

BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

In the Matter of:

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.



PROCEEDINGS: COMMISSION CONFERENCE AGENDA
ITEM NO. 4

COMMISSIONERS
PARTICIPATING: CHAIRMAN ART GRAHAM
COMMISSIONER LISA POLAK EDGAR
COMMISSIONER RONALD A. BRISÉ
COMMISSIONER EDUARDO E. BALBIS
COMMISSIONER JULIE I. BROWN

DATE: Tuesday, February 8, 2011

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

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FLORIDA PUBLIC SERVICE COMMISSION

FPSC-COMMISSION CLERK

P R O C E E D I N G S

CHAIRMAN GRAHAM: Item Number 4.

Now, are you sure we need all of this legal talent? I only have four pages here.
(Laughter.)

Ms. Draper, when you're ready.

MS. FLEMING: Commissioners, Katherine Fleming for Commission legal staff.

Commissioners, Item 4 addresses the proposed experimental time-of-use rate and an interruptible rate by Florida Public Utilities Company, FPUC, for its Northwest Division. The proposal only affects fuel charges, not base rates. FPUC entered into a franchise agreement with the City of Marianna which required that FPUC have in place a time-of-use and interruptible rates by February 17, 2011.

The Commission does not have jurisdiction over the terms or conditions of the franchise agreement or whether FPUC has met the requirements of the agreement. What is before the Commission today are the proposed experimental time-of-use and interruptible rates. Staff recommends that the proposed rates are a reasonable starting point for time-of-use and interruptible rates given the unique

1 constraints that FPUC faces as a nongenerating
2 utility.

3 Representatives of the utility and the
4 City of Marianna are here to address the Commission.
5 Staff is available to answer any questions that you
6 may have.

7 **CHAIRMAN GRAHAM:** Thank you.

8 We will end with the utility company, so
9 let's start with the City and other intervenors
10 first, whoever wants to go first.

11 **MR. WRIGHT:** Good morning, Mr. Chairman.
12 I'm Schef Wright, and I have the privilege of
13 representing the City of Marianna, Florida, in this
14 proceeding. Also with me today are the City
15 Manager, Mr. Jim Dean, to my right; the City
16 Attorney, Mr. Frank Bondurant to my left; and the
17 City's wholesale bulk power contract expert, Mr.
18 Bill Herrington (phonetic) who's sitting behind me.

19 One quick thing, in response to something
20 Ms. Fleming said. Staff throughout the
21 recommendation refers to these as fuel charges.
22 What they really are is fuel and purchased power
23 charges. They comprise the totality of whatever a
24 fuel energy rate is built into Gulf Power's costs,
25 plus the demand charge that they pay. So that's

1 just a factual underpinning; it's not just fuel,
2 it's purchased power.

3 In summary, Commissioners, the City of
4 Marianna opposes Florida Public Utility's request
5 for expedited treatment of its time-of-use and
6 interruptible rate proposals, and the City also
7 opposes these proposals on substantive grounds. In
8 my comments, I'm first going to address why the City
9 believes that FPU's request for expedited treatment
10 should be denied, and that the Commission should
11 simply follow your standard practice of suspending
12 proposed utility tariffs and gathering additional
13 relevant information before ruling on them, even as
14 a preliminary tariff approval matter. I will then
15 proceed with brief remarks as to why you should at
16 least suspend the time-of-use and interruptible rate
17 proposals on substantive grounds.

18 Before I go further, I want to emphasize
19 to you that the City has repeatedly told Florida
20 Public Utilities that we want to pursue negotiations
21 toward a win/win/win resolution of this. We have
22 specifically met with them on January 10th in our
23 offices, on January 20th with your Staff, and in our
24 comments we made it very clear to them that we want
25 to sit down and have what I think have to be

1 three-way negotiations involving Florida Public
2 Utilities, Gulf Power Company, the wholesale power
3 supplier, and the City of Marianna.

4 We specifically asked FPU to approach Gulf
5 to facilitate those talks. Nothing has come of our
6 request. I have got a little bit of history to
7 cover, and a little bit of context, and then I will
8 get on to why we believe you should not grant
9 expedited treatment, and that you should follow your
10 standard practice of suspending these proposed
11 tariffs.

