BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

In the Matter of:

DOCKET NO. 20230001-EI

Fuel and purchased power cost recovery clause with generating performance incentive factor. (DEF)
_________________________________/

Fuel and purchased power cost recovery clause with generating performance incentive factor. (FPL)
_________________________________/

Fuel and purchased power cost recovery clause with generating performance incentive factor. (TECO)
_________________________________/

PROCEEDINGS: COMMISSION CONFERENCE AGENDA ITEM NOS. 6, 7 & 8

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

DATE: Tuesday, March 7, 2023

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

REPORTED BY: DEBRA R. KRICK
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P R O C E E D I N G S

CHAIRMAN FAY: All right. Commissioners, I will give our staff a few seconds to get set up here, but next we will be taking up Items No. 6, 7 and 8 procedurally together.

All right. Commissioners, with that, we will -- I will lay out just some proceed do you remember. We do have an agreement to take up these items together with the parties, and what we plan to do is allow each IOU 10 minutes to make their presentation to the Commission. That essentially can be divided by their opening and closing comments.

The order of the presentation this morning will go Duke, FPL and then TECO. For the intervenors, we will allow that same time allocation to each presentation for these items, with the only exception with PCS Phosphate, since they are only speaking to Duke's docket, we will limit them to five minutes in Duke's docket. And the order of presentation we have for them will be OPC, FIPUG, Retail and then PCS Phosphate. Once again, the IOUs with reserve their time.

We will take up Item No. 6 first, and let me make sure we've got everybody in the right posture here.

Ms. Brownless, anything else that we need to address before we take up the parties?

MS. BROWNLESS: We will start with the opening statements and rebuttal, as you indicated --

CHAIRMAN FAY: Okay.

MS. BROWNLESS: -- and then we will go back and address each item separately, 6, 7 and 8.

CHAIRMAN FAY: Okay. So we will first go to the opening statements. You are obviously allowed to reserve time for the end component.

We will start with you, Mr. Bernier, for Duke.

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

Before you today is DEF's amended petition for a midcourse correction. The amended petition accomplishes essentially three things. It places into rates our 2022 actual underrecovery beginning in April -- first billing cycle in April. It proposes a decrease to our 2023 projected fuel expense by approximately $710 million. And it reduces the 2023 capacity clause projected expense to provide customers the benefit of the reductions provided for in the IIJA, as previously approved by this commission.

We urge your approval of our amended petition as filled filed, and I will reserve the remainder of my time for any rebuttal.

Thank you.

CHAIRMAN FAY: Okay. Thank you, Mr. Bernier.

Next we will go to Ms. Moncada.

MS. MONCADA: Thank you. Good morning, Commissioners. Thank you for the opportunity to make a few remarks. I will be brief and will reserve the balance of my time for rebuttal comments if it becomes necessary to address the statements made by the intervenors.

FPL fully supports the staff recommendation. In last year's fuel proceeding, the Commission approved factors that excluded the pending 2022 underrecovery. In entering its order, the Commission pointed to and relied on FPL's testimony, which explained that there were unique circumstances affecting the volatility of the gas markets in 2022.

Your order directed the utilities to make a filing to address the underrecovery by January 23rd of this year, which FPL did. In compliance with that order, FPL petitioned to change the fuel factors applicable to customer bills beginning

April 1st of this year.

When we were last before you, we expected that we would be coming to you today to present a request to increase the fuel -- the amount to be recovered in the fuel factor for FPL by $2 billion reflecting the underrecovery. Our January 23rd petition ended up looking much different from that. Changes in the gas market since last December allowed us to exercise some creativity, such that instead of asking for $2 billion more, we are actually asking for a reduction in the fuel factor. And I will quickly describe how that came to be.

FPL's total actual underrecovery for 2022 was $2.1 billion. And as was discussed by FPL witness Scott Bores during last year's hearing, we are asking to recover that over a period of 21 months. And the proportion that will be recovered in the year 2023 from April to December is $937 million.

Second, we separately looked at the gas costs that we expect to incur in the year 2023. And based on a January 3rd NYMEX curve, we calculated a $1 billion overrecovery. And instead of matching the alignment period with the 2022 amount, we are actually going to blow back the entire $1 billion change over a period of nine months. And the net effect of not aligning the two recovery periods results in collecting actually $77 million less than the original projection. On a 1,000 kWh bill this amounts to an 89-cent reduction.

We urge the approval of FPL's petition, and again thank staff for the work that it did in coming to its recommendation and fully support it.

Thank you.

CHAIRMAN FAY: Great. Thank you.

Next we will have Mr. Means, TECO.

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

Tampa Electric requests that the Commission approve its February 8th, 2023, midcourse correction petition without modification. If approved, this petition will credit customers with $170 million of lower projected fuel costs for 2023.

The company complied with the midcourse correction rule last year by filing a letter in the fuel clause docket on April 21st, 2022. This letter notified the Commission and the consumer parties that Tampa Electric projected an underrecovery of more than 10 percent. It also informed the Commission and the consumer parties that, due to market volatility, the company would continue to monitor the market. The company's April 22 notice gave the consumer parties an opportunity to request that the Commission compel Tampa Electric too make a midcourse correction, but none of them did so.

