FILED MAY 31, 2017
DOCUMENT NO. 05131-17
FPSC - COMMISSION CLERK

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Analysis of IOUs' Hedging Practices	Docket No. 170057-EI Filed: May 31, 2017

MOTION TO AMEND STAFF ISSUES LIST

The Sierra Club, pursuant to Section 120.57(1), Florida Statutes ("F.S."), and Rule 28-106.204, Florida Administrative Code ("F.A.C."), and the Order Establishing Procedure in this docket, Order No. PSC-17-0132-PCO-EI, hereby files this Motion to Amend the Staff Issues List circulated on May 18, 2017 in Docket No. 170057 (Attachment A) to include the following issues:

> Issue 1A: What other measures are available to mitigate customer exposure to price volatility in natural gas markets?
>
> Issue 1B: Does financial hedging represent the least cost means of mitigating the risk of natural gas price increases?
>
> Issue 1C: What is the appropriate standard for the Commission to apply when determining whether to allow the IOUs to continue engaging in natural gas financial hedging?

In support of its motion, Sierra Club states as follows:

1. On April 26, 2017 Commission Staff (Staff) circulated a list of proposed issues to be addressed in the newly opened Docket No. 170057.
2. Florida Industrial Power Users Group (FIPUG) proposed additional issues on May 4, 2017.

3. On May 8, 2017 Sierra Club proposed adding three sub-issues to further focus the proceeding on important aspects of natural gas volatility management.
4. On May 17, 2017 the parties held an informal teleconference meeting to discuss Staff's and the parties' proposed issues. Staff conveyed that it would not alter its recommendation to include Sierra Club's proposed issues. Staff and the parties discussed that Sierra Club would reevaluate its proposed issues in light of the teleconference and communicate its position to the parties.
5. By subsequent email on May 22, 2017, Sierra Club further modified the language of its requested issues to address concerns raised during the prior week's teleconference, and proposed Issues 1A and 1B as set forth above. Staff again declined to include the requested issues in its recommendation. On May 27, 2017, Sierra Club further responded to issues raised during the earlier teleconference by proposing an additional clarifying issue, set forth as Issue 1C above.
6. All parties agree that Issues 1A and 1B may be addressed within Staff's recommended Issue No. 1. However, because these issues speak to the very need for risk mitigation mechanisms, like financial hedging, they deserve the focus and attention that is only guaranteed to issues clearly articulated to the Commission. No party has opposed including Issue 1C.
7. Sierra Club therefore files the instant motion to amend the issues addressed in this docket to include Issues 1A, 1B, and 1C above, for the reasons further described below:

Argument

The Commission should approach this docket like it does any other matter. First, it should determine the underlying problem being addressed. Then it should conduct a comprehensive survey of potential solutions. The Commission should then ensure that any responsive course of conduct meets the governing legal standard, whether that be prudence, reasonableness, or the consumers' best interest. Only after assessing the range of potential solutions and identifying the proper legal standard should the Commission determine whether financial hedging is an appropriate means of limiting customer exposure to natural gas price volatility. By following that formula the Commission will ensure that a reasoned decision is made to further the public interest. Sierra Club's proposed issues focus the discussion on each of the steps necessary to make such a determination.

Issue 1A would aid the Commission in making an informed decision by identifying alternative measures to shield customers from volatile natural gas prices. To date, the parties have been discussing financial hedging in a vacuum, comparing it only to existing true-up procedures, the Value Mitigation Mechanism, and modified hedging protocols. But this is unrepresentative of the array of risk reducing measures available to the IOUs and widely relied upon in other states. Diversifying the electricity generating portfolio by adding zero-fuel renewable capacity divorces electricity from the natural gas markets. Reducing demand through the deployment of energy efficiency improvements lowers the total amount of fuel used thereby reducing a customer's captivity to natural gas prices. These alternatives may also provide lasting benefits to both the grid and its customers without exposing them to the risk of fuel overpayment that accompanies financial hedging. An assessment of these alternatives is essential to implementing a system that will serve the needs of the IOUs' customers. As such, it warrants an independent discussion and thorough contemplation by the Commission.

The Commission should also address whether financial hedging is the best strategy for Florida's ratepayers by expressly adopting Sierra Club's proposed Issue 1B. This issue would focus the Commission's determination on the cost ultimately borne by Florida's electricity consumers. As almost $7 billion of ratepayer overpayment shows, the Commission's determination in this docket will have a direct effect on the budget of every IOU customer. After the Commission approved financial hedging in 2002, and again as modified in 2008, the IOUs racked up astronomical losses, leaving customers to pay far more for natural gas than the market rate. The problem was not that the utilities were acting in a rogue manner, but that the Commission had approved a system predisposed to yield significant losses in the face of a budding overreliance on natural gas by Florida's largest electric utilities. As that experience shows, the Commission must consider the costs of volatility mitigation strategies in this proceeding.