12 In the spring of 2009, as FPU and Marianna
13 were headed up toward the expiration of the then
14 existing franchise, they began negotiations, as
15 normal, toward a new franchise agreement. At least
16 as early as May of 2009, 21 months ago, as we sit
17 here today, at least that early the date
18 February 17th, 2011, which is a critical date
19 embedded in the franchise agreement showed up in
20 drafts. The ordinance passed first reading in June,
21 it passed the second reading on July the 7th, 2009,
22 and FPU was there, they knew that the February 17th,
23 2011, deadline was out there.

24 Despite repeated requests from the City
25 during the interim as to what was going on, we

1 didn't get any information about the proposals.
2 They furnished a spreadsheet with the proposed rates
3 on December 10, 2010, 19 months after May 2009, and
4 they filed their petition on December 14th, 2010.
5 They have represented that the rates themselves
6 depend on rates embedded in a new power purchase
7 agreement amendment with Gulf Power that they
8 executed and filed with you 13 days ago today.

9 Context. Florida Public Utilities'
10 Northwest Division customers pay the highest rates
11 in the state of Florida. We pay \$20 per thousand
12 kilowatt hours residential more than FPU's
13 Northeastern Division residential customers; we pay
14 \$30 per thousand kilowatt hours more than the Gulf
15 Power customers a few miles down the road. Now, our
16 bulk -- I'll explain why this is relevant in about
17 45 seconds.

18 Our bulk power supply expert, Mr.
19 Herrington, who has negotiated numerous wholesale
20 power purchase agreements for Florida Municipal
21 Utilities advises that FPU's wholesale power rates
22 that they are paying Gulf, the Northwestern Division
23 rates, that is, are 30 to \$40 per thousand kilowatt
24 hours above market. This observation is certainly
25 consistent with the rate differences observed for

1 FPU's Northwest Division customers versus the rest
2 of the state.

3 Now I mentioned this, it's relevant
4 because FPU has represented in its petition for
5 approval of the PPA amendment that changes to the
6 existing PPA with Gulf would be necessary to
7 implement its proposed time-of-use and interruptible
8 rates. In other words, the time-of-use and
9 interruptible rates depend on the PPA amendment
10 being approved.

11 We strongly opposed the PPA amendment, and
12 we'll get to that in due course with your
13 procedures, because while it would provide very
14 modest savings in the first few years, based on what
15 we know sitting here today about how much above
16 market the Gulf Power/FPU wholesale contract is, we
17 believe that the City and all of Florida Public
18 Utilities' Northwest Division customers, both inside
19 and outside the City, would pay dramatically more in
20 2018 and 2019 than they would ever save from the
21 very modest reductions that are offered to a handful
22 of customers over the next six years.

23 Now, regarding denial of expedited
24 treatment and why we think you should suspend the
25 rates, we ask that you deny expedited treatment, and

1 we believe that you should deny expedited treatment.
2 Why? FPU created this problem. It took them 17
3 months from when they knew February 17th was coming
4 up before they even got their petition filed to
5 approve these rates.

6 Second, your standard practice,
7 Commissioners, is to suspend tariffs that come in
8 the door. I reviewed every agenda from January of
9 2009 to January of this year to look at tariff
10 filings and what came in, and here is what I found:
11 Excluding two nuclear cost-recovery matters where
12 decisions had been made approving conceptually costs
13 that came in and were approved, and excluding two no
14 critical date tariff amendments, you had 26 dockets
15 that came in the door during this time frame for
16 tariff proposals. Twenty-two of them you suspended,
17 four of them you approved without suspension.
18 There's one interesting docket that I found, and it
19 was Docket 090228-EI, where Tampa Electric proposed
20 a pilot small general service price responsive load
21 management program. You suspended that tariff.

22 Now, on its face, that's not real
23 different from the, quote, experimental time-of-use
24 rates that FPU has proposed here. Further, I don't
25 believe that anyone would seriously argue that if

1 FPL had gotten its tariff filing together in a year,
2 instead of 19 months, and filed it, say, in July of
3 2010 instead of December of 2010, you would have
4 suspended the rates. That's your standard practice.
5 I think it's virtually certain that that is what you
6 would have done. There is no good reason to vary
7 from your standard practice to accommodate this
8 situation that FPU has created.