Tampa Electric's approach to managing unprecedented fuel price volatility in 2022 was reasonable under the circumstances, and benefited customers by providing them with rate stability. As a result, the Commission should approve the pending petition without modification.

Interestingly, Commissioners, we sit here today in a similar posture to last year, except now fuel prices are forecasted to be lower in 2023 than projected last September. As I mentioned the proposed fuel factors included in the petition will give customer the benefit of $170 million decline in projected fuel costs for 2023. And like last year, Tampa Electric proposes to leave these factors in effect without a second midcourse correction filing. This will allow any 2023 monthly over-recoveries to immediately offset the remaining underrecovery balance from 2022, which will both speed up recovery of that true-up balance and reduce interest expense for customers. Company witness Penelope Rusk is with me today to answer questions on that plan if you have any.

Thank you for your time. If there are no further questions, Tampa Electric just requests that you approve the company's pending midcourse correction petition as filed. We will reserve the remainder of our time for rebuttal.

CHAIRMAN FAY: Okay. Great. Thank you.

Next, Mr. Rehwinkel. Mr. Rehwinkel, you got surrounded there in that seat. I don't know how that happened.

You are recognized when you are ready.

MR. REHWINKEL: Thank you. And we -- we fight in the courtroom, but we are all friends. We are a very small group around the state, so I am happy to be surrounded by these guys and gals.

Charles Rehwinkel with Office of Public Counsel.

We are not here today to object to the substance of the filings. I want to thank the Commission and the Commission staff for accommodating our request to address you today. In lieu of having hearings and seeking to cross-examine witnesses, we asked the companies to make witnesses available for depositions, and they did so. We held those depositions. We learned things, and we are here to talk about that today.

Commissioners, by the time July 27th, 2022, came and June actuals indicated significant underrecovery, two companies asked for recovery in the 2023 factor, FPL did not. By the time of the September 2nd, '22, projection filings, the numbers did not go down as had been hoped, but, in fact, had increased from the summer projections.

Even so, all three of the companies sat on the 2022 balance, and let interest compound at a spiraling commercial paper rate that tripled from June to January.

This is the problem with technology -- okay.

Over the fall, the actual under-recoveries increased while the inevitable unavoidable 2022 underrecovery expenses awaited a day of reckoning in the future, and we are here at that day of reckoning.

No one claimed that they knew in April, July or on September 2nd, that there would be a devastating hurricane, or that they knew that gas prices would -- what gas prices would do, or what inflation would be, or what the commercial paper rates would be. It wouldn't have been relevant had such a claim been offered.

Hindsight, as we all know, is 20/20. And in all of my 37 years as a participant in this process, I have been incessantly reminded that the prudence of one's actions cannot be measured in hindsight. Even so, we are being urged to look back now at how things transpired and asked to look at what happened and congratulate ourselves that the companies held off on these filings. It seems that this retrospective view is being offered to justify the companies being allowed to charge customers the tens of millions of dollars in compounded carrying costs incurred to hold the $3.7 billion of 2022 under-recovered natural gas fuel costs until April of 2023.

The Public Counsel submits to you that such an after-the-fact hindsight is the wrong inquiry. The fuel cost recovery process and the clause are intended to be an objective process. The entire process is intended to match the actual cost of fuel as closely as possible to the consumption of fuel that generates the electricity used by customers. This has been recognized by Commissioners in recent times, and even by company advocates.

The fuel clause is not a source of offsets to smooth bills. It is not a profit center. It should stay objective. So where am I leading with this? Well, the customers do not ever want to see a year where the companies completely fail to true-up the current year's projection. We think the customer -- the Commission should take steps to avoid this ever happening again.

We desire a consistent, objective process for collecting fuel costs. For decades, the three-part process of true-up, actual estimate adjustment and projection has worked. In 2022, it completely broke down. In our view, part of the problem is that the midcourse correction petition rule has been interpreted in a way that hands over 100 percent of the regulatory of this commission to the companies. It gives them complete discretion to withhold or accelerate recovery of refunds based on completely subjective criteria. This is unacceptable, and we ask for a midcourse correction rule that works objectively.

Much has been made behind the notion that the customers could have asked the Commission to force rates to increase under the midcourse correction rule back in 2022. In the absence of such a request, the companies state with mock straight faces that they proceeded in the absence of such request.

They have 100 percent of the essential information needed to conduct projections. They are required to objectively bring that information to the Commission and to take action to increase or reduce rates. Customer representatives have zero ability to force a hearing on these matters.

In fact, I went and did a little research. In March 25, 2010, 13 years ago, the Commission staff had a recommendation that you considered. The rule was described that was proposed, the midcourse correction rule, as preliminary procedural decision, suggesting that it would likely not be ripe for a hearing.

The only reason this rule was adopted was to meet the JAPC requirement that petitions for rate changes must be in a rule regardless of the fuel clauses exemption from rulemaking. This rule was not adopted to give the companies an opportunity to take a pass on a midcourse correction, or to true-up the fuel clause, that middle part of the fuel clause that they all skipped in 2022. This was an abuse of the rule. And we think it's a disingenuous to suggest that the customers have a responsibility to enforce that rule.