Finally, Issue 1C is targeted towards clarifying the legal standard upon which any determination is made. By requiring the parties to address the prevailing legal standard the Commission will add clarity and transparency to the proceeding. The May 17, 2017 call and subsequent discussion evidenced lack of consensus over the legal standard that applies to the Commission's decision-making on requiring potential risk mitigation mechanisms.

For the reasons stated above, Sierra Club requests that the Commission include Issues 1A, 1B, and 1C in the final issues list for consideration and determination by the Commission. Sierra Club consulted with the parties to this docket in satisfaction of Rule 28-106.204(3), F.A.C. Florida Power & Light, Tampa Electric Company, Duke Energy Florida, Gulf Power Company, and Commission Staff oppose the independent inclusion of Issues 1A and 1B but acknowledge that the topics are encompassed by Staff Issues 1 and 2. Florida Power & Light, Tampa Electric Company, Duke Energy Florida, Gulf Power Company, and Commission Staff take no position on including Issue 1C. The Office of Public Counsel supports the inclusion of Issues 1A and 1B but takes no position on including Issue 1C. The Florida Industrial Power Users Group, and PCS-Phosphate White Springs, take no position on including Issues 1A, 1B, and 1C.

WHEREFORE, the Sierra Club respectfully requests that this Motion to Amend Staff Issue List be granted.

RESPECTFULLY SUBMITTED this 31st day of May, 2017

/s/ *Steven Goldstein*
Steven Goldstein
Legal Fellow
Sierra Club
50 F Street, NW, Eighth Floor
Washington, DC 20001
202-650-6064
steve.goldstein@sierraclub.org

Julie Kaplan
Senior Attorney
Sierra Club
50 F Street, NW, Eighth Floor
Washington, DC 20001
202-548-4592
julie.kaplan@sierraclub.org

Qualified Representatives for Sierra Club

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true copy of the foregoing was served electronically on this 31st day of May, 2017 on:

Florida Public Service Commission
Suzanne S. Brownless
Senior Attorney
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850
sbrownle@psc.state.fl.us

Florida Industrial Power Users Group
Jon C. Moyle, Jr./Karen A. Putnal
Moyle Law Firm, PA
118 North Gadsden Street
Tallahassee, FL 32301
(850) 681-3828
jmoyle@moylelaw.com
kputnal@moylelaw.com

Duke Energy
Matthew R. Bernier
106 East College Ave., Suite 800
Tallahassee, FL 32301
(850) 521-1428
Matthew.bernier@duke-energy.com

Gulf Power Company
Mr. Robert L. McGee, Jr.
One Energy Place
Pensacola, FL 32520-0780
(850) 444-6530
rlmcgee@southernco.com

Gulf Power Company
Russel A. Badders
P.O. Box 12950
Pensacola, FL 32591
(850) 432-2451
rab@beggslane.com

Florida Power & Light Company
John T. Butler
700 Universe Boulevard
Juno Beach, FL 33408
(561) 304-5639
John.butler@fpl.com

Tampa Electric Company
Ms. Paula K. Brown
Regulatory Affairs
P. O. Box 111
Tampa FL 33601-0111
(813) 228-1444
regdept@tecoenergy.com

Tampa Electric Company
James D. Beasley, Esq.
Ausley & McMullen Law Firm
P.O. Box 391
Tallahassee, FL 32302
jbeasley@ausley.com

Office of Public Counsel
J.R. Kelly/Eric Sayler
111 W. Madison Street, Room 812
Tallahassee, FL 32399-1400
(850) 488-9330
kelly.jr@leg.state.fl.us
Sayler.erik@leg.state.fl.us

PCS Phosphate – White Springs
James W. Brew/Laura A. Wynn
Stone, Mattheis, Xenopoulos, & Brew, PC
1025 Thomas Jefferson St., NW
Eighth Floor
Washington DC 20007
(202) 342-0800
jbrew@smxblaw.com

/s/ *Steven Goldstein*
Steven Goldstein
Legal Fellow
Sierra Club
50 F Street, NW, Eighth Floor
Washington, DC 20001
202-650-6064
steve.goldstein@sierraclub.org

Julie Kaplan
Senior Attorney
Sierra Club
50 F Street, NW, Eighth Floor
Washington, DC 20001
202-548-4592
julie.kaplan@sierraclub.org

Qualified Representatives for Sierra Club

Attachment A

DOCKET NO. 170057-EI
STAFF ISSUES LIST
05/18/2017

1. Is it in the consumers' best interest for the utilities to continue natural gas financial hedging activities?

2. If hedging is determined to be in the customers' best interest, what changes, if any, should be made to the manner in which electric utilities conduct their natural gas financial hedging activities?

3. If changes are made to the conduct of natural gas <u>financial</u> hedging activities, what regulatory implementation process is appropriate?

4. <u>Should a hedging opt-out tariff be offered for each IOU's large demand customer classes?</u>

5. Should this docket be closed?