 We will take up a motion on Issue 20 as it
5 relates to the appropriate fuel cost recovery
6 factors.

7 COMMISSIONER CLARK: Move approval of the
8 item, Mr. Chairman, as presented.

9 CHAIRMAN FAY: Okay.

10 COMMISSIONER LA ROSA: Second.

11 CHAIRMAN FAY: We have a motion and second of
12 staff's recommendation on Issue 20 for approval.

13 All that approve say aye.

14 (Chorus of ayes.)

15 CHAIRMAN FAY: Showing none opposed, Issue 20
16 is approved consistent with staff's proposed
17 recommendation in the position stated within the
18 record those numbers.

19 Okay. With that, that addresses the Issues
20 3A, 8, 9, 10, 16, 18 and 20, which were the
21 contested issues in this docket.

22 Ms. Brownless, I want to make sure if we have
23 any other legal procedural that we need to take up.
24 I would like to move on to additional matters if
25 appropriate at this time, so let's make sure we are

1 in the right posture.

2 MS. BROWNLESS: We don't have any other
3 procedural matters of which we are aware, sir.

4 CHAIRMAN FAY: Okay. Great. With that, then
5 Commissioners, I have a few comments about how we
6 would proceed going forward, and just knowing that
7 we -- the communication between the Commission only
8 occurs sitting up at this desk, I hope you will
9 tolerate me, because some of these ideas or
10 concepts might not be consistent with what you are
11 thinking.

12 But I think based on the record and some of
13 the information that I have seen, this -- this 01
14 docket has changed a lot over the years, and is a
15 consistent sort of process of changing. But when I
16 look at going forward what we could possibly do, or
17 what we may be doing, I recognize that future
18 numbers will come in with changes that will likely
19 include 2022. But more importantly, I just think
20 that we heard a lot from the consumer advocate and
21 the intervenors about the information as provided,
22 and so I would like for our Commission staff, and
23 it might -- it might be with the help of Mr.
24 Higgins and our communications office, but I want
25 us to provide the rate impact information within

1 the Commission's website, essentially a fact sheet,
2 or however we could do it, so customers do have
3 that information available.

4 I know the utilities likely can provide that
5 within their purview. But I think that's something
6 that we should do as a commission, just to make
7 sure we have that information out there, and that
8 customers of each of those utilities could see the
9 adjustment.

10 So, Commissioners, I am happy if there are any
11 objections to that, or any thoughts on that, I am
12 happy to take those at this time. But I think
13 considering the approval of the items that we have
14 in front of us, I think, going forward, that might
15 be something we could implement.

16 So, Commissioner La Rosa, you are recognized.

17 COMMISSIONER LA ROSA: Thank you, Chairman.

18 I would just add, if that's posted on our
19 website, it's not just the impact, but it's also
20 the explanation of why the impact is there, whether
21 it's a reference to statute or some type of
22 description, that an everyday consumer could go on
23 there and understand what it is they are looking at
24 and not just, oh, wow, they approved, you know,
25 they approved my rate increase for this reason or

1 that reason, I would like for it to be clear to
2 them where they, one, could be educated, and two,
3 you know, understand.

4 CHAIRMAN FAY: Okay. Great. Thank you.

5 Commissioners, any other comments on that
6 issue itself?

7 So, Ms. Brownless or Ms. Helton, assuming we
8 haven't stepped out of line procedurally, it's
9 appropriate for the Commission to go ahead and
10 direct our staff to do that? We wouldn't have to
11 do it in the order necessarily.

12 MS. HELTON: Everybody is looking to me, and
13 that's kind of scary right now.

14 I think we already put together tables that
15 show rate impact. And then I am not sure that we
16 link those to company websites, but that's
17 something that we can certainly link in to --
18 certainly address, Ms. Draper, though, might be the
19 best person.

20 CHAIRMAN FAY: Sure. Ms. Draper, have a seat.
21 I just want to make sure we get -- we get this
22 right. I understand it's not on this specific
23 issue, but moving forward, I would like to at least
24 have a discussion about how this information is
25 provided.

1 MS. DRAPER: I am just going to tell you --
2 this is Elizabeth Draper with staff. I was just
3 going to tell you what we currently have on the
4 website --

5 CHAIRMAN FAY: Okay.

6 MS. DRAPER: -- and if there is anything
7 additional you are looking for.

8 We have the thousand kilowatt residential bill
9 for the five electric IOUs on our website, and that
10 we update whenever the rates change. And we also
11 have sample commercial/industrial bills on our
12 website.