I think the rule was misused in 2022, and we hope that it never done before, and if the Commission needs to fix it, it ought to be fixed.

The second concern that we have with the process is that it -- was how it was used to generate projected fuel crisis -- prices for Duke. Right out of the gate, in their projected filing in September, they missed the mark by 20 percent on the 2023 natural gas prices. Unfortunately, because we were preoccupied with the '22 underrecovery, no one seemed to notice. So the January 23rd showing -- filing showed a nice drop in the price of fuel compared to the way they projected it in September of 2022, but that projection was based on a June forecast for 2023.

FPL and Duke came in with much lower numbers. Duke was -- FPL and TECO came in with much lower numbers, and Duke was high. That should have been fixed at the time of the filing, or by the time of the hearing. And we think it's unforgivable by that by November 17th duke did not fix its 2023 projections based on a June 23 forecast.

We think the ball was dropped on this forecast and -- by Duke and by the Commission, and perhaps by us, but you can't over-project fuel prices and then skip the mid -- the midyear true-up, but that's what happened.

We think it's especially troubling that throughout the fall, the Commission and the customers were being told consistently that the market was volatile as justification for letting the 2022 underrecovery pile up. As a part of this rhetoric, we were told that market conditions would be monitored. That's what everybody said in their April and March letters. This was the theme of the spring, all the while for 2023, Duke maintained a stale forecast from way back in June. That forecast was contemporaneous with the forecast that was used to estimate the 2022 underrecovery that was not implemented due to volatility. The result was that on September 2nd, Duke filed natural gas projections that were 20 percent higher than those filed by FPL and Tampa Electric.

We want to avoid this problem in the future, because customers ended up overpaying for the first three months of this -- of the year just based on that. In the past 60 days, we've seen numerous revisions and reforecasts done and tariffs changed on very short notice. If this can be done now, it could have been done back in the fall.

The customers ask you for three things. We want to ensure that the fuel process is returned to the standard objective process. What happened in '22 should never, ever happen again. We ask you to fix the midcourse correction rule and ensure that it is not used as a way to manipulate the three-part fuel clause process that should be objective. We ask that you put in a process to ensure that projected prices are never allowed to get that far out of sync as was occurred in the 2020 Duke projections. We ask that future year projections be made as accurate as possible, and that corrections are -- so that corrections are not needed, and customer bills can be accurate.

Thank you for the opportunity to speak, and at the end of the day, we do support the plans filed by the company.

CHAIRMAN FAY: Okay. Thank you, Mr. Rehwinkel.

Next we will move to Mr. Moyle, FIPUG.

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

Let me just start and preface my remarks by saying this is a little bit of an unusual proceeding, where you are going to hear from the consumers some, I would characterize it as constructive criticism about the path that we have been on, and I think that's good. I think it's healthy, but I don't think anyone is going to say we want you to vote no. I think this has been set up more as an opportunity for a sharing of thoughts, experiences of a path that we just traveled down for quite some time that was bumpy, and not a lot of fun, and we didn't like it, and we don't want to go through it again. So that is kind of a -- kind of a preface to my remarks.

I was thinking of a nice way to succinctly say what's the point, and I believe the phrase "there is a lot of room for improvement" captures it, because the fuel clause, and the way I understand regulations are supposed to work, and rules are supposed to work, is they are supposed to inject some predictability into how things are going to be handled, and how they are going to happen. And the fuel clause rule and process really does not do that well, and I think there is evidence of that before you today. You have -- you have three utilities that are in asking for adjustments on fuel, and all of them are asking for different things.

I mean, TECO is in and saying, you know, we are a little high, but this will help us so we are not -- we are not receipt I going to be coming in and asking for an adjustment like FPL and Duke has done recently. You know, Duke make made a filing, I think last week or a week before, to make an adjustment. So they are, you know, they are all coming at it from slightly different ways.

They did provide us an opportunity to take some depositions, and I think those were instructive to the consumer parties. I think they also pointed out that there is a great deal of discretion as to how to handle an underrecovery, but we didn't talk that much about over-recoveries, but I think the same case can be made for over-recoveries.

I, you know, thought and hypothetically asked to say, well, what happens if the utilities have greatly over-recovered in the rule, how would you determine that, particularly if all of the economic metrics were suggesting that there were really tough economic winds in the future, could the utility just say, yeah, we are over -- over-recovered, we got a lot of cash that, according to the rule, we could flow back, but we really think there is going to be some tough times ahead, so, you know, we are going -- we are going to hold on to that. And the only thing that's required is that a letter be filed saying we are over the 10 percent range, but we are not going to come in. The letters that you saw last time cited volatility and a number of world events.

I maintain, when we've talked before, that I think, in the natural gas market, volatility is part and parcel of the natural gas market. And I think the conditions that were cited to by the utilities when they put their letters together, Ukraine, a war in Ukraine. Today, there is still a war in Ukraine. They cited that there was LNG -- a lot of the LNG, natural gas was going overseas. There was a ripe market for that. I think today that's -- that's still the case. They cited inflation and interest rates going up. As we sit here today, I think those points are also something that could be put in a letter.

