

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Review of replacement fuel costs associated with the February 26, 2008 outage on Florida Power & Light's electrical system.

DOCKET NO. 090505-EI
ORDER NO. PSC-10-0151-PHO-EI
ISSUED: March 12, 2010

Pursuant to Notice and in accordance with Rule 28-106.209, Florida Administrative Code (F.A.C.), a Prehearing Conference was held on March 3, 2010, in Tallahassee, Florida, before Commissioner Nathan A. Skop, as Prehearing Officer.

APPEARANCES:

JOHN T. BUTLER, R. WADE LITCHFIELD and MITCHELL S. ROSS, ESQUIRES, 700 Universe Boulevard, Juno Beach, Florida, 33408-0420
On behalf of Florida Power & Light Company (FPL)

J.R. KELLY, CHARLES BECK, and JOSEPH MCGLOTHLIN, ESQUIRES, c/o The Florida Legislature, 111 West Madison Street, Room 812, Tallahassee, Florida 32399-1400
On behalf of the Citizens of the State of Florida (OPC)

CECILIA BRADLEY, ESQUIRE, Office of the Attorney General, The Capitol – PL01, Tallahassee, Florida 32399-1050
On behalf of the Office of the Attorney General (OAG)

VICKI GORDON KAUFMAN and JON C. MOYLE, JR., ESQUIRES, Keefe Anchors Gordon & Moyle, PA, 118 North Gadsden Street, Tallahassee, Florida 32301
On behalf of Florida Industrial Power Users Group (FIPUG)

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On behalf of Florida Industrial Power Users Group (FIPUG)

LISA C. BENNETT, ESQUIRE, Florida Public Service Commission, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850
On behalf of the Florida Public Service Commission (Staff).

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Advisor to the Florida Public Service Commission.

DOCUMENT NUMBER DATE

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FPSC-COMMISSION CLERK

PREHEARING ORDER

I. CASE BACKGROUND

On February 26, 2008, a fault occurred at Florida Power & Light Company's (FPL) Flagami substation. The fault created conditions on the transmission grid that caused three of FPL's fossil-fueled generating units and FPL's Turkey Point Nuclear Units 3 and 4 to trip offline. The fault and tripping of generators is referred to herein as the "February 26, 2008, outage." In the 2008 fuel and purchased power cost recovery proceeding,¹ the replacement power costs attributable to the February 26, 2008, outage were included as part of FPL's approved fuel cost recovery factor. OPC raised an issue in the 2009 fuel and purchased power cost recovery proceeding² to address the potential refund of replacement power costs associated with the February 26, 2008, outage.

By agreement of FPL and the Office of Public Counsel (OPC), consideration of this issue was deferred to 2010. On October 30, 2009, the Prehearing Officer in the fuel and purchased power cost recovery docket issued an order³ directing that this docket be opened to consider the issue. An administrative hearing will be held by the Commission on March 17 and 18, 2010. The Commission will address those issues listed in this Prehearing Order.

II. CONDUCT OF PROCEEDINGS

Pursuant to Rule 28-106.211, F.A.C., this Prehearing Order is issued to prevent delay and to promote the just, speedy, and inexpensive determination of all aspects of this case.

III. JURISDICTION

This Commission is vested with jurisdiction over the subject matter by the provisions of Chapter 366, Florida Statutes (F.S.). This hearing will be governed by said Chapter and Chapters 25-6, 25-22, and 28-106, F.A.C., as well as any other applicable provisions of law.

IV. PROCEDURE FOR HANDLING CONFIDENTIAL INFORMATION

Information for which proprietary confidential business information status is requested pursuant to Section 366.093, F.S., and Rule 25-22.006, F.A.C., shall be treated by the Commission as confidential. The information shall be exempt from Section 119.07(1), F.S., pending a formal ruling on such request by the Commission or pending return of the information to the person providing the information. If no determination of confidentiality has been made and the information has not been made a part of the evidentiary record in this proceeding, it shall be returned to the person providing the information. If a determination of confidentiality has been made and the information was not entered into the record of this proceeding, it shall be

¹ Docket No. 080001-EI, In re: Fuel and purchased power cost recovery clause

² Docket No. 090001-EI, In re: Fuel and purchased power cost recovery clause

³ Order No. PSC-09-0723-PHO-EI, issued October 30, 2009, in Docket No. 090001-EI

returned to the person providing the information within the time period set forth in Section 366.093, F.S. The Commission may determine that continued possession of the information is necessary for the Commission to conduct its business.