13 CHAIRMAN FAY: Okay. Would we be able -- so
14 if I understand what that information is, you are
15 saying that that information will be adjusted based
16 on the changes that are approved by the Commission
17 in the order they will be implemented. Will the
18 changes be provided publicly, or will it just be
19 that those numbers will change from one to another
20 once we have approve these?

21 MS. DRAPER: We only show what the current
22 bills are. So in January, we will provide updated
23 bill comparisons, and they will show the bills
24 effective January. If they change again in
25 February, we will be providing updated bill

1 comparison for February. It does not show the
2 change from the prior period to January, if that's
3 what you are asking.

4 CHAIRMAN FAY: Yeah. When you were saying it
5 shoals the comparison, if it doesn't show the prior
6 period, how does it show the comparison?

7 MS. DRAPER: It's not a comparison. It's just
8 the current bill.

9 CHAIRMAN FAY: Okay.

10 MS. DRAPER: But we can provide comparison by
11 just simply showing the prior bill also.

12 CHAIRMAN FAY: Yeah, and -- or you could just
13 show the difference as to what the rate impact
14 would be at a thousand kilowatt. I think that
15 would be sufficient too, either way. But if we
16 could provide that in addition to that information
17 for our folks, and I will take any recommendations
18 or suggestions on that, but is that feasible for us
19 to do?

20 MS. DRAPER: Certainly. Yes.

21 CHAIRMAN FAY: Okay.

22 MS. DRAPER: And it's the IT people that put
23 it in our website, but can certainly do that.

24 CHAIRMAN FAY: Okay. Those poor people aren't
25 even here, so we are now delegating assignments to

1 them. But I think for purposes of making sure it's
2 public information and folks have those changes,
3 and then, as Commissioner La Rosa stated, we would
4 have information included with that that
5 essentially shows the fuel changes, or the fuel
6 impact, and how that works.

7 MS. DRAPER: Yes. We show each bill charge
8 separately.

9 CHAIRMAN FAY: Okay.

10 MS. DRAPER: So there is a line item for fuel,
11 capacity, environmental, all the different charges.

12 CHAIRMAN FAY: Okay. I am good with that.

13 All right. Commissioners, anything else on
14 that?

15 Okay. With that, I did have another potential
16 item moving forward. I -- you know, reviewing
17 this, I had a lot of frustration, as I am sure all
18 the parties did. We don't -- we don't control fuel
19 costs, and that makes this extremely challenging,
20 but there was a lot of discussion about
21 predictability, and particularly FIPUG and some of
22 the parties mentioned having some of that
23 predictability.

24 I know, because we don't control those
25 markets, it's very challenging to try to find ways

1 to allow for some predictability, but as -- as my
2 colleague, Commissioner Clark, pointed out in the
3 -- in the hearing, there are other ways to look at
4 risk management as it relates to fuel volatility.
5 And so recognizing that we don't control that piece
6 price, the volatility component, I think, is
7 something that a lot of us share as to leveling the
8 impact that occurs up and down to ratepayers.

9 So I recognize that some mitigation options
10 are more simple, generation of solar and things
11 like that might shift us away from fuel costs, but
12 others require complex financial instruments, and I
13 know that's been a long debated issue with the
14 Commission, and there is no simple answer to that.

15 But I do think going forward as a commission,
16 I would like to, and hope future commissions would
17 like to see more information in the risk management
18 components that come forward to allow us to make a
19 decision as to what we do, if this comes before us
20 again.

21 I hope these pricing down. I hope that
22 customers are not going to continue to be impacted
23 by the impact of them. But if they don't, if we
24 find ourselves back here a year from now with
25 prices that have adjusted again upward, I think the

1 Commission needs to have the information to give
2 serious consideration to what we could do to at
3 least minimize, or potentially limit that.

4 And so with that, Commissioners, my ask would
5 just be that coming forward in the future dockets
6 as it relates to this, that we have the information
7 we need, which I think essentially would require us
8 to open a docket that looks at risk management.
9 There might be a docket open out there already that
10 does this, but one that looks at risk management,
11 and more than just a level of solar, or hedging, or
12 whatever it may be. I think comprehensively, we
13 need to have that information in a docket.

14 So with that, Commissioners, I would be happy
15 to take up any thoughts or objections to that
16 proposal going forward.

17 Okay. With that, Mary Anne, I think the
18 directive to open that docket to look at risk
19 management procedurally is sufficient for us to
20 state that for the record, but is there anything
21 else we need to do?

