

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Fuel and purchased power cost recovery
clause with generating performance incentive
factor.

DOCKET NO.: 20220001-EI

FILED: October 28, 2022

AMENDED PRE-HEARING STATEMENT OF THE OFFICE OF PUBLIC COUNSEL

The Citizens of the State of Florida, by and through the Office of Public Counsel, pursuant to the Order Establishing Procedure, Order No. PSC-2022-0052-PCO-EI, issued February 7, 2022, hereby submit this Amended¹ Prehearing Statement.

APPEARANCES:

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On behalf of the Citizens of the State of Florida

1. WITNESSES:

Witness	Subject Matter	Issue #
Direct		
Richard E. Polich, P.E.	Engineering, operations and maintenance	All Issues related to FPL, including but not limited to, 2A—2J, Contested Issues C, E, F

¹ Since other parties have indicated their agreement with the OPC on certain issues, the OPC is providing updated positions on certain issues so that parties will have the opportunity to reassess their support for the OPC positions at the earliest possible time. Also, given that there has been agreement reached among that parties and staff for deferral of nuclear plant outage issues for FPL, the OPC is showing information related to those issues as stricken-through.

2. EXHIBITS:

Witness	Proffered by	Exhibit No.	Description	Issue #
Direct				
Polich	OPC	RAP-1	RESUME OF RICHARD A. POLICH, P.E.	All Issues
Polich	OPC	RAP-2	LIST OF RICHARD A. POLICH TESTIMONY	All Issues
Polich	OPC	RAP-3	COMPOSITE – FPL’S AUGUST 3, 2022 OBJECTIONS TO OPC’S DISCOVERY; FPL’S RESPONSES AND OBJECTIONS TO INT. 16 AND POD 20; AND EXCERPT OF FPL’S –APRIL 1, 2022 PETITION	All Issues
Polich	OPC	RAP-4	SEPTEMBER 12, 2019 NRC NOTICE OF VIOLATION	All Issues
Polich	OPC	RAP-5	APRIL 6, 2021 NRC NOTICE OF VIOLATION	All Issues
Polich	OPC	RAP-6	SEPTEMBER 30, 2021 NRC SUPPLEMENTAL INSPECTION REPORT	All Issues
Polich	OPC	RAP-7	FPL’S RESPONSE TO OPC INTERROGATORY NOS. 37 – 40	All Issues
Polich	OPC	RAP-8	APRIL 15, 2019 NRC INSPECTION REPORT	All Issues
Polich	OPC	RAP-9	FEBRUARY 11, 2021 NRC INSPECTION REPORT RAP	All Issues
Polich	OPC	RAP-10	PERFORMANCE DATA FOR 2010-2021	All Issues
Polich	OPC	RAP-11	TURKEY POINT UNIT 4 ROOT CAUSE EVALUATION RE: GENERATOR LOCKOUT FROM LOSS OF EXCITER	All Issues
Polich	OPC	RAP-12	FPL’S RESPONSE TO STAFF’S INTERROGATORY NO. 4	All Issues
Polich	OPC	RAP-13	TURKEY POINT UNIT 4 ROOT CAUSE EVALUATION RE. REACTOR TRIP DURING RESTORATION FROM RPS TESTING	All Issues

3. STATEMENT OF BASIC POSITION

The utilities have the burden of proof to justify and support the recovery of costs and their proposal(s) seeking the Commission's adoption of policy statements (whether new or changed) or

other affirmative relief sought, regardless of whether the Interveners provide evidence to the contrary. Further, the utilities have the burden to prove they have dispatched generation, operated and maintained plants, and incurred fuel costs in the most efficient and prudent manner. Regardless of whether the Commission has previously approved a program as meeting the Commission's requirements, the utilities must still meet their burden of demonstrating that the costs submitted for final recovery meet the statutory test(s) and are reasonable in amount and prudently incurred.

4. STATEMENT OF FACTUAL ISSUES AND POSITIONS

I. FUEL ISSUES

Duke Energy Florida, LLC.

ISSUE 1A: Should the Commission approve DEF's 2023 Risk Management Plan?

OPC: No.

ISSUE 1B: What is the appropriate subscription bill credit associated with DEF's Clean Energy Connection Program, approved by Order No. PSC-2021-0059-S-EI, to be included for recovery in 2023?

OPC: No position at this time.

