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050317-21

May 6, 2005

**BY HAND DELIVERY**

Ms. Blanca Bayó, Director  
Commission Clerk and Administrative Services  
Room 110, Easley Building  
Florida Public Service Commission  
2540 Shumard Oak Blvd.  
Tallahassee, Florida 32399-0850

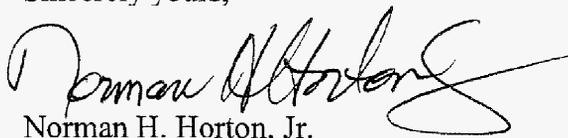
Dear Ms. Bayó:

Enclosed for filing on behalf of Florida Public Utilities Company are an original and fifteen copies of Florida Public Utilities Company's Petition to Implement Fuel Adjustment Surcharge and the Direct Panel Testimony of George Bachman, Cheryl Martin, Mark Cutshaw and Robert Camfield.

Please acknowledge receipt of these documents by stamping the extra copy of this letter "filed" and returning the same to me.

Thank you for your assistance with this filing.

Sincerely yours,



Norman H. Horton, Jr.

NHH/amb  
Enclosures

cc: Andrienne Vining, Esq.  
Patricia Christensen, Esq.

DOCUMENT NUMBER-DATE

04479 MAY-6 8

**BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**

In re: Petition of Florida Public Utilities Company ) Docket No.: \_\_\_\_\_  
to implement a fuel adjustment surcharge ) Filed: May 6, 2005

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**FLORIDA PUBLIC UTILITIES COMPANY'S PETITION TO  
IMPLEMENT FUEL ADJUSTMENT SURCHARGE**

COMES NOW, Florida Public Utilities Company ("Petitioner" or "the Company"), and requests the Commission to approve the application of a temporary fuel clause additive charge to mitigate the effects of new fuel contracts effective January 1, 2008. As basis, the Company would show:

1. The exact name and address of the principal business office of the Petitioner is as follows:

Florida Public Utilities Company  
401 South Dixie Highway  
West Palm Beach, Florida 33401

2. Notices and communications with respect to this petition and docket should be addressed to:

Norman H. Horton, Jr.  
Messer, Caparello & Self, P. A.  
Suite 701, First Florida Bank Building  
Post Office Box 1876  
Tallahassee, FL 32302-1876

Ms. Cheryl Martin  
Florida Public Utilities Company  
Post Office Box 3395  
West Palm Beach, FL 33402-3395

3. The Petitioner is an electric utility subject to the jurisdiction of the Florida Public Service Commission pursuant to Chapter 366, Florida Statutes. The Company serves customers in two separate geographic areas; the Northeast or Fernandina Beach division with 15,000 customers and gross electric sales in excess of 440,000 mwh and the Northwest or Marianna area with 15,000 customers and electricity sales of 316,000 mwh.

4. The rates and charges of the Company are subject to approval of the PSC pursuant to section 366.06, Florida Statutes. The Commission also has authority to approve rates on an experimental or transitional basis pursuant to section 366.075, Florida Statutes and fuel adjustment clauses are subject to PSC approval pursuant to orders of the Commission.

5. The Company is one of five (5) investor owned utilities subject to the regulation of the Florida Public Service Commission. The Company is unique among the IOUs in that it does not generate any of the power which it provides customers. In order to provide electricity to its customers, the Company purchases generation and transmission services from outside sources. All power needs are provided through long term contracts with Jacksonville Electric Authority (“JEA”) in Fernandina Beach and Gulf Power/Southern Company (“Gulf”) in the Marianna area. Both contracts were signed in 1997 and expire in December 2007.

6. The costs which Florida Public Utilities Company incurs to provide power to customers are not part of the base rates approved by this Commission but are recovered through a separate fuel adjustment clause which is reviewed, audited and approved by the Florida Public Service Commission on an annual basis. The fuel clause is intended to allow the recovery of an expense which is subject to frequent fluctuations incurred by the Company and is essentially a “pass through” to consumers. The Commission has allowed a fuel adjustment clause in some form since 1925 but the current process evolves from an investigation concluded by the Commission in 1980. Under the current procedure, utilities, including Florida Public Utilities Company, file schedules, and data with the PSC consisting of historic and projected data from which a fuel adjustment factor is calculated and approved by the Commission annually. The factor is then applied to each bill. The fuel clause provides protection to both the utility and the consumer in that it adjusts upward to

recognize increasing costs to produce or purchase power but can also be reduced as costs go down thus benefiting the consumers.

