

MINUTES OF June 14, 2011

COMMISSION CONFERENCE

COMMENCED: 9:35 am

RECESSED: 10:58 am

RECONVENED: 11:11 am

ADJOURNED: 11:38 am

COMMISSIONERS PARTICIPATING: Chairman Graham
Commissioner Edgar
Commissioner Brisé
Commissioner Balbis
Commissioner Brown

Parties were allowed to address the Commission on items designated by double asterisks (**).

1

Approval of Minutes

April 26, 2011 Regular Commission Conference

DECISION: The minutes were approved.

Commissioners participating: Graham, Edgar, Brisé, Balbis, Brown

ITEM NO.

CASE

2

Docket No. 110069-EI – Complaint of Rosario Rojo against Florida Power & Light Company, Case No. 858880E.

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Balbis

Staff: GCL: Evans

ECR: A. Roberts

(Oral argument not requested; participation is at the Commission's discretion)

Issue 1: Should FPL's Motion to Dismiss with Prejudice be granted?

Recommendation: Yes. The Commission should grant FPL's Motion to Dismiss with Prejudice.

Issue 2: Should the docket be closed?

Recommendation: Yes. If the Commission agrees with staff regarding Issue 1, then Ms. Rojo's complaint should be dismissed with prejudice, and the docket should be closed.

DECISION: The recommendations were approved.

Commissioners participating: Graham, Edgar, Brisé, Balbis, Brown

ITEM NO.

CASE

3**

Docket No. 110071-TP – Emergency Complaint of Express Phone Service, Inc. against BellSouth Telecommunications, Inc. d/b/a AT&T Florida regarding interpretation of the parties' interconnection agreement.

Docket No. 110087-TP – Notice of adoption of existing interconnection, unbundling, resale, and collocation agreement between BellSouth Telecommunications, Inc. d/b/a AT&T Florida d/b/a AT&T Southeast and Image Access, Inc. d/b/a NewPhone, Inc. by Express Phone Service, Inc.

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Balbis (110071-TP)
Administrative (110087-TP)

Staff: GCL: Tan
RAD: Bates, Trueblood

(Oral Argument Requested in Docket No. 110087-TP - Motion for Summary Final Order - Decision Prior to Hearing - Participation at the Discretion of the Commissioners for Issues 1 & 2 - Proposed Agency Action for Item 3 - Parties Can Participate on Issues 3 & 4.)

Issue 1: Should Express Phone Service, Inc.'s Request for Oral Argument on its Motion for Summary Final Order in Docket No. 110087-TP be granted?

Recommendation: Yes. The Commission should allow each party ten minutes for Oral Argument.

Issue 2: Should Express Phone's Motion for Summary Final Order filed in Docket No. 110087-TP be granted?

Recommendation: No. Express Phone's Motion for Summary Final Order in Docket No. 110087-TP should be denied.

Issue 3: Should Express Phone be permitted to adopt the Image Access ICA?

Recommendation: No. Adoption of the Image Access ICA is not available to Express Phone because Express Phone is in material breach of the Parties' existing ICA. The adoption would be inconsistent with sound public policy and would not promote effective business practices in the state of Florida.

Issue 4: Should Docket No. 110071-TP be set for hearing?

Recommendation: Yes. Additional discovery and testimony is required to resolve Docket 110071-TP and an evidentiary hearing should be set on the promotional credits.

ITEM NO.

CASE

3**

Docket No. 110071-TP – Emergency Complaint of Express Phone Service, Inc. against Bellsouth Telecommunications, Inc. d/b/a AT&T Florida regarding interpretation of the parties' interconnection agreement.

Docket No. 110087-TP – Notice of adoption of existing interconnection, unbundling, resale, and collocation agreement between BellSouth Telecommunications, Inc. d/b/a AT&T Florida d/b/a AT&T Southeast and Image Access, Inc. d/b/a NewPhone, Inc. by Express Phone Service, Inc.

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Issue 5: Should these dockets be closed?

Recommendation: If Express Phone is granted Summary Final Order and the staff's recommendation in issue 2 is denied, issue 3 is rendered moot and Docket No. 110087-TP should be closed. If staff's recommendation to deny Summary Final Order is approved, and staff's recommendation in issue 3, that the Image Access ICA is not available for Express Phone's adoption, is approved, Docket No. 110087-TP should be closed. If staff's recommendation in issue 4 is approved, Docket No. 110071-TP should remain open for an evidentiary hearing to be conducted on the promotional credits.

DECISION: The recommendations were approved.