ISSUE 1C: Has DEF made appropriate adjustments, if any are needed, to account for replacement power costs associated with the January 2021 to April 2021 outage in Bartow CC Unit 4A and/or the May 2021 to July 2021 outage in Bartow CC Unit 4C? If appropriate adjustments are needed and have not been made, what adjustments should be performed?

OPC: No position at this time. (This issue may be premature given the Supreme Court Schedule.)

ISSUE 1D: What is the impact on this docket, if a decision is issued in Case SC20-1601 before January 1, 2023?

OPC: This issue is moot

ISSUE 1E: What is the impact on this docket, if a decision is issued in Case SC22-94 before January 1, 2023?

OPC: No position at this time. (This issue may be premature given the Supreme Court Schedule.)

ISSUE 1F: If the decision in Case SC22-94 requires the return of replacement power costs to customers, what interest amount should be applied?

OPC: No position at this time. (This issue may be premature given the Supreme Court Schedule.)

ISSUE 1G: Has DEF made appropriate adjustments, if any are needed, to account for replacement power costs associated with the March 2022 outage at Hines Unit 4? If appropriate adjustments are needed and have not been made, what adjustments should be performed?

OPC: No position at this time.

Florida Power & Light Company

ISSUE 2A: What was the total gain under FPL's Incentive Mechanism approved by Order No. PSC-2016-0560-AS-EI that FPL may recover for the period January 2021 through December 2021, and how should that gain to be shared between FPL and customers?

OPC: No position at this time.

ISSUE 2B: What is the appropriate amount of Incremental Optimization Costs under FPL's Incentive Mechanism approved by Order No. PSC-2016-0560-AS-EI that FPL should be allowed to recover through the fuel clause for Personnel,

Software, and Hardware costs for the period January 2021 through December 2021?

OPC: No position at this time.

ISSUE 2C: What is the appropriate amount of Variable Power Plant O&M Attributable to Off-System Sales under FPL's Incentive Mechanism approved by Order No. PSC-2016-0560-AS-EI that FPL should be allowed to recover through the fuel clause for the period January 2021 through December 2021?

OPC: No position at this time.

ISSUE 2D: What is the appropriate amount of Variable Power Plant O&M Avoided due to Economy Purchases under FPL's Incentive Mechanism approved by Order No. PSC-2016-0560-AS-EI that FPL should be allowed to recover through the fuel clause for the period January 2021 through December 2021?

OPC: No position at this time.

ISSUE 2E: What is the appropriate subscription credit associated with FPL's SolarTogether Program approved by Order No. PSC-2020-0084-S-EI, to be included for recovery in 2023?

OPC: No position at this time.

ISSUE 2F: Should the Commission approve FPL's 2023 Risk Management Plan?

OPC: No position at this time.

ISSUE 2G: What is the proper methodology for FPL to calculate replacement power costs associated with an unplanned outage?

OPC: No position at this time. To be deferred.

ISSUE 2H: Were each of the unplanned outages that occurred during 2020 the result of FPL actions or decisions that were prudent? If not, what adjustments should be made?

OPC: No. The utility bears the burden of proof for recovery of costs claimed. At this time, FPL has not demonstrated that its actions related to the outages were reasonable and prudent, or that replacement power costs should be borne by customers. To be deferred.

ISSUE 2I: Were each of the unplanned outages that occurred during 2021 the result of FPL actions or decisions that were prudent? If not, what adjustments should be made?

OPC: No. The utility bears the burden of proof for recovery of costs claimed. At this time, FPL has not demonstrated that its actions related to the outages were reasonable and prudent, or that replacement power costs should be borne by customers. To be deferred.

ISSUE 2J: Were each of the unplanned outages that occurred during 2022 the result of FPL actions or decisions that were prudent? If not, what adjustments should be made?

OPC: No. The utility bears the burden of proof for recovery of costs claimed. At this time, FPL has not demonstrated that its actions related to the outages were reasonable and prudent, or that replacement power costs should be borne by customers. To be deferred.

Florida Public Utilities Company

No company-specific fuel issues for Florida Public Utilities Company have been identified at this time. If such issues are identified, they shall be numbered 3A, 3B, 3C, and so forth, as appropriate.

Gulf Power Company

Any company-specific fuel issues for Gulf Power Company will be addressed under Florida Power & Light Company above.