22 MS. HELTON: I think staff can go forward and
23 open that docket, Mr. Chairman.

24 CHAIRMAN FAY: Okay. Great.

25 And if there is any other dockets that would

1 be encompassed in that, we can administratively
2 handle that. Okay. Great.

3 With that, Commissioners, I think that
4 addresses everything on my end. Are there any
5 other comments, recommendations about how we are
6 going forward, or thoughts as to how we will
7 proceed as it comes towards January?

8 Yeah, Commissioner Passidomo, you are
9 recognized.

10 COMMISSIONER PASSIDOMO: Thank you, Mr. Chair.

11 I just have -- I have something I would like
12 to address. Mostly just during the hearing, I
13 recall TECO, FPL and Duke testified that their
14 final -- their final costs for fuel would be
15 available sometime the first or second week of
16 January, and that they would probably be able to
17 file midcourse corrections by mid-January.

18 So I would recommend, I think we should set --
19 I would like to have a date certain on that based
20 on what we heard from the hearing. So I move -- I
21 would like to propose a motion that we require
22 Duke, FPL and TECO to file their petitions for
23 midcourse corrections on or before Monday, January
24 23rd, 2023.

25 CHAIRMAN FAY: Okay. Commissioner Passidomo,

1 let me just look. Is that -- do you know what day
2 of the week?

3 COMMISSIONER PASSIDOMO: Yeah. It's a Monday.

4 CHAIRMAN FAY: Okay. January 23rd.

5 COMMISSIONER PASSIDOMO: I think that gives
6 sufficient time in between when those -- they will
7 be able to gather all of that information, and I
8 just -- I think we need to have -- I would like to
9 have a date certain to have that information in.

10 CHAIRMAN FAY: Okay. I would be supportive of
11 that.

12 Commissioners, any comments or questions for
13 Commissioner Passidomo on that recommendation going
14 forward?

15 Okay. With that, procedurally, once again,
16 Mary Anne, do we need to do anything else to
17 satisfy that, or we -- the parties have been put on
18 notice that that information would be filed within
19 the Commission January 23rd, or should we take a
20 motion formally on that directive?

21 MS. HELTON: I think that would be something
22 that would be appropriate for all of you to vote
23 on, Mr. Chairman.

24 CHAIRMAN FAY: Okay. Happy to do that.

25 So then, Commissioner Passidomo, just to

1 clarify, your motion, do you want -- I will give
2 you the opportunity just to state what --

3 COMMISSIONER PASSIDOMO: Absolutely.

4 CHAIRMAN FAY: -- you would like us to
5 consider.

6 COMMISSIONER PASSIDOMO: Sure. So I move that
7 we require Duke Energy Florida, Florida Power &
8 Light and Tampa Electric to file their petitions
9 for midcourse corrections on or before Monday,
10 January 23rd, 2023.

11 CHAIRMAN FAY: Okay. We have a motion. Do we
12 have a second?

13 COMMISSIONER CLARK: Second.

14 CHAIRMAN FAY: Okay. We have a motion and a
15 second.

16 All that approve Commissioner Passidomo's
17 motion say aye.

18 (Chorus of ayes.)

19 CHAIRMAN FAY: Any opposed?

20 COMMISSIONER GRAHAM: I'm opposed.

21 CHAIRMAN FAY: Okay. Show four to one.

22 All right. With that, Commissioner Passidomo,
23 that motion would pass.

24 And, Mary Anne, the directive would be then
25 that the utilities file by that date in January so

1 the Commission would have that data to move
2 forward, appropriate?

3 MS. HELTON: Yes, sir.

4 CHAIRMAN FAY: Okay. Great.

5 Commissioners, any other issues on this
6 docket?

7 All right. With that, let me go back to --
8 Ms. Brownless, anything else on your end?

9 MS. BROWNLESS: No, sir.

10 CHAIRMAN FAY: Okay. With that,
11 Commissioners, we conclude the 01 docket, and this
12 hearing is adjourned. Thank you.

13 (Proceedings concluded.)

14

15

16

17

18

19

20

21

22

23

24

25

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

CERTIFICATE OF REPORTER


STATE OF FLORIDA)
COUNTY OF LEON)

I, DEBRA KRICK, Court 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'
attorney or counsel connected with the action, nor am I
financially interested in the action.

DATED this 19th day of December, 2022.


DEBRA R. KRICK
NOTARY PUBLIC
COMMISSION #HH31926
EXPIRES AUGUST 13, 2024