So I share that, I think hopefully to underscore that we believe that there is -- that there is room for improvement in the fuel clause -- in the fuel clause rule, per se.

I will share, you know, rulemaking, you do have a rule. You are free to go back in and tighten it up or do some things. You had an earlier proceeding today about the energy efficiency, and you looked at that and said, well, we could make some changes, your staff did. I think you heard OPC say we ought to take a look at that. It's worth considering.

I know there is an exemption. Mr. Chair, I know the APA is something that you are quite familiar is. There is an exemption for the fuel clause, but there is nothing that I can see that precludes you from doing rulemaking. You already have a rule in place. I think if you were so inclined, you could open that up and consider it.

I want to just spend a moment and talk about an idea that was surfaced by Commissioner Clark when we had, after the hearing, where it was a good, creative idea that I think got a lot of people thinking and some discussions, and I will try to characterize it the way I understood it. I may not have it exactly right, but, you know, again, making the point of variability.

One of the filings, one utility came in and said we want to recover, you know, at 12 months, and the others came in and said we will recover at 21 months. There have been discussion about interest rates. So, again, those are all things that are indicia of ambiguity or lack of clarity. But Commissioner Clark said, well, what if we considered a way, because the different customers have different views about paying back the monies, what if we had some optionality associated with that, could that be something that would be done?

And I think in the depositions I asked a lot of questions about that. I think it got confusing in some respects because it was customer class -- the whole customer class had to do it, or could you break that out and have, you know, a smaller group? And I used the analogy of budget billing for residential customers. The Commission has put in place, and they recognize the cash flow and issues take place, and they came up with a solution to say you can -- you can budget bill.

I don't understand it exactly, but residential customers have the ability to alter cash flow and do some things, so -- so why not look at that and consider that with respect to situations when you have vastly unexpected changes in things like the fuel clause?

And the utilities did not -- thought it was complicated. It would cost money. And all of those are right, and it's not something that's been done. It, you know, may -- you know, the regulatory compact. But it's different. But change -- change always brings those -- those concerns to the -- to the table.

So if you all decide today, which I would encourage you to do, to continue to have a discussion about the fuel clause, not in the context of an emergency, like, oh, my gosh, you know, the fuel has gone up, but to do it in a more relaxed setting where thoughtful ideas can be exchanged, I would continue to encourage you to look at that and provide some way that customers might have some variability, you know, to meet their own individual needs as compared to be saying, here's how it has to be done.

So at the -- at the end of the day, we -- we similarly, as the others, do not oppose the recommendation, but we do think that there is room for improvement in how the Commission, in how the utilities, and, candidly, in how the -- how the consumers are all interacting and involved in this fuel clause. I mean, there is some fundamental policies. You don't make money on fuel. That's never been a profit center, but we can, I think, do a better job of planning for it moving forward.

So thank you for indulging me. I may have gotten close to my allocated time, and I would conclude. Those are FIPUG's remarks, Mr. Chair.

And I did, as a courtesy to Jay Brew, who represents PCS Phosphate, he had three or four paragraphs that he wanted to present. I suggested that I would be happy to do that for him, save him a trip from DC to do that. So with your permission, if I could read a brief statement on behalf of PCS, I would appreciate it.

CHAIRMAN FAY: Okay. I am okay with that. And you are within your time, Mr. Moyle.

MR. MOYLE: Okay. Thank you.

CHAIRMAN FAY: Go ahead.

MR. MOYLE: Thank you.

This is a PCS Phosphate statement regarding Duke Energy Florida proposed fuel midcourse correction, and that's in Docket 20230001-EI.

PCS Phosphate does not oppose Duke Energy's February 27th, 2023, amended petition for a midcourse correction. Duke's 2022 fuel cost recovery deficit is an inescapable consumer liability, and the utility's January petition and February update reflect declines in its 2023 fuel forecast that substantially offset that deficit when reestablishing fuel cost recovery factors for the next 12 months.

With that said, the fortuitous developments that led to substantially lower natural gas prices that are mitigating the consumer impact of the midcourse correction, paren, a generally mild winter and reduced LNG exports, does not excuse a chaotic process that has left consumers up in the air for nearly nine months over what they actually can expect their power bills to look like this year.

Notably, the midcourse correction has been unnecessarily delayed since Duke notified the Commission of a likely billion dollar deficiency last July.

Duke's amended petition was filed last Monday, allowing Commission staff, intervenors and other stakeholders no time to explore the underpinnings of Duke's latest assumptions and forecasts. The fact that the amendment further lowered the 2023 cost forecast does not remedy a patently false -- a patently faulty process.

The volatility in fuel prices experienced in the last year has exposed the vulnerability of utilities such as Duke that are heavily reliant on gas-fired generation, as well as the need to establish a more predictable and transparent process for correcting utility fuel factors.