Tampa Electric Company

ISSUE 4A: What was the total gain under TECO's Optimization Mechanism approved by Order No. PSC-2017-0456-S-EI that TECO may recover for the period January 2021 through December 2021, and how should that gain to be shared between TECO and customers?

OPC: No position..

ISSUE 4B: Should the Commission approve TECO's 2023 Risk Management Plan?

OPC: No position.

ISSUE 4C: Has TECO made appropriate adjustments, if any are needed, to account for replacement power costs associated with any outages that occurred during 2021 and 2022? If appropriate adjustments are needed and have not been made, what adjustments should be performed?

OPC: No position.

GENERIC FUEL ADJUSTMENT ISSUES

ISSUE 5: **What are the appropriate actual benchmark levels for calendar year 2022 for gains on non-separated wholesale energy sales eligible for a shareholder incentive?**

OPC: No position.

ISSUE 6: **What are the appropriate estimated benchmark levels for calendar year 2023 for gains on non-separated wholesale energy sales eligible for a shareholder incentive?**

OPC: No position.

ISSUE 7: **What are the appropriate final fuel adjustment true-up amounts for the period January 2021 through December 2021?**

OPC: The OPC is not in agreement that the Companies have demonstrated that they have met their burden to demonstrate that costs are reasonable and prudent. A significant percentage of the costs on a customer's bill is based on clause recovery in this docket and others. The Commission has not held a contested proceeding where testimony from witnesses was heard and discussed in open hearing. The OPC does not agree, given these circumstances, that the costs proposed for final true-up can necessarily be deemed prudent.

ISSUE 8: **What are the appropriate fuel adjustment actual/estimated true-up amounts for the period January 2022 through December 2022?**

OPC: The OPC is not in agreement that the Companies have demonstrated that they have met their burden to demonstrate that costs are reasonable and prudent. A significant percentage of the costs on a customer's bill is based on clause recovery in this docket and others. The Commission has not held a contested proceeding where testimony from witnesses was heard and discussed in open hearing. The OPC does

not agree, given these circumstances, that the costs proposed for final true-up can necessarily be deemed prudent. The factors proposed by the companies are incorrect and accordingly there is insufficient information to provide effective notice as to the level of the true up amounts, the fuel factor for this period, and the rates to be in effect in 2023.

ISSUE 9: What are the appropriate total fuel adjustment true-up amounts to be collected/refunded from January 2023 through December 2023?

OPC: The OPC is not in agreement that the Companies have demonstrated that they have met their burden to demonstrate that costs are reasonable and prudent. A significant percentage of the costs on a customer's bill is based on clause recovery in this docket and others. The Commission has not held a contested proceeding where testimony from witnesses was heard and discussed in open hearing. The OPC does not agree, given these circumstances, that the costs proposed for final true-up can necessarily be deemed prudent. The amounts proposed by the companies are incorrect. If 2022 true-up amounts cannot be determined with enough certainty for purposes of establishing rates, then it stands to reason that the more distant projections of fuel prices and thus costs for 2023 are inherently unreliable and cannot form the basis for setting rates. Accordingly, there is also insufficient information to provide effective notice as to the level of the projected fuel costs, the fuel factor for 2023, and the rates to be in effect in 2023.

ISSUE 10: What are the appropriate projected total fuel and purchased power cost recovery amounts for the period January 2023 through December 2023?

OPC: The OPC is not in agreement that the Companies have demonstrated that they have met their burden to demonstrate that costs are reasonable and prudent. A significant percentage of the costs on a customer's bill is based on clause recovery in this docket and others. The Commission has not held a contested proceeding where testimony from witnesses was heard and discussed in open hearing. The OPC does not agree, given these circumstances, that the costs proposed for final true-up can

necessarily be deemed prudent. The amounts proposed by the companies are incorrect. If 2022 true-up cost amounts cannot be determined with enough certainty for purposes of establishing rates, then it stands to reason that the more distant projections of fuel prices and thus costs for 2023 are inherently unreliable and cannot form the basis for setting rates. Accordingly, there is also insufficient information to provide effective notice as to the level of the projected fuel costs, the fuel factor for 2023, and the rates to be in effect in 2023.

GENERIC GPIF ISSUES

ISSUE 14: What is the appropriate GPIF reward or penalty for performance achieved during the period January 2021 through December 2021 for each investor-owned electric utility subject to the GPIF?

OPC: No position.