It is the policy of this Commission that all Commission hearings be open to the public at all times. The Commission also recognizes its obligation pursuant to Section 366.093, F.S., to protect proprietary confidential business information from disclosure outside the proceeding. Therefore, any party wishing to use any proprietary confidential business information, as that term is defined in Section 366.093, F.S., at the hearing shall adhere to the following:

- (1) When confidential information is used in the hearing, parties must have copies for the Commissioners, necessary staff, and the court reporter, in red envelopes clearly marked with the nature of the contents and with the confidential information highlighted. Any party wishing to examine the confidential material that is not subject to an order granting confidentiality shall be provided a copy in the same fashion as provided to the Commissioners, subject to execution of any appropriate protective agreement with the owner of the material.
- (2) Counsel and witnesses are cautioned to avoid verbalizing confidential information in such a way that would compromise confidentiality. Therefore, confidential information should be presented by written exhibit when reasonably possible.

At the conclusion of that portion of the hearing that involves confidential information, all copies of confidential exhibits shall be returned to the proffering party. If a confidential exhibit has been admitted into evidence, the copy provided to the court reporter shall be retained in the Office of Commission Clerk's confidential files. If such material is admitted into the evidentiary record at hearing and is not otherwise subject to a request for confidential classification filed with the Commission, the source of the information must file a request for confidential classification of the information within 21 days of the conclusion of the hearing, as set forth in Rule 25-22.006(8)(b), F.A.C., if continued confidentiality of the information is to be maintained.

V. PREFILED TESTIMONY AND EXHIBITS; WITNESSES

Testimony of all witnesses to be sponsored by the parties has been prefiled and will be inserted into the record as though read after the witness has taken the stand and affirmed the correctness of the testimony and associated exhibits. All testimony remains subject to timely and appropriate objections. Upon insertion of a witness' testimony, exhibits appended thereto may be marked for identification. Each witness will have the opportunity to orally summarize his or her testimony at the time he or she takes the stand, subject to the time limitations set forth in Section XIV of this Order.

Witnesses are reminded that, on cross-examination, responses to questions calling for a simple yes or no answer shall be so answered first, after which the witness may explain his or her answer. After all parties and Staff have had the opportunity to cross-examine the witness, the

exhibit may be moved into the record. All other exhibits may be similarly identified and entered into the record at the appropriate time during the hearing.

The Commission frequently administers the testimonial oath to more than one witness at a time. Therefore, when a witness takes the stand to testify, the attorney calling the witness is directed to ask the witness to affirm whether he or she has been sworn.

The parties shall avoid duplicative or repetitious cross-examination. Further, friendly cross-examination will not be allowed. Cross-examination shall be limited to witnesses whose testimony is adverse to the party desiring to cross-examine. Any party conducting what appears to be a friendly cross-examination of a witness should be prepared to indicate why that witness's direct testimony is adverse to its interests.

VI. ORDER OF WITNESSES

<u>Witness</u>	<u>Proffered By</u>	<u>Issues #</u>
<u>Direct</u>		
J.A. Stall	FPL	1 ✓
G. Yupp	FPL	1 ✓
W.E. Avera	FPL	1 ✓
T.J. Keith	FPL	2 ✓
<u>Intervenor</u>		
D. Dismukes, Ph.D.	OPC	1, 2
<u>Rebuttal</u>		
J.A. Stall	FPL	1 ✓
G. Yupp	FPL	1
W.E. Avera	FPL	1
T.J. Keith	FPL	1

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