Commissioners participating: Graham, Edgar, Brisé, Balbis, Brown

ITEM NO.

CASE

4

Docket No. 110018-EU – Joint petition for modification to determination of need for expansion of an existing renewable energy electrical power plant in Palm Beach County by Solid Waste Authority of Palm Beach County and Florida Power & Light Company, and for approval of associated regulatory accounting and purchased power agreement cost recovery.

Critical Date(s): 135 Day Statutory Deadline waived by parties until June 14, 2011.

Commissioners Assigned: All Commissioners

Prehearing Officer: Edgar

Staff: RAD: Brown, Garl, Graves

ECR: Barrett, Cicchetti, Lester, A. Roberts, Springer

GCL: Murphy, Harris, Teitzman

Issue 1: Are the Solid Waste Authority of Palm Beach County and Florida Power & Light Company the proper applicants within the meaning of Section 403.519, F.S.?

Recommendation: SWA and FPL are not required to both be applicants within the meaning of Section 403.519, F.S. SWA is a proper applicant within the meaning of Section 403.519, F.S. As a Joint Petitioner, FPL has assumed the responsibility to demonstrate the electrical need for and cost-effectiveness of the proposed project.

Issue 2: Is there a need for the SWA Expanded Facility taking into account the need for electric system reliability and integrity, as this criterion is used in Section 403.519, F.S.?

Recommendation: Yes. FPL is currently projecting a need for more than 370 MW of additional capacity in 2016. The Expanded Facility, projected to provide between 70 and 80 MW of firm capacity by 2015, will satisfy a portion of FPL's projected need. Therefore, the SWA Expanded Facility will contribute to the reliability and integrity of FPL's electric system.

Issue 3: Is there a need for the SWA Expanded Facility, taking into account the need for adequate electricity at a reasonable cost, as this criterion is used in Section 403.519, F.S.?

Recommendation: Yes. As discussed in Issue 2, the Expanded Facility will satisfy a portion of FPL's projected capacity needs. As discussed in Issue 6, the Expanded Facility is estimated to produce savings to FPL's ratepayers ranging from approximately \$189,000 to \$8,212,000. The incremental bill impact resulting from the advanced funding payment is reasonable at approximately \$0.10 per month.

ITEM NO.

CASE

4

Docket No. 110018-EU – Joint petition for modification to determination of need for expansion of an existing renewable energy electrical power plant in Palm Beach County by Solid Waste Authority of Palm Beach County and Florida Power & Light Company, and for approval of associated regulatory accounting and purchased power agreement cost recovery.

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Issue 4: Is there a need for the SWA Expanded Facility, taking into account the need for fuel diversity and supply reliability, as this criterion is used in Section 403.519, F.S.?

Recommendation: Yes. The Expanded Facility is projected to provide approximately 575,000 MWh each year which will reduce the amount of fossil fuel burned on FPL's system. While the energy from the Expanded Facility should increase the amount of renewable energy on FPL's system approximately 38 percent, the overall contribution from renewable energy will remain small on FPL's system at less than 1.6 percent. Such a result is not surprising given the relative difference in size between the Expanded Facility (70-80 MW) and FPL's existing system (over 23,000 MW).

Issue 5: Are there any renewable energy sources and technologies, as well as conservation measures, taken by or reasonably available to Florida Power & Light Company or SWA which might mitigate the need for the SWA Expanded Facility as this criterion is used in Section 403.519, F.S.?

Recommendation: No. SWA's conversion of municipal solid waste to electricity by incineration is, by statute, both a renewable energy source and a conservation measure. In addition, The evidence in the record demonstrates that calculation of FPL's reserve margin included projected DSM savings based on the goals established in 2009.

Issue 6: Is the SWA Expanded Facility the most cost-effective alternative available, as this criterion is used in Sections 377.709 and 403.519, F.S.?

Recommendation:

Primary Staff: Yes. The present value of the advanced funding payment (\$55.9 million) is less than the present value of FPL's current avoided costs at 70–80 MW (\$56.1 million and \$64.1 million). As such, the proposed Expanded Facility could produce savings in the range of approximately \$189,000 to \$8,212,000. If either the term of the contract or the committed capacity were increased, the savings to ratepayers would also increase. Therefore, as discussed in Issue 7, staff would encourage both parties to explore extending the term of the contract or increasing the committed capacity in order to maximize ratepayer benefits.