PCS recommends that the Commission assess the lessons to be learned from the recent activity in this docket and initiate workshops to consider whether a rule change or other actions are warranted to improve the process and better protect Florida utility customers.

Thank you.

CHAIRMAN FAY: Okay. Thank you, Mr. Moyle.

All right. Commissioners, what I would like to do next is we will just take a quick five-minute recess. I want to give the court --

MR. WRIGHT: Mr. chairman.

CHAIRMAN FAY: Oh, Mr. Wright, I apologize. I forgot about you. Come on, grab a seat.

MR. WRIGHT: Thank you.

CHAIRMAN FAY: Mr. Wright, you are recognized whenever you are ready.

MR. WRIGHT: Thank you. I thought you might would rather get me out of the way before you take a break.

Good morning, Commissioners. I am Schef Wright, and on behalf of the Florida Retail Federation I want to thank you for the opportunity to address you today.

Before I continue, I want to say simply that the Retail Federation agrees with and supports the remarks made by Mr. Rehwinkel on behalf of the Public Counsel, Mr. Moyle on behalf of the Florida Industrial Power Users Group, and also the comments that Jon read on behalf of PCS Phosphate.

As you know, the Florida Retail Federation, like other consumers, and like the Commission itself, has long supported the use of the matching principle in setting rates, including the IOUs' fuel cost recovery charges. Using the vernacular we sometimes refer to this point, or principle, as pay at the pump. We oppose the IOUs sitting on large under-recoveries and, thus, allowing the carrying costs that the utilities expect us to pay to continue to accrue and pointing toward future rate impacts.

It's obvious that that horse, the 2022

underrecovery, has left the barn, and we are here today to talk about what is really presently before us. Specifically, I would like to address the IOUs' differing recovery proposals.

As a general policy matter, we believe that the utilities should follow the matching principle to the maximum extent practicable. As presented, FPL's and Tampa Electric's proposals would recover their 2022 under-recoveries from April '23 through December of 2024. This will have customers in fall and early winter of 2024 paying for costs that were incurred in early 2022. All the utilities admitted at the hearing they were under-recovered every month of 2022. This violates the matching principle.

At least as between Tampa Electric and FPL, Tampa Electric is proposing not to further reduce its 2023 fuel charges by the additional 2023 overrecovery that it has recently estimated. And at least Tampa Electric has expressed to us in depositions last week a willingness to consider recovering the remaining balance of its 2022 underrecovery over a shorter period in 2024.

And, yes, the whole deal here will result in Tampa Electric's customers paying this year more than their 2023 fuel costs incurred to serve them this year, but it comes significantly closer to getting the entire pot right for TECO's customers.

From where we stand and sit today, Duke's proposal stands out as the best. Although, even Duke's proposal has customers in the first three months of 2024 paying costs that were incurred in 2022. It comes much closer to following the matching principle in getting the overall pot right.

Duke's rationale for its proposal is, in my view, entirely sound. As characterized by Duke, its proposal balances the recovery of DCF -- DEF's -- sorry -- midcourse correction, with impacts on customers '23 bills. It minimizes the risk of pancaking. It ties in favorably with DEF's proposed storm recovery charges, and it reduces the total interest expense paid by Duke's customers and concomitantly, the total interest expense incurred by DEF.

In closing, the Retail Federation asks that the customers impose no interest costs on customers for the amounts that the utilities incurred last year. We ask that you approve Duke's proposal because it is the best on the table, and it's the best on the table because it comes closest to following the matching principle.

Finally, we ask that you continue your longstanding adoption and following of the matching principle, and at least direct FPL and Tampa Electric to work toward recovery of their remaining 2022 fuel cost under-recoveries sooner than December of 2024.

Thank you very much.

CHAIRMAN FAY: Okay. Great. Thank you, Mr. Wright.

I will go to the utilities before we -- we take a real quick break and make sure, for purposes of closing, if you have anything that you would like to address. Mr. Bernier, you had nine minutes, Ms. Moncada seven, and Mr. Means eight. If you would like to use some portion or all of that time, you are welcome to do so now.

MR. BERNIER: Is there any chance, Mr. Chairman, we could use what portion of time is left after we take a quick break? I would like to kind of digest what I heard and maybe confer with my client before.

CHAIRMAN FAY: Yeah. That's fine. I will give a quick break for the court reporter and our folks. And then to your point, Mr. Bernier, when we come back, I will make sure Mr. Higgins, we are going to go to you after we have processed some of this. I know they will have a few additional comments. And then, Commissioners, we will have either questions or debate for you at that point in time.

So with that, we will take a quick -- we will say we will start back at 11:30.

MR. BERNIER: Thank you.

CHAIRMAN FAY: Thank you.

(Brief recess.)

CHAIRMAN FAY: All right. If everyone could grab your seats.

All right. Commissioners, the plan is to allow for the utilities to provide their closing comments for each of them. You have the time allotted to you. You obviously don't need all of that time. And then, Mr. Higgins, we will come to you for your recommendations on those.

So with that, we will go back to you first, Mr. Bernier, you are recognized.

MR. BERNIER: Thank you, Mr. Chairman. I appreciate the additional time. I promise I will not use my nine minutes.