7. The current contracts, signed in 1997, reflected expectations of the parties to the contracts, over the term of the contracts. The contracts have proven to be in the general interest of the customers of the Company. Under the terms of the current power agreements, the power costs which Florida Public Utilities Company pays to the vendors is below that which Florida Public Utilities Company would likely pay under new contracts today. Neither of the existing contracts allows or provides for the price paid by Florida Public Utilities Company to be based on actual fuel costs to generate the power purchased by Florida Public Utilities Company. The end result is that the costs of generation services to customers of Florida Public Utilities Company has been generally favorable compared to that paid by customers of other IOUs. It appears that customers of the Company enjoy an overall electricity price advantage of approximately 20% in comparison to customers of other companies, currently.

8. The contracts with JEA and Gulf expire in December, 2007, and the Company has already begun the process to replace these contracts. The Company has issued a Request for Proposals ("RFP") and will analyze and assess those proposals upon receipt. To ensure that the best all around contract(s) is entered, the Company has provided the RFP to a large number of potential respondent/providers. The Company will consider a variety of arrangements but in the end, intends to enter into arrangements which provide the most overall benefits to customers. Regardless of the success of the Company's RFP process, one fact seems clear. That is, that at the expiration of the current contracts and initiation of new contracts, customers will experience much higher prices for fuel and power; in short, the fuel adjustment clause will be much higher. Beginning in 2008, the

fuel clause will be sharply higher than current bills than those in effect at the end of 2007. This sharp increase will occur because of the higher costs of power purchased by the Company in order to serve its customers. The Company has always made every effort to provide quality service and to maximize efficiencies where possible. Unfortunately, however, the Company's operational efficiencies cannot fully offset the large increases in the costs of power supply that face the Company and its customers currently.

9. There is no doubt that customers of the Company have enjoyed the benefits of the current contracts, but when those contracts expire, those benefits disappear and substantial increases will be experienced by customers. The Company is concerned with the rate shock that will occur in 2008 and has explored options and alternatives to mitigate the magnitude of the increase. One option is to take no action, other than negotiate the most favorable contract(s) possible. This is however not enough, and a more prudent approach is available and proposed.

10. To mitigate the pending rate shock facing its retail customers, Florida Public Utilities Company proposes to incorporate a temporary surcharge to be applied to retail customers for 2006 and 2007. This surcharge would be in addition to the fuel adjustment clause. Any and all interest accumulated would be added to the total surcharge accrual balances, which would be held in an escrow account. The accumulated surcharge would be excluded from the company's working capital computation in rate base since the interest provides the adequate return to the customer and to hold the company harmless as well. Beginning in 2008, the Company would flow back the amount accrued over a three year period. This flow back would offset a portion of the increased fuel adjustment. In this way, customers would be stepped up to the higher fuel clause rather than face an immediate spike beginning in January 2008. None of the surcharge amounts would pass

through to the Company or its investors. Rather, the surcharge amounts accrued plus interest would be returned to the customer in full. As part of this plan, the Company would also provide information to consumers about the program.

11. Florida Public Utilities Company is not aware of a similar mechanism having been approved for any utility by this Commission nor is there any prohibition to this proposal. This is a unique situation and is designed to protect retail electricity consumers. Rates for utilities are fixed for future services and both this Commission and the Supreme Court have recognized that rates should incorporate known changes. This is a known change. Moreover, the Commission has the authority to establish transitional rates to encourage efficiency for a limited period and for limited geographic areas.

12. Attached to this Petition is prefiled testimony and exhibits which provide details of anticipated increases to be borne by customers. The Company would urge the Commission to approve the proposal as outlined herein.

For the foregoing reasons, Florida Public Utilities Company requests that the Commission

- a) approve the proposal of the Company to incorporate a temporary surcharge on its bills;
- b) authorize the collection of the surcharge at the level to be set; and
- c) approve such other relief as may be necessary for the Company to implement its proposal.

Respectfully submitted this 6<sup>th</sup> day of May, 2005.

MESSER, CAPARELLO & SELF, P.A.  
215 S. Monroe Street, Suite 701  
Post Office Box 1876  
Tallahassee, FL 32302-1876  
(850) 222-0720



NORMAN H. HORTON, JR., ESQ.

Attorneys for Florida Public Utilities Company

## CERTIFICATE OF SERVICE

I HEREBY CERTIFY that true and correct copies of the foregoing have been served upon the following parties by Hand Delivery (\*) and/or U.S. Mail this 6<sup>th</sup> day of May, 2005.

Adrienne Vining, Esq.\*  
Office of General Counsel  
Room 370, Gunter Building  
Florida Public Service Commission  
2540 Shumard Oak Blvd.  
Tallahassee, FL 32399-0850

Patricia Christensen, Esq.\*  
Office of Public Counsel  
111 Madison Street, Room 812  
Tallahassee, FL 32399-1400

  
Norman H. Horton, Jr.