Alternate Staff: No. Because of planning uncertainty, it is not clear that the advanced funding payment to SWA is cost-effective pursuant to Sections 377.709 and 403.519, F.S. The Joint Petitioners should be afforded the opportunity to correct this deficiency by mutually agreeing to amend the proposed PPA. The Commission should not approve the proposed PPA until it can be demonstrated to be cost-effective. However, the electrical need for the WTE facility should be granted to allow SWA to go forward with the power plant certification process.

ITEM NO.

CASE

4

Docket No. 110018-EU – Joint petition for modification to determination of need for expansion of an existing renewable energy electrical power plant in Palm Beach County by Solid Waste Authority of Palm Beach County and Florida Power & Light Company, and for approval of associated regulatory accounting and purchased power agreement cost recovery.

(Continued from previous page)

Issue 7: Is the proposed contract between SWA and FPL reasonable, prudent, and in the best interest of FPL’s customers and appropriate and consistent with the provisions of Section 377.709, F.S.?

Primary Recommendation: Yes. As discussed in Issue 6, the proposed contract between the SWA and FPL is projected to provide benefits to FPL’s ratepayers. However, staff would encourage both parties to explore extending the term of the contract or increasing the committed capacity in order to maximize ratepayer benefits.

Alternate Recommendation: No. Because of planning uncertainty, it is not clear that the advanced funding payment to SWA is cost-effective pursuant to Sections 377.709 and 403.519, F.S. The Joint Petitioners should be afforded the opportunity to correct this deficiency by mutually agreeing to amend the proposed PPA. The Commission should not approve the proposed PPA until it can be demonstrated to be cost-effective. However, the electrical need for the WTE facility should be granted to allow SWA to go forward with the power plant certification process.

Issue 8: Is FPL’s proposal to recover the advanced capacity payment to SWA through the Energy Conservation Cost Recovery clause pursuant to Section 377.709, F.S., consistent with Rules 25-17.200 through 25-17.310, F.A.C.?

Recommendation: Yes. Both, Section 377.709, F.S., and Rules 25-17.200 through 25-17.310, protects ratepayers by limiting cost recovery to the utility’s avoided cost. The proper method of recovery is discussed in Issue 9.

ITEM NO.

CASE

4

Docket No. 110018-EU – Joint petition for modification to determination of need for expansion of an existing renewable energy electrical power plant in Palm Beach County by Solid Waste Authority of Palm Beach County and Florida Power & Light Company, and for approval of associated regulatory accounting and purchased power agreement cost recovery.

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Issue 9: Should the Commission allow FPL to recover from its customers the advanced capacity payment associated with the Expanded Facility’s electrical component made to SWA pursuant to and/or resulting from the proposed contract, as well as the carrying costs and administrative costs incurred by FPL, through the Energy Conservation Cost Recovery clause, pursuant to Section 377.709, F.S.?

Primary Recommendation: Yes. Pursuant to Section 377.709(3)(b)4, F.S., FPL should be allowed to recover the fixed advanced funding amount of \$56,643,942 as well as the carrying costs and prudent administrative costs incurred by FPL through the Energy Conservation Cost Recovery clause. As discussed in Issue 7, the parties should explore extending the term of the contract or increasing the committed capacity in order to maximize ratepayer benefits.

Alternate Recommendation: No. Because of planning uncertainty, it is not clear that the advance capacity payment to SWA is cost-effective pursuant to Sections 377.709 and 403.519, F.S. The Joint Petitioners should be afforded the opportunity to correct this deficiency by mutually agreeing to amend the proposed PPA. The Commission should not approve the proposed PPA until it can be demonstrated to be cost-effective. However, the electrical need for the WTE facility should be granted to allow SWA to go forward with the power plant certification process.

Issue 9A: If yes, what amount should FPL be allowed to recover from its ratepayers?

Primary Recommendation: Yes. FPL should be allowed to recover the fixed advanced funding amount of \$56,643,942 as well as the carrying costs and prudent administrative costs incurred by FPL.

Alternative Recommendation: No. Because of planning uncertainty, it is not clear that the advance capacity payment to SWA is cost-effective pursuant to Sections 377.709 and 403.519, F.S. The Joint Petitioners should be afforded the opportunity to correct this deficiency by mutually agreeing to amend the proposed PPA. The Commission should not approve the proposed PPA until it can be demonstrated to be cost-effective. However, the electrical need for the WTE facility should be granted to allow SWA to go forward with the power plant certification process.

ITEM NO.