We heard a lot of comments today from intervenor groups about the process last year, and specifically about our projection cost and everything. I don't think any of that -- we do not agree with those comments, and, you know, by my any means, but I don't think anything is going to be gained by getting into them today.

I also heard my friend say that they supported our petition. We welcome their support, and we urge you to approve it as filed.

Thank you.

CHAIRMAN FAY: Great. Thank you.

Ms. Moncada.

MS. MONCADA: FPL also supports the position of the intervenors to support the staff recommendation.

I just have a few things to say, but first I will start with very important, regulation lies solely with the Commission.

There are still statements being made today that were made in December, they were made in November, they were made in October, that we should have done something differently with respect to the midcourse correction rule, or should have taken some other action with respect to our actual estimated calculation. These comments today ignore that this issue was considered by you. There was a lot of evidence presented about it, and your order made an expressed determination that we complied with the rule and that deferral of the 2022 underrecovery was, quote, "reasonable."

It was not based on hindsight. We were reacting to realtime events as they were happening. We were reacting to reduced storage levels, strong LNG exports, the war in Ukraine, and an extremely hot summer. All of this you heard evidence on last November.

There is comments made about how there was too much discretion exercised with respect to the midcourse correction and the underrecovery. And in short, how I took that is they want to take away flexibility, but it's that very flexibility that put us in the posture that we are in today, which is seeking a reduction as opposed to a $2 billion increase to the fuel charge that was expected last year. It doesn't allow the utility to take a holistic view of the circumstances, which is what halls FPL strives to do, to look at overall bills when it's appropriate, and other circumstances that may exist in the environment at the time.

There are few comments made about how deferral led to higher interest charges, and Mr. Wright makes comments regarding consistency with the matching principle. And I would just say that, to put it lightly, the comments about increased interest charges, it just -- it really lacks perspective when we think about how that contrast with the potential bill increases that would have occurred if recovery had started sooner. Let me give you have just a few points here.

If we had chosen to start recovery at the time of our April 15th midcourse correction, that would have resulted in recovering $1 billion over seven months. That would have been an increase of $12.50 per commercial customers, or up to 20 percent -- I am sorry, for residential customers, and about 20 percent for commercial customers.

Had FPL chosen to start recovery of the amount we reported in our actual estimated filing beginning in August, that would have meant recovering $1.6 billion over five months, or an increase of $30 for residential customers. For commercial customers, that would have been 25 to 50 percent.

FPL does recognize that the commercial paper rate increased, but we kept our aye on that throughout the year. And there was never a point in time when we believed that starting recovery sooner was the better option. We were looking at a year in which interest rates were not only -- it wasn't just interest rates, but inflation was at an all-time high. Grocery bills were at amounts that people had never seen before. And people, especially during, I believe it was the summertime, were feeling a lot of pain at the gas pump. We balanced all of those things when we made our decision, and we brought it before the Commission. The Commissioner considered it. It made a decision that we were reasonable in the actions that we took.

Thank you.

Oh, I would be remiss, too, if I didn't mention that FPL has a very robust outreach program with respect to its customers. We have executive teams that meet with -- one-on-one with customers who are focused on their energy bills, and we have not heard one customer say to us, make a specific request that their bill, that they would have preferred for the recovery to start sooner, or that they would prefer for the recovery to be made over a shorter period of time.

Thank you. Thank you, Commissioners.

CHAIRMAN FAY: Okay. Great. Thank you.

Next Mr. Means.

MR. MEANS: Thank you, Mr. Chairman.

We listened carefully to the comments from the consumer parties this morning, and the most important thing we heard is that there are no specific objections to the petition that is before you for Tampa Electric, so we would urge you to approve that without modification.

Also, we, you know, we are happy to continue the discussion about process and procedure if the Commission would like do that in the future.

So that's all. Thank you.

CHAIRMAN FAY: Okay. Great. Thank you.

All right. Commissioners, with that, we will move to Mr. Higgins.

Mr. Higgins, I think, if appropriate, what we would do is take up the recommendation on Item 6, and then the Commission can deliberate if they have questions for you, and we will vote on that, and then we will move to the next one, so you are recognized.

MR. HIGGINS: Thank you, Commissioner. Devlin

Higgins with Commission staff.

Duke Energy Florida -- excuse me. Duke Energy Florida -- is it -- is it coming through?

CHAIRMAN FAY: Yep. You are fine.

MR. HIGGINS: Duke Energy Florida filed a petition for a midcourse correction of it's currently approved fuel and capacity charges on January 23rd. This petition was later amended on February 27th. The revised recommendation addresses DEF's amended petition.

The primary reason for the company's fuel midcourse correction is natural gas costs being greater than originally statemented.

Staff's recommendation is for the company's fuel cost recovery factors to be adjusted to encompass the underrecovery amount identified in Issue 1 beginning in April 2023.

Further, staff recommends the company's capacity cost recovery factors to be adjusted to incorporate a refund related to the federal tax savings associated with the Inflation Reduction Act of 2022.

Thank you, Commissioners. Staff is prepared to address any questions.