ISSUE 15: What should the GPIF targets/ranges be for the period January 2023 through December 2023 for each investor-owned electric utility subject to the GPIF?

OPC: No position.

FUEL FACTOR CALCULATION ISSUES

ISSUE 16: What are the appropriate projected net fuel and purchased power cost recovery and Generating Performance Incentive amounts to be included in the recovery factor for the period January 2023 through December 2023?

OPC: The cost recovery amounts proposed by the companies are incorrect. If 2022 true-up cost amounts cannot be determined with enough certainty for purposes of establishing rates, then it stands to reason that the more distant projections of fuel prices and thus costs for 2023 are inherently unreliable and cannot form the basis for setting rates. Accordingly there is also insufficient information to provide effective notice as to the level of the projected fuel costs, the fuel factors for 2023, and the rates to be in effect in 2023.

ISSUE 17: What is the appropriate revenue tax factor to be applied in calculating each investor-owned electric utility's levelized fuel factor for the projection period January 2023 through December 2023?

OPC: No position.

ISSUE 18: What are the appropriate levelized fuel cost recovery factors for the period January 2023 through December 2023?

OPC: The cost recovery amounts proposed by the companies are incorrect. If 2022 true-up cost amounts cannot be determined with enough certainty for purposes of establishing rates, then it stands to reason that the more distant projections of fuel prices and thus costs for 2023 are inherently unreliable and cannot form the basis for setting rates. Accordingly there is also insufficient information to provide effective notice as to the level of the projected fuel costs, the fuel factors for 2023, and the rates to be in effect in 2023.

ISSUE 19: What are the appropriate fuel recovery line loss multipliers to be used in calculating the fuel cost recovery factors charged to each rate class/delivery voltage level class?

OPC: No position.

ISSUE 20: What are the appropriate fuel cost recovery factors for each rate class/delivery voltage level class adjusted for line losses?

OPC: The cost recovery amounts proposed by the companies are incorrect. If 2022 true-up cost amounts cannot be determined with enough certainty for purposes of establishing rates, then it stands to reason that the more distant projections of fuel prices and thus costs for 2023 are inherently unreliable and cannot form the basis for setting rates. Accordingly there is also insufficient information to provide

effective notice as to the level of the projected fuel costs, the fuel factors for 2023, and the rates (including rate class allocations) to be in effect in 2023

II. CAPACITY ISSUES

COMPANY-SPECIFIC CAPACITY COST RECOVERY FACTOR ISSUES

Duke Energy Florida, LLC.

ISSUE 21A: What is the appropriate amount of costs for the Independent Spent Fuel Storage Installation (ISFSI) that DEF should be allowed to recover through the capacity cost recovery clause pursuant to DEF's 2017 Settlement?

OPC: No position at this time.

ISSUE 21B: What adjustment amounts should the Commission approve to be refunded through the capacity clause associated with the Duette SoBRA III project in Docket No. 20200245-EI?

OPC: No position at this time.

ISSUE 21C: What DOE Settlement Spent Fuel Claim amount should the Commission approve to be recovered through the capacity clause?

OPC: No position at this time.

GENERIC CAPACITY COST RECOVERY FACTOR ISSUES

ISSUE 24: What are the appropriate final capacity cost recovery true-up amounts for the period January 2021 through December 2021?

OPC: The OPC is not in agreement that the Companies have demonstrated that they have met their burden to demonstrate that costs are reasonable and prudent. A significant percentage of the costs on a customer's bill is based on clause recovery in this

docket and others. The Commission has not held a contested proceeding where testimony from witnesses was heard and discussed in open hearing. The OPC does not agree, given these circumstances, that the costs proposed for final true-up can necessarily be deemed prudent.

ISSUE 25: What are the appropriate capacity cost recovery actual/estimated true-up amounts for the period January 2022 through December 2022?

OPC: The OPC is not in agreement that the Companies have demonstrated that they have met their burden to demonstrate that costs are reasonable and prudent. A significant percentage of the costs on a customer's bill is based on clause recovery in this docket and others. The Commission has not held a contested proceeding where testimony from witnesses was heard and discussed in open hearing. The OPC does not agree, given these circumstances, that the costs proposed for final true-up can necessarily be deemed prudent.

ISSUE 26: What are the appropriate total capacity cost recovery true-up amounts to be collected/refunded during the period January 2023 through December 2023?