CASE

4

Docket No. 110018-EU – Joint petition for modification to determination of need for expansion of an existing renewable energy electrical power plant in Palm Beach County by Solid Waste Authority of Palm Beach County and Florida Power & Light Company, and for approval of associated regulatory accounting and purchased power agreement cost recovery.

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Issue 9B: To the extent FPL incurs firm capacity costs associated with the contract between SWA and FPL that are not recovered through the ECCR clause, should FPL be allowed to recover those costs through the Capacity Cost Recovery clause?

Recommendation: No. An electric utility is authorized to seek recovery for the financing of an electrical component plus all carrying costs and reasonable and prudent administrative costs pursuant to Section 377.709(3)(b)4, F.S. The contract contains no other capacity payments except those made for the advanced funding. Therefore, FPL should be authorized to recover the funding payment, carrying costs, and reasonable and prudent administrative costs through the ECCR clause.

Issue 10: Should FPL be allowed to recover from its customers all payments for energy made to SWA pursuant to and/or resulting from the proposed contract between SWA and FPL through the Fuel and Purchased Power Cost Recovery clause?

Recommendation: Yes. FPL should be able to recover all reasonable and prudent payments for energy made to SWA to and/or resulting from the proposed contract between SWA and FPL through the Fuel and Purchased Power Cost Recovery clause.

Issue 11: Based on the resolution of the foregoing issues, should the Commission grant the Joint Petition for modification to determination of need by SWA and FPL and for recovery of purchased power contract costs?

Primary Recommendation: Yes.

Alternative Recommendation: Yes. The electrical need for the WTE facility should be granted allowing SWA to go forward with the power plant certification process. However, because of planning uncertainty, it is not clear that the advance capacity payment to SWA is cost-effective pursuant to Sections 377.709 and 403.519, F.S. The Joint Petitioners should be afforded the opportunity to correct this deficiency by mutually agreeing to amend the proposed PPA. The Commission should not approve the proposed PPA until it can be demonstrated to be cost-effective.

ITEM NO.

CASE

4

Docket No. 110018-EU – Joint petition for modification to determination of need for expansion of an existing renewable energy electrical power plant in Palm Beach County by Solid Waste Authority of Palm Beach County and Florida Power & Light Company, and for approval of associated regulatory accounting and purchased power agreement cost recovery.

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Issue 12: Should this docket be closed?

Recommendation: Yes. Upon issuance of a final Order addressing the Solid Waste Authority and Florida Power & Light Joint Petition to determine need for the Expanded Facility, the docket should be closed when the time for filing an appeal has run.

DECISION: The recommendations on all issues were modified. Starting from the background of the primary recommendations, the parties were directed to amend the PPA by the following: 1) extend the terms of the contract by 26 months, 2) committed capacity to be at a range of 70-80 MW and submit it to the parties. Additionally, include in the order that the advanced capacity recovery will be in the first year. Staff was given administrative authority to deal with the fallout issues, to approve the amended contract issues based on the discussion at the Commission Conference, and to administratively close the docket, noting that staff's administrative authority is separate from the need determination, which is a final order. If staff does not agree with the information in the amended contract, this matter will be brought back to the Commission.

Commissioners participating: Graham, Edgar, Brisé, Balbis, Brown

ITEM NO.

CASE

5**

Docket No. 110092-EI – Petition for approval of amended standard offer contract, by Progress Energy Florida, Inc.

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Brown

Staff: RAD: Lewis

GCL: Tan

Issue 1: Should the Commission approve the revised standard offer contract filed by Progress Energy Florida, Inc.?

Recommendation: Yes. The standard offer contract and related tariffs comply with Rules 25-17.200 through 25-17.310, F.A.C.

Issue 2: Should this docket be closed?

Recommendation: Yes. If the Commission approves staff's recommendation to approve the proposed standard offer contract and tariffs filed by PEF, and no person whose substantial interests are affected requests a hearing to address this matter, then Docket No. 110092-EI should be closed upon issuance of a Consummating Order, and the standard offer contracts and tariffs filed by Progress Energy should be effective as of the date of the Commission's vote. If a protest is filed within 21 days of the issuance of the Commission's Order, the tariffs should remain in effect pending resolution of the protest. Potential signatories to the standard offer contract should be aware that approval of Progress Energy's tariffs and standard offer contracts may be subject to a request for hearing, and if a hearing is held, may subsequently be revised.

DECISION: The recommendations were approved.

Commissioners participating: Graham, Edgar, Brisé, Balbis, Brown

ITEM NO.

CASE

6**

Docket No. 110093-EI – Petition for approval of revisions to standard offer contract and rate schedules COG-1 and COG-2, by Tampa Electric Company.