9 Now, FPU has represented that the
10 time-of-use interruptible rates depend on the PPA
11 amendment. The City strongly opposes the PPA
12 amendment, in short, because it would extend what is
13 already a bad deal for two more years. Our bulk
14 power supply expert further advises that of the 44
15 Florida utilities that purchase all requirements
16 wholesale power service, only Florida Public
17 Utilities pays demand charges on the basis of a
18 precalculated projected annual peak demand, and no
19 utility other than FPU pays wholesale rates under
20 contracts that contain any form of a ratchet. All
21 of the other utilities pay their monthly demand
22 charges on the basis of their actual monthly billing
23 demands, which are in some instances coincident with
24 the selling utility's peak, and in some instances
25 not.

1 In short, Commissioners, the PAA is an
2 outlier that is overcharging FPU's Northwest
3 Division customers, and the City opposes its
4 extension. Because its extension is necessary --
5 FPU's word -- to approval of the time-of-use rates,
6 we believe we will oppose it. And we believe that
7 because of that necessary interrelationship, we
8 believe that the right thing for you to do is to
9 suspend the tariffs now, gather information on the
10 PPA, which, by the way, is scheduled to come before
11 you on your May 24 agenda as a proposed agency
12 action item, and go forward accordingly.

13 Now, I mentioned that I would talk about
14 substance. I will do so briefly. The proposed
15 rates themselves are not appropriate because they
16 are not cost based. They can't be cost-based
17 time-of-use rates because the costs that FPU incurs
18 from Gulf are not time differentiated costs. They
19 pay a flat energy rate through the whole year, and
20 they pay a demand charge every month that is based
21 on a precalculated level of billing demand
22 calculated from prior experience.

23 Moreover, FPU's proposed interruptible
24 rates are not cost-based in that they do not provide
25 price signals that reflect the value, if any, that a

1 customer's interruptibility provides to FPU. The
2 extended tariff had -- the current PPA has a ratchet
3 that is a minimum of 97.44 megawatts, and then it
4 can actually ratchet up. The new one does not have
5 the ratchet up feature, but it has an absolute floor
6 of 91 megawatts. It can never go below that.

7 If FPU's peak demand is below 91
8 megawatts, there is no value of interruptibility,
9 and if it is above 91 megawatts, then the value of
10 the customer being interrupted is, in fact,
11 basically a year's worth of demand charges because
12 of the way the PAA works.

13 But the proposed rate concession to the
14 customer for being interrupted is a discount of
15 about \$36,000 a year that was calculated as five
16 percent of the estimated savings that result from
17 the change in the demand charges. There is no cost
18 relationship there.

19 In summary, Commissioners, we ask that you
20 suspend FPU's proposed rates. FPU has created the
21 situation by taking 19 months from when they knew
22 February 17th was coming up to get their petition
23 filed. This behavior does not deserve to be
24 rewarded with special dispensation in the form of
25 expedited treatment.

1 Now, I want to reiterate. The City of
2 Marianna has repeatedly said to the company, to your
3 Staff, and I'm saying it here to you, we want to sit
4 down and negotiate toward a win/win/win, or at least
5 maybe everybody has to leave a little bit on the
6 table, and we're realistic enough to know that, but
7 we would like to negotiate a deal with FPU and Gulf
8 Power Company. We stand ready, willing, and able to
9 do that. We have asked to do that. We are ready to
10 go.

11 Our request is this: Please, follow your
12 standard practice. Take your time, gather all the
13 relevant information on both the rates and on the
14 PPA amendment upon which the rates depend. And, by
15 the way, again, this was filed 13 days ago. Suspend
16 the rates now, set this matter for hearing later
17 this year, or set it for another PAA on May 24th.
18 Put the tariffs back on May 24th when you take the
19 PPA amendment up as a PAA, but suspend the rates
20 now. Take your time. Get it right the first time
21 after a full evidentiary hearing, if that's how it
22 works out. Thank you very much.

23 **CHAIRMAN GRAHAM:** Thank you.

24 To the utility.

25 **MS. KEATING:** Good morning, Mr. Chairman,

1 Commissioners. Beth Keating with Gunster Yoakley
2 here today on behalf of Florida Public Utilities.
3 Sitting here with me at the table is Mr. Tom
4 Geoffroy, Vice President with the Company, and Mr.
5 Robert Camfield, our expert consultant from
6 Christensen Associates.

7 First of all, let me thank you for the
8 opportunity to address you on this item, and we
9 would also like to express our appreciation to your
10 professional staff for this good recommendation that
11 we, not surprisingly, fully support; and we
12 appreciate their efforts to bring this to you in a
13 timely manner.