CHAIRMAN FAY: Okay. Great. Thank you.

Commissioners, any questions for Mr. Higgins?
Commissioner Clark.

COMMISSIONER CLARK: I don't have any questions, Mr. Chairman. I have a couple of just broad comments I would like to make in regard to all three of our upcoming issues, and I think I can cover it in just a second.

CHAIRMAN FAY: Okay. Great. Seeing no questions, go ahead, Commissioner Clark.

COMMISSIONER CLARK: The old saying that difficult times often call for extraordinary measures I think we may can look back and say apply to this situation.

It goes without saying that, in my opinion, that the ultimate decision on how this case was handled relied with this commission. I have heard a lot of discussion here today regarding the need to somehow go back and take a look at the rule, or somehow go back and reflect on the midcourse correction process and procedure.

As a commissioner, sitting here, I take full responsibility for the decision that we made to postpone bringing any of the utilities in for that midcourse correction at that time. And I think that as just a reminder, we have the right to bring any utility in at any time and ask them to make those adjustments, and we have the parameters set, I know for the 10 percent differentiation, but at any point in time, we can call a utility company in. And so for anyone to imply that we somehow just turned our back and let this thing happen and go on I think is just erroneous. So I want to be very clear and on the record about that.

Yeah, we may have gotten lucky with the decision we made. I can't describe it any other way. I don't think anyone could see that gas prices were going to come down as much as they did. But personally, from the decision-making perspective and parameters that I was using to make a decision at that time, it mostly reflected on how this was going to affect the consumers. And I think that in the bulk of the consumer classes, especially the residential class -- Ms. Moncada pointed out, made a very great observation, I don't think anyone wanted to see their bills going up at a time that money was pretty tight in most households.

Now, we have classes of customers that can afford to pay for things as they come along. And, Mr. Wright, I certainly support and understand the matching principle as well. But I just don't think it is completely the right application at all times.

And so I am very much in support of the decision this commission made, and I am grateful that things turned out as good as they did. We could be here today facing a totally different set of circumstances. If gas prices had continued rising, we would probably all have tears in our eyes today based on the corrections that we would be having to make.

I can't say that we -- I can't say how it happened. I am thankful that it happened today. And, you know, we talked about is it a prudence review going back and looking at what happened? No, it's not. But I am certainly grateful for where we ended up today. And thank you to the staff and to the utilities for the work that you did in getting us to this point today.

I am also very supportive of the extended recovery time period. Again, I understand completely the matching principle, but I think that this all boils down to how can we best help customers during a time of rapid inflation, during a time that interest rates are rising?

I know we also have interest cost on dollars that are associated with the under-recoveries that is carried on to the consumers, but I think you can go ask any consumer on the street right now in this particular environment, and they would prefer to defer paying back as long as they could.

I will say that I do want to make a point about the suggestion that we threw out at the last meeting regarding the recovery period -- potential staggered recovery periods for different classes of customers. I understand that there have been discussions between the parties and the utilities, and I am disappointed that you can't reach a little bit better conclusion regarding.

I think that a lot of times utilities come in and ask us to do things, and you are going to treat different classes, and it seems to be an insignificant cost, and we are asking for something here that I don't believe is a significant cost in figuring out how to -- you know, I ran a billing system for a utility company. I understand how class codes work, and how you can impose a charge on a single class code. Unless that's changed dramatically in the last few years, it can't be that complicated of a process to adjust a particular cost for one class of customer. So I am disappointed that that conclusion could not be reached.

But, Mr. Chairman, I appreciate, again, the work that staff and the parties did in bringing this to a conclusion, and I support staff's recommendation on all three of the items as presented.

CHAIRMAN FAY: Okay. Great. Thank you, Commissioner Clark.

Any other questions or comments for our staff?

I -- that's a hard act to follow, Commissioner Clark. A lot said there. I know you are passionate about this issue, and I agree with you that -- I don't know if luck is the right word, but the posture that we are in, we are fortunate that the prices have done what they've done. But there is a lot of uncertainty to that, and I take what the parties say about moving forward in that midcourse correction component very seriously.

I know -- I won't -- I won't recognize how long some of us have been practicing in the PSC, but this clause has evolved over time from different dates that we've come forward, and in going back to read the history of it, it's changed significantly. And so I don't think it's out of the realm of possibilities that if it's not working, which we have seen before in different time periods, that we make adjustments for that. And I think that's one reason we have it set up the way that it is today. I believe it's gone all the way from every few years to monthly at some point. So I think if we need to relook at that, we can do so.

I will also say that I understand the matching principle argument, and Commissioner Clark's point about trying to recognize where rates -- certain types of rates can maybe be paid out differently than -- or certain classes could be paid out differently.

I -- I have to weigh that with rate impact for customers. I -- and I think that it doesn't invalidate the significance of it or the policy itself. It just means that I give greater weight to that rate impact when I look at the -- the recommendation before us and the comparison of pay $25 to 1,000-kilowatt rate impact compared to a $6 rate impact. I -- that's persuasive to me that we need to give great weight to that -- that longer recovery time period.