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Brown

Staff: RAD: Ma

GCL: Evans

Issue 1: Should the Commission approve the standard offer contract filed by Tampa Electric Company?

Recommendation: Yes. The standard offer contract and related tariffs comply with Rules 25-17.200 through 25-17.310, F.A.C.

Issue 2: Should this docket be closed?

Recommendation: Yes. If the Commission approves staff's recommendation to approve the proposed standard offer contract and tariffs filed by TECO, and no person whose substantial interests are affected requests a hearing to address this matter, then Docket No. 110093-EI should be closed, and the standard offer contracts and tariffs filed by TECO should be effective as of the date of the Commission's vote. If a protest is filed within 21 days of the issuance of the Commission's Order, the tariffs should remain in effect pending resolution of the protest. Potential signatories to the standard offer contract should be aware that approval of TECO's tariffs and standard offer contracts may be subject to a request for hearing, and if a hearing is held, may subsequently be revised.

DECISION: The recommendations were approved.

Commissioners participating: Graham, Edgar, Brisé, Balbis, Brown

ITEM NO.

CASE

7**

Docket No. 110095-EQ – Petition for approval of new standard offer for purchase of firm capacity and energy from renewable energy facilities or small qualifying facilities and approval of revised tariff schedule REF-1, by Gulf Power Company.

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Administrative

Staff: RAD: Ellis

GCL: Harris

Issue 1: Should the Commission approve the standard offer contract filed by Gulf Power Company?

Recommendation: Yes. The provisions of the 2011 standard offer contract and related tariffs submitted by Gulf conform to all requirements of Rules 25-17.200 through 25-17.310, F.A.C.

Issue 2: Should this docket be closed?

Recommendation: Yes. If the Commission approves staff's recommendation to approve the proposed standard offer contract and tariffs filed by Gulf, and no person whose substantial interests are affected requests a hearing to address this matter, then Docket No. 110095-EQ should be closed, and the standard offer contracts and tariffs filed by Gulf should be effective as of the date of the Commission's vote. If a protest is filed within 21 days of the issuance of the Commission's Order, the tariffs should remain in effect pending resolution of the protest. Potential signatories to the standard offer contract should be aware that Gulf's tariffs and standard offer contracts may be subject to a request for hearing, and if a hearing is held, may subsequently be revised.

DECISION: The recommendations were approved.

Commissioners participating: Graham, Edgar, Brisé, Balbis, Brown

ITEM NO.

CASE

8**

Docket No. 110006-WS – Water and wastewater industry annual reestablishment of authorized range of return on common equity for water and wastewater utilities pursuant to Section 367.081(4)(f), F.S.

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Brisé

Staff: ECR: Salnova, Cicchetti, Maurey, Springer

GCL: Klancke

Issue 1: What is the appropriate range of returns on common equity for water and wastewater (WAW) utilities, pursuant to Section 367.081(4)(f), Florida Statutes?

Recommendation: Staff recommends that the current leverage formula methodology be applied using updated financial data. Staff recommends the following leverage formula:

$$\text{Return on Common Equity} = 7.13\% + 1.610/\text{Equity Ratio}$$

Where the Equity Ratio = Common Equity / (Common Equity + Preferred Equity + Long-Term and Short-Term Debt)

Range: 8.74% @ 100% equity to 11.16% @ 40% equity

Issue 2: Should this docket be closed?

Recommendation: No. Upon expiration of the protest period, if a timely protest is not received from a substantially affected person, the decision should become final and effective upon the issuance of a Consummating Order. However, this docket should remain open to allow staff to monitor changes in capital market conditions and to readdress the reasonableness of the leverage formula as conditions warrant.

DECISION: The recommendations were approved with an oral modification by staff that the order is to be issued as proposed agency action.

Commissioners participating: Graham, Edgar, Brisé, Balbis, Brown

ITEM NO.

CASE

9

Docket No. 100459-EI – Petition for authority to implement a demonstration project consisting of proposed time-of-use and interruptible rate schedules and corresponding fuel rates in the Northwest Division on an experimental basis and request for expedited treatment, by Florida Public Utilities Company.

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Balbis

Staff: ECR: Draper, D. Lee

GCL: Bennett

(Oral Argument Requested.)

Issue 1: Should the Commission grant FPUC's request for oral argument?

Recommendation: Yes. The Commission should grant FPUC's request for oral argument. Oral argument should be limited to 5 minutes per side.

DECISION: The recommendation was approved.