14 We would urge you to approve your staff's
15 recommendation, but before that I would like to
16 respond to some of the comments that the City has
17 raised. First and foremost, the company has been
18 very willing to sit down with the City and try to
19 come to a win/win situation, and continues to
20 express that sentiment. The company actually asked
21 the City for an extension of time under the
22 franchise in order to try to come to a resolution
23 that might be more amenable to the City. And,
24 unfortunately, that was not acceptable to the City.

25 But Mr. Wright brings up the issue of the

1 PPA and the amendment to the PPA that is before you
2 in another docket. And let me emphasize that that
3 is in another docket, it is a matter separate and
4 apart from the issue that is before you today. The
5 issue that is before you today is the company's
6 proposed experimental tariff for time-of-use and
7 interruptible rates, and we would ask that you
8 consider the issue that's before you within the
9 context of the staff's recommendation.

10 Mr. Wright has also suggested that you
11 should suspend the tariff in accordance with
12 Commission practice. And certainly that is your
13 right under the statute to do that if you so choose.
14 However, your Staff has gathered from the company
15 the information that your Staff believes is
16 sufficient to recommend to you that this
17 experimental program be approved.

18 We have provided the information that's
19 necessary to support that recommendation and our
20 petition, and there is no reason for you to suspend,
21 because the issue is before you now with a complete
22 recommendation. Typically in other dockets when the
23 Commission has decided to suspend a tariff that's
24 before them, there has not been enough information
25 for your professional staff to develop a full and

1 complete recommendation. That simply isn't the case
2 here. And in this instance, the request by the City
3 to suspend the rates has impacts beyond the context
4 of this docket. It actually would take a
5 franchise-related issue that's not before you today,
6 but it would take a franchise-related issue out of
7 the hands of the court and actually end up having --
8 complicating matters beyond the regulatory context.

9 So because your Staff has been able to
10 develop a recommendation and bring it to you today,
11 we would ask that you go ahead and approve the
12 recommendation that's before you.

13 Commissioners, the company fully
14 understands that it is our burden to support our
15 petition. The company has taken every step possible
16 in the 16 months since it entered into the franchise
17 agreement to negotiate the necessary underlying
18 amendment to their purchased power agreement that
19 would enable the company to develop the time-of-use
20 and interruptible rates that it has proposed. It
21 has done everything that it possibly could to bring
22 this before you in a timely manner. This was not a
23 small task, and we have done everything in a timely
24 manner. This is not -- the company has taken this
25 very seriously. The company has invested huge

1 amounts of time and money to bring this before you.

2 And with that I'd like to turn to Mr.
3 Geoffroy and Mr. Camfield to respond to some of the
4 comments about the cost basis and the other issues
5 that Mr. Wright raised.

6 **MR. GEOFFROY:** Thank you, Commissioners.
7 I'm Tom Geoffroy, Vice President for Florida Public
8 Utilities. Mr. Camfield will also, I think, speak a
9 little bit to the cost basis of the rates. We,
10 quite frankly, just do not agree with the City's
11 interpretation that it's not cost-based. Certainly,
12 the costs that go into the levelized fuel rate that
13 this Commission has approved for the company are
14 cost-based, as they reflect the costs of the
15 contract that we have for purchased power.

16 What we did is based on the negotiations
17 we had with Southern, Gulf Power's agent, Southern
18 Company, we have negotiated a reduction in demand
19 charges, and that's critical for the development of
20 time-of-use rates. With those demand charge
21 reductions, we have, in essence, guaranteed savings
22 that we can then apply to use -- to develop
23 time-of-use rates, and that's exactly what we did.
24 So we took known savings, known cost reductions to
25 develop time-of-use rates, and therefore it's our

1 view that we have met the burden of cost-based
2 rates.

3 Mr. Camfield, would you like to elaborate
4 on that any?

5 **MR. CAMFIELD:** My name is Robert Camfield,
6 Vice President with Christensen Associates Energy
7 Consulting; we operate from Madison, Wisconsin. And
8 to echo the comments of Tom Geoffroy, there is no
9 basis for the assertion that these rates, proposed
10 time-of-use rates for the pilot program of FPU are
11 not cost-based.