So I think, Commissioner Clark, had said you were supportive of that, for clarity, also supportive of the recommendation, but I think you were leaning towards that longer period. I agree with that and I think that's probably the right thing to do here.

So with that, I would, you know, support that put forward. And if any other Commissioners have any comments or questions, I will entertain a motion on Item 6.

COMMISSIONER CLARK: Move approval of Item No. 6, Mr. Chairman.

COMMISSIONER GRAHAM: Second.

CHAIRMAN FAY: Okay. We have a second for approval on Item 6 with the -- the 21-month recovery period, is that correct, Commissioner Clark? Yep?

COMMISSIONER CLARK: Absolutely.

CHAIRMAN FAY: Okay. And a second for that, Commissioner Graham?

COMMISSIONER GRAHAM: Yes.

CHAIRMAN FAY: Okay. With that, we have a motion and second.

All that support that motion say aye.

(Chorus of ayes.)

CHAIRMAN FAY: Showing all in support of that motion, Item 6 passes unanimously.

Thank you, Commissioners.

MS. BROWNLESS: Excuse me --

CHAIRMAN FAY: Oh, yes, Ms. Brownless.

MS. BROWNLESS: -- you would also, if you are going to change it to 21 months -- extend it to 21 months, give the staff the authority to review amended tariffs to reflect your vote.

CHAIRMAN FAY: Okay. So for purposes of the record, we grant that administrative authority to amend -- to allow the utilities to amend the tariffs and submit them, is that --

MS. BROWNLESS: Okay. Thank you.

CHAIRMAN FAY: Great. Any objection?

COMMISSIONER CLARK: No. And just for clarification. When I got the item yesterday, and I just replaced the old one with this one. I had just assumed this was the new recommendation, but this was presented as an alternative now I understand, is that right? It was an alternative recommendation?

MR. FUTRELL: Yes, sir.

COMMISSIONER CLARK: Okay.

MR. FUTRELL: Yes, sir, the staff's

recommendation was on the 12-month recovery period. We presented the optional 21-month recovery period and information in Table 1.2.

COMMISSIONER CLARK: I am sorry, I pulled out the 12-month one and inserted the 21-month one, so that was my fault. That was my intention, yes.

CHAIRMAN FAY: Just for clarity, I think, of the record, we are supporting the 21-month.

MS. BROWNLESS: Recovery over 21 months?

CHAIRMAN FAY: Yes.

MS. BROWNLESS: And giving the staff the ability to make sure that the tariffs are filed are consistent with your decision?

CHAIRMAN FAY: Correct. Yep. No objections? Okay, with that, show Item 6 completed.

We will next move to Item No. 7. Mr. Higgins, when you are ready.

MR. HIGGINS: Good morning, again, Commissioners. Devlin Higgins with Commission staff.

Item No. 7 is staff's recommendation concerning Florida Power & Light's petition for a midcourse correction of its currently approved fuel charges. The primary reason for the company's midcourse correction is 2022 natural gas costs being greater than originally estimated.

Staff's recommendation is for the company's fuel cost recovery factors to be adjusted to encompass a portion of the 2022 underrecovery of fuel costs beginning with the April 2023 billing cycle.

As discussed in staff's recommendation, the effect of this accounting treatment results in a current period fuel charge decrease for FPL's customers.

Thank you, Commissioners. Staff is prepared to address any questions you may have.

CHAIRMAN FAY: Okay. Great. Thank you.

Commissioners, any questions or comments on Item No. 7?

Seeing none, I will take a motion on Item 7.

COMMISSIONER CLARK: Move staff recommendation on Item No. 7, Mr. Chairman.

COMMISSIONER GRAHAM: Second.

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

All that support say aye.

(Chorus of ayes.)

CHAIRMAN FAY: Showing none opposed, Item 7 passes unanimously.

Thank you.

Next, Mr. Higgins, we will take up Item No. 8.

MR. HIGGINS: Once again, good morning, Commissioners, Devlin Higgins with Commission staff.

Item 8 is staff's recommendation concerning Tampa Electric Company's petition for a midcourse correction of its currently approved fuel charges. The primary reason for the company's midcourse correction is natural gas costs being greater than originally estimated.

Staff's recommendation is for the company's fuel cost recovery factors to be adjusted to encompass a portion of its 2022 underrecovery of fuel costs beginning with the April 2023 billing cycle.

Thank you, Commissioners. Staff is prepared to answer any questions you may have.

CHAIRMAN FAY: Great. Thank you, Mr. Higgins.

Commissioners, we will take up any questions or comments on Item No. 8.

With that, we will take up a motion on Item No. 8.

COMMISSIONER PASSIDOMO: Move approval of staff recommendation.

COMMISSIONER GRAHAM: Second.

CHAIRMAN FAY: We have a motion and a second to move for staff recommendation -- approval of staff recommendation on Item 8.

All that support say aye.

(Chorus of ayes.)

CHAIRMAN FAY: Showing none opposed, Item 8 passes unanimously.

With that, Commissioners, that concludes our agenda for today. Thank you so much. Have a good day.

(Agenda item concluded.)

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 21st day of March, 2023.

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