Issue 2: Should FPUC's Motion to Dismiss the City of Marianna's petition for formal hearing be granted?

Recommendation: No. The Commission should not dismiss the City of Marianna's petition for formal hearing. The City's petition contains allegations of fact that, when taken as true, state a claim for relief for the City of Marianna.

DECISION: The recommendation was denied for failure to establish injury and for lack of standing. The Motion to Dismiss was granted without prejudice.

Issue 3: Should this docket be closed?

Recommendation: No. This docket should remain open pending the outcome of the hearing on the protest filed by the City of Marianna.

DECISION: The recommendation was modified to close the docket.

Commissioners participating: Graham, Edgar, Brisé, Balbis, Brown

ITEM NO.

CASE

10**PAA

Docket No. 110041-EI – Petition for approval of Amendment No. 1 to generation services agreement with Gulf Power Company, by Florida Public Utilities Company.

Critical Date(s): Amendment conditioned upon receipt of final non-appealable order by July 31, 2011.

Commissioners Assigned: All Commissioners

Prehearing Officer: Brisé

Staff: RAD: Graves, Ma

ECR: Draper, D. Lee, Lester

GCL: Evans

Issue 1: Should the Commission approve Florida Public Utilities Company's petition for approval of amendment to the agreement for generation services between Gulf Power Company and Florida Public Utilities Company for purposes of fuel cost recovery calculations?

Recommendation: Yes. The proposed Amendment is projected to result in a savings of nearly \$6 million through 2017 for FPUC and its customers.

Issue 2: Should this docket be closed?

Recommendation: Yes. If no person whose substantial interests are affected by the proposed agency action files a protest within 21 days of the issuance of the Order, this docket should be closed upon the issuance of a Consummating Order.

DECISION: The recommendations were approved.

Commissioners participating: Graham, Edgar, Brisé, Balbis, Brown

ITEM NO.

CASE

11**

Docket No. 110001-EI – Fuel and purchased power cost recovery clause with generating performance incentive factor.

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Brisé

Staff: ECR: D. Lee, Draper

GCL: Bennett

Issue 1: Should the Commission approve one of the two options offered in FPUC's petition for a mid-course revision to its purchased power cost recovery factors for its Northwest Division?

Recommendation: Yes. Staff recommends the Commission approve FPUC's second option (Option B) in its petition for mid-course correction. The second option excludes the effect of Amendment 1 of staff's memorandum dated June 2, 2011. The mid-course correction should become effective July 1, 2011. The recommended fuel factors for the second option are presented in Attachment B of staff's memorandum dated June 2, 2011.

DECISION: The recommendation was modified. Option A was approved.

Issue 2: Should this docket be closed?

Recommendation: No. The Fuel and Purchased Power Cost Recovery Clause is an on-going docket and should remain open.

DECISION: The recommendation was approved.

Commissioners participating: Graham, Edgar, Brisé, Balbis, Brown

ITEM NO.

CASE

12**

Docket No. 110089-EQ – Petition for approval of revisions to renewable energy tariff, by Florida Public Utilities Company.

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Brown

Staff: RAD: Matthews

GCL: Tan

Issue 1: Should the Commission approve the standard offer renewable energy tariff filed by Florida Public Utilities Company?

Recommendation: Yes. The standard offer renewable energy tariffs comply with Rules 25-17.200 through 25-17.310, F.A.C. Staff recommends that if the Commission approves the amended purchased power agreement between FPUC and Gulf in Docket No. 110041-EI, FPUC should be required to file, in a subsequent docket, a revision to rate schedule REN-2 to offer capacity payments to renewable providers in its Northwest Division in the event its overall demand exceeds the contract minimum of 91 megawatt (MW).

Issue 2: Should this docket be closed?

Recommendation: If the Commission approves staff's recommendation to approve the proposed standard offer contract and tariffs filed by FPUC, and no person whose substantial interests are affected requests a hearing to address this matter, then Docket No. 110089-EQ should be closed upon issuance of a Consummating Order, and the standard offer contracts and tariffs filed by FPUC should be effective as of the date of the Commission's vote. If a protest is filed within 21 days of the issuance of the Commission's Order, the tariffs should remain in effect pending resolution of the protest. Potential signatories to the standard offer contract should be aware that approval of FPUC's tariffs and standard offer contracts may be subject to a request for hearing, and if a hearing is held, may subsequently be revised.

DECISION: The recommendations were approved.

Commissioners participating: Graham, Edgar, Brisé, Balbis, Brown