12 As mentioned, and as you are aware, the
13 time-of-use rates here are based upon the costs, the
14 input costs of FPU and the Northeast -- Northwest
15 Division, excuse me. And these cost components
16 consist of, in the case of the power supply
17 agreement, the demand and energy charges for and
18 underneath that agreement. In addition, it accounts
19 for the transmission costs incurred by the company,
20 input costs for transmission services provided by
21 Southern Company under its open access transmission
22 tariff. And then, thirdly, we also account for the
23 marginal cost of distribution services as well as
24 the line losses.

25 And the line costs, coupled with

1 distribution, coupled with transmission, and also
2 the fact that the demand charges are related to the
3 higher peak periods incurred by the company to serve
4 retail loads during peak periods are much higher
5 than they are in the off-peak periods, obviously.

6 And so as a result of these demand
7 charges, both transmission as well as generation,
8 coupled with the marginal cost pattern of
9 distribution line losses, you have highly varying
10 cost experience for the company in service of its
11 retail loads in the northwest, and that is the cost
12 basis used by the company to develop the time-of-use
13 rates.

14 **CHAIRMAN GRAHAM:** All right. We will
15 bring it back here to the board. Everything is
16 lighting up.

17 Commissioner Edgar.

18 **COMMISSIONER EDGAR:** Thank you, Mr.
19 Chairman.

20 A question for Mr. Wright. In the
21 documents that are in the record, and also in your
22 discussion today, you have touched pretty hard on
23 the fact -- on your statements that the proposal is
24 not cost-based. But yet it seems like you are also
25 saying that because FPUC is a nongenerating utility,

1 that it could not, that a time-of-use proposal could
2 not be cost-based. So if I'm following that logic,
3 then to have more time to negotiate doesn't seem
4 like that would be all of that helpful, if, indeed,
5 time-of-use cannot be cost-based in this instance.
6 And that is a question. (Laughter.)

7 **MR. WRIGHT:** Thank you.

8 A couple of things. In the first place,
9 the demand charges, there is no argument -- I could
10 cite you to the rate study and to the PPA -- there
11 is no argument that the energy charge that FPU pays
12 Gulf is a flat energy charge for the whole year.
13 There is further no argument, I do not believe, that
14 the demand charges, new PPA as amended, old PPA,
15 there is no argument that the demand charges are
16 predetermined and calculated on a precalculation
17 basis for the following year, the same demand charge
18 applies throughout the year. If demand is less than
19 91 megawatts, they pay 91,000 kW times the demand
20 charge. If it's greater than that from the
21 precalculation, then they pay that amount. Those
22 are not time-differentiated rates.

23 To respond to your second point, however,
24 let me say this -- let me say one other thing. It's
25 not my job to do their work for them, but they could

1 have done a lot -- I will tell you, I used to be a
2 rate guy. I had Connie's job before Connie did.
3 One could do a whole lot better designing
4 time-of-use rates and interruptible rates. I
5 actually was the lead staff person on your
6 interruptible rates rule in Docket 830512. They
7 could have done a lot better with that, as well. In
8 fact, I suggested how they might have in my earlier
9 comments.

10 But with respect to your remark about
11 negotiations, the negotiations are not
12 necessarily -- in fact, in our view and in the
13 Company's view, I believe, they are not limited just
14 to negotiating time-of-use rates. They are -- the
15 idea is that we would sit down with Gulf and the
16 Company, Florida Public Utilities Company, that is,
17 and the City and try to negotiate a global
18 resolution that would provide value to Gulf, value
19 to the company, and value to the City and to the
20 citizens of Marianna, and ultimately, although we
21 are not purporting to represent folks outside the
22 City of Marianna, the idea is that it would enure to
23 their benefit, as well. We are looking for a global
24 win/win/win that provides benefit to all parties.
25 Those are the negotiations we were talking about.

1 **COMMISSIONER EDGAR:** But does that not go
2 beyond the issue that is before us today?

3 **MR. WRIGHT:** That does, sure. But I was
4 answering your question. You know, and you're
5 right, based on what the company has done, in terms
6 of its rate design and in terms of the negotiation
7 it had with Gulf, based on that I think you are
8 right. Further negotiations just on time-of-use
9 rates, you know, probably aren't going to get us
10 anywhere with what we have to work with today.
11 Further negotiations with respect to the global
12 issues that involve all three companies may well.
13 When we met with them four weeks ago, we were
14 moderately hopeful. And as I said, we asked them to
15 contact Gulf and see about setting up a three-way
16 meeting, but nothing came of that.

17 But the issue before you today is, as we
18 all recognize, very simply whether you should
19 suspend the rates. We take the position that you
20 should follow your standard practice, suspend the
21 rates. They depend integrally. They are necessary.
22 The PPA amendment is necessary to the rates. You
23 just got that; you shouldn't rule on the rates now.
24 Separate docket or not, realistically you should
25 consolidate these anyway.

1 Thank you.

2 COMMISSIONER EDGAR: Thank you.

3 CHAIRMAN GRAHAM: Commissioner Balbis.

4 COMMISSIONER BALBIS: Thank you, Mr.

5 Chair.

6 I have a few questions. The first
7 question for Mr. Wright. As representing the City
8 of Marianna, I guess it's pretty clear that you are
9 not in support of FPUC's efforts before this
10 Commission, correct, to get this approved, the
11 interim rates or the interruptible rates approved?

12 MR. WRIGHT: That is correct, yes, sir.
13 We oppose the rates, we oppose expedited treatment,
14 and we oppose the rates on substantive grounds, as I
15 said.

16 COMMISSIONER BALBIS: Okay. In 2009, when
17 the franchise agreement was approved, the purchased
18 power agreement was already in place which was, I
19 believe, executed in 2007, correct?

20 MR. WRIGHT: Yes, sir.

21 COMMISSIONER BALBIS: So what was the
22 purpose of adding Section 17, which required FPUC to
23 establish the interruptible rates and the
24 time-of-use rates, knowing that the existing
25 purchased power agreement, it would have no effect.

1 Because as you stated, clearly, the peak rate is
2 what the purchased power agreement states on, so
3 whether or not there is a reduction does not result
4 in any savings to the customer. So, therefore, it
5 could not be a cost-based rate, is that correct? Or
6 at least explain why that was added in the
7 agreement.

8 **MR. WRIGHT:** I hope this Mr. Bondurant
9 and/or Mr. Dean are going to help me out here, but
10 my understanding is that what we expected and what
11 we believe that we bargained for was that FPU would
12 come up with real time-of-use rates and real
13 interruptible rates that would provide benefits,
14 appropriate cost signals, and some rate relief to
15 more than a handful of customers. Have you got
16 anything to add?

17 **MR. BONDURANT:** I agree with what Mr.
18 Wright just said. And it was our goal to have real
19 cost savings and real time-of-use and interruptible
20 rates available to all the customers, not just to
21 the first 900 customers who may sign up.

22 You know, the fact that the purchased
23 power agreement with Gulf would not necessarily
24 allow for that, we recognize that, but we felt it
25 was incumbent on FPU to go to Gulf and negotiate an

1 amendment that would allow for those rates. And if
2 they weren't prepared to do that, or didn't think
3 they should do that, they could do that, they
4 shouldn't have signed that franchise agreement.

5 **COMMISSIONER BALBIS:** Okay. So I guess to
6 clarify, that section was added in order to
7 encourage FPUC to revise the purchased power
8 agreement to include a provision so that there would
9 be a true savings if interruptible rates or
10 time-of-use rates were implemented, is that correct?

11 **MR. BONDURANT:** Yes, sir.

12 **COMMISSIONER BALBIS:** And I guess a
13 question for staff. It will come before us, the
14 purchased power agreement, the revision to that?

15 **MS. DRAPER:** Yes. The amended purchased
16 power agreement is in a separate docket and will be
17 before the Commission.

18 **COMMISSIONER BALBIS:** Okay. Because I do
19 have concerns if it is true that this area does have
20 some of the highest rates in the state. I mean,
21 that's something that concerns me, and hopefully we
22 will have the ability to look at the provisions of
23 that purchase power agreement. And I guess, just
24 back to my earlier statement, I agree that -- well,
25 I agree with Mr. Wright, it doesn't appear to be a

1 cost-based tariff in that there is no savings to
2 FPUC. However, I did discuss with staff the
3 ability -- really the cost basis for the tariffs is
4 simply to pay for the pilot program.

5 So you have those customers that would
6 like to participate and do change -- if it's the
7 time-of-use rate, do change their behavior, they
8 will see a reduction in their rates, and that
9 recovery of the revenue will be subsidized by those
10 customers that participate and do not change their
11 behavior. And I guess that question is for staff.
12 Is that a correct statement?

13 **MS. DRAPER:** The consulting firm that FPUC
14 hired developed the model that projects customer
15 behavior on the time-of-use rate, and those bill
16 savings, those projected bill savings correlate to
17 the savings allocated to the time-of-use rates. The
18 savings, I mean the savings that were negotiated
19 with the amendment agreement. So the participation
20 in the time-of-use rates is limited to, like, 940
21 residential customers, because hopefully those 940
22 customers will change their behavior, and that
23 correlates to the savings allocated to the rate,
24 which protects the nonparticipating customers.

25 **COMMISSIONER BALBIS:** Okay. And I guess

1 that's one of my other main concerns is that you
2 have customers that agree to participate, do not
3 change their behavior, they have an increase in
4 their rates, and what happens to those funds? And
5 is there a way that we can have almost an interim
6 period, or the ability for customers that propose to
7 participate to have a side-by-side comparison of if
8 they would have -- if it wasn't the interim process,
9 if they receive a bill if they would have
10 participated and then if not, just to kind of
11 compare. That's more of a statement.

12 I have one more question for staff. There
13 has been a lot of statements that our standard
14 practice is to suspend the tariffs. What is our
15 normal reason for suspending? Is it for lack of
16 information, or is it for another reason?

17 **MS. DRAPER:** Yes, Commissioner, we always
18 have the option to suspend the tariff, but staff
19 typically provides you a recommendation to suspend,
20 if we believe that we need additional information to
21 be gathered. And in this case, staff was able to
22 send out two rounds of discovery. FPUC provided
23 those responses on an expedited treatment. We also
24 had a meeting with the parties, and staff would like
25 to note that in that meeting staff explored the

1 option to extend the deadline, the February 17th
2 deadline, and the City of Marianna was not willing
3 to do that.

4 **COMMISSIONER BALBIS:** Okay. That's all I
5 have.

6 **CHAIRMAN GRAHAM:** Commissioner Brown.

7 **COMMISSIONER BROWN:** This is for Ms.
8 Draper. But if we did agree to suspend the tariffs,
9 are there any additional data requests that would be
10 helpful in our decision-making process?

11 **MS. DRAPER:** Staff feels comfortable with
12 its recommendation, but, I mean, one can always
13 gather more data, and I imagine the City of Marianna
14 would issue data requests and explore that issue
15 further. I would just like to note if you do choose
16 to approve the tariff, the City has the option to
17 protest the tariff, and then we would be in a
18 hearing mode, and then obviously we would have
19 witnesses testimony, depositions, and then we could
20 more thoroughly explore the tariff. But since it is
21 optional and experimental, putting it into place, I
22 don't see the harm to the customers because it gives
23 them an option to save on their bills.

24 **COMMISSIONER BROWN:** And, also, staff
25 encouraged and tried to facilitate an extension of

1 that February 17th, and I just wanted to make sure
2 that that was accurate prior to discussions, that
3 there was a heavy movement on staff's part to
4 encourage extending that deadline.

5 **MS. DRAPER:** We asked that question in our
6 meeting and were told that if the tariffs are not in
7 effect by February 17th the franchise agreement
8 would go away.

9 **COMMISSIONER BROWN:** And may I ask a
10 question of Mr. Wright here. Why is the City
11 reluctant to extend that February 17th deadline when
12 you have indicated that you would like a win/win
13 situation?

14 **MR. WRIGHT:** To be clear, the franchise
15 agreement gives us the rights we bargained for. We
16 offered to extend the deadline, but in return for
17 that we wanted the same protection we would have,
18 that is, to be able to walk away from the franchise
19 agreement. We are not saying we would. I
20 think there are -- I can think of at least three
21 win/win/wins that can work if we can get all three
22 parties at the table.

23 We offered an extension, but we wanted the
24 condition put on it that we would not find ourselves
25 back here arguing over rates and the PPA amendment

1 six months down the road, and that was specifically
2 the time we talked about. We were happy to have the
3 extension, but we wanted the unequivocal right to
4 terminate the franchise if those negotiations did
5 not pan out.

6 **COMMISSIONER BROWN:** And just in fairness,
7 if FPUC would like to respond to that.

8 **MS. KEATING:** I'm not disagreeing with Mr.
9 Wright's characterization of that. I think we just
10 would put a different emphasis on it. Our
11 understanding was that the City was willing to grant
12 the extension, but with the unilateral right at the
13 end date to purchase the company's facilities.

14 **COMMISSIONER BROWN:** Okay. And just
15 another question, a follow-up. How long have you
16 been gathering information? Mr. Wright contends
17 that this came to fruition at the end of the
18 December of 2010, but to my knowledge your
19 consultant was hired well in advance of that. And I
20 just wanted kind of a rough estimate of how long you
21 have been working on gathering the data for this
22 tariff.

23 **MR. GEOFFROY:** This is Tom Geoffroy. My
24 understanding is, and part of my uncertainty is that
25 in the middle of all of this there was an

1 acquisition. Chesapeake Utilities purchased Florida
2 Public Utilities, and I'm a Chesapeake Utilities'
3 employee, also vice-president for Florida Public
4 Utilities now. So I don't have the entire history,
5 but my understanding is that we began work on this
6 immediately during those franchise discussions and
7 execution of that.

8 There's many things that go into working
9 on developing rates, renegotiating contracts, et
10 cetera, and it does take quite a lengthy time. It's
11 unfortunate that it took as long as it did, but
12 there are many different negotiations that were
13 going on, many different discussions.

14 **COMMISSIONER BROWN:** Oh, I'm empathetic to
15 that. I understand that.

16 And one of my concerns was with regard to
17 getting into the substance of this, because there
18 are a lot of subissues going on here, but the pilot
19 program appears to run in perpetuity, and there
20 doesn't seem to be any definitive deadline or end
21 date. And our pilot programs, typically from my
22 knowledge, have a run date, you know, an expiration,
23 whether it be four years or whatnot. I know -- is
24 that something that you would consider? I know we
25 have an annual review of how it's going, but I would

1 like to see an end date if we implement this.

2 **MR. GEOFFROY:** We are certainly amenable
3 to putting an end date on it. We are aware that
4 that is the practice. We did not propose one simply
5 because at a minimum we thought that this pilot
6 program should correspond to the amended term of the
7 agreement. But we certainly can look at a certain
8 end date. We would be happy to do that at four
9 years. And, quite frankly, if we have the
10 opportunity, and we gain the knowledge that we are
11 looking to gain in this, we would look to make them
12 permanent prior to that.

13 **COMMISSIONER BROWN:** Okay. Thank you.
14 That's all.

15 **CHAIRMAN GRAHAM:** All right. I don't see
16 any other lights on. Did you want to make a motion
17 and put an end date?

18 **COMMISSIONER BROWN:** First, I'd would like
19 to add some comments.

20 **CHAIRMAN GRAHAM:** Sure.

21 **COMMISSIONER BROWN:** Given the fact that
22 staff has received two data requests, has received
23 information that they need and they do not feel that
24 it's necessary to suspend the tariffs, I don't think
25 that if we suspend it we're going to be in a better

1 situation than we are today. That being said, and
2 reviewing this and understanding that the cost basis
3 for setting these rates are as accurate and
4 reasonable and fair as we can get with this type of
5 utility, I think I would like to move staff's
6 recommendation with the caveat that the pilot
7 program end within four years of our approval.

8 **CHAIRMAN GRAHAM:** It has been moved and
9 seconded to approve staff recommendation with the
10 caveat that there is an end date, which is four
11 years from the date of the approval.

12 Any further discussion? Seeing none, all
13 in favor say aye.

14 (Vote taken.)

15 **CHAIRMAN GRAHAM:** Those opposed?

16 By your action you've approved staff
17 recommendation on Item Number 4 with the caveat with
18 this ending in four years.

19 **MR. KEATING:** Thank you, Commissioners.

20 **CHAIRMAN GRAHAM:** Do we have anything else
21 to come before us today?

22 Once again, I want to thank you all for
23 coming out and braving the cold and giving me my
24 latitude this morning on the invocation. And that
25 all being said, we are now adjourned.

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STATE OF FLORIDA)

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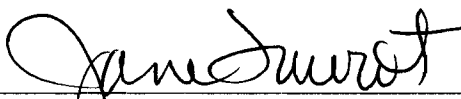
COUNTY OF LEON)

I, JANE FAUROT, RPR, Chief, Hearing Reporter Services Section, FPSC Division of Commission Clerk, 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 10th day of February, 2011.



JANE FAUROT, RPR
Official FPSC Hearings Reporter
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