OPC: The OPC is not in agreement that the Companies have demonstrated that they have met their burden to demonstrate that costs are reasonable and prudent. A significant percentage of the costs on a customer's bill is based on clause recovery in this docket and others. The Commission has not held a contested proceeding where testimony from witnesses was heard and discussed in open hearing. The OPC does not agree, given these circumstances, that the costs proposed for final true-up can necessarily be deemed prudent.

ISSUE 27: What are the appropriate projected total capacity cost recovery amounts for the period January 2023 through December 2023?

OPC: The OPC is not in agreement that the Companies have demonstrated that they have met their burden to demonstrate that costs are reasonable and prudent. A significant

percentage of the costs on a customer's bill is based on clause recovery in this docket and others. The Commission has not held a contested proceeding where testimony from witnesses was heard and discussed in open hearing. The OPC does not agree, given these circumstances, that the costs proposed for final true-up can necessarily be deemed prudent.

ISSUE 28: What are the appropriate projected net purchased power capacity cost recovery amounts to be included in the recovery factor for the period January 2023 through December 2023?

OPC: The OPC is not in agreement that the Companies have demonstrated that they have met their burden to demonstrate that costs are reasonable and prudent. A significant percentage of the costs on a customer's bill is based on clause recovery in this docket and others. The Commission has not held a contested proceeding where testimony from witnesses was heard and discussed in open hearing. The OPC does not agree, given these circumstances, that the costs proposed for final true-up can necessarily be deemed prudent.

ISSUE 29: What are the appropriate jurisdictional separation factors for capacity revenues and costs to be included in the recovery factor for the period January 2023 through December 2023?

OPC: No position.

ISSUE 30: What are the appropriate capacity cost recovery factors for the period January 2023 through December 2023?

OPC: The OPC is not in agreement that the Companies have demonstrated that they have met their burden to demonstrate that costs are reasonable and prudent. A significant percentage of the costs on a customer's bill is based on clause recovery in this docket and others. The Commission has not held a contested proceeding where testimony from witnesses was heard and discussed in open hearing. The OPC does

not agree, given these circumstances, that the costs proposed for final true-up can necessarily be deemed prudent.

III. EFFECTIVE DATE

ISSUE 31: What should be the effective date of the fuel adjustment factors and capacity cost recovery factors for billing purposes?

OPC: No position.

ISSUE 32: Should the Commission approve revised tariffs reflecting the fuel adjustment factors and capacity cost recovery factors determined to be appropriate in this proceeding?

OPC: No. The cost recovery amounts proposed by the companies are incorrect. If 2022 true-up cost amounts cannot be determined with enough certainty for purposes of establishing rates, then it stands to reason that the more distant projections of fuel prices and thus costs for 2023 are inherently unreliable and cannot form the basis for setting rates. Accordingly there is also insufficient information to provide effective notice as to the level of the projected fuel costs, the fuel factors for 2023, and the rates to be in effect in 2023. For this reason the revised tariffs filed by the companies should not be approved.

ISSUE 33: Should this docket be closed?

OPC: No.

CONTESTED ISSUES

OPC ISSUE C: Has FPL imprudently taken, or failed to prudently take, actions or made or failed to prudently make, decisions at or affecting the Turkey Point Units 3 & 4 and St. Lucie Units 1 & 2, such that replacement power costs have been incurred as they affect the fuel factor for 2020, 2021, 2022 and projections for 2023? If so, what adjustments should be made? (This issue has been withdrawn by OPC at this time to facilitate the deferral of nuclear plant outage issues and without prejudice to revisit the issue at a later time once the scope and timeframe of the deferred issues have been established.)

OPC: ~~Yes. FPL imprudently took action and/or failed to prudently take actions and make prudent decisions regarding Turkey Point Units 3& 4 and St. Lucie Units 1& 2, which impacted replacement power costs, fuel factors and projections.~~

OPC ISSUE E: Should the Commission establish a spin-off docket to investigate FPL's nuclear operations and its impact on historical, ongoing, and future fuel costs? Deferred

OPC: Yes. The Commission should establish a spinoff docket to investigate FPL's nuclear operations and the impacts of FPL's operational decisions on fuel costs imposed on customers, and appropriate adjustments should be determined in that spinoff docket.

OPC ISSUE F: Has FPL appropriately accounted for any redispatch related to its operation of the North Florida Resilience Connection (NFRC) in its 2022 estimate and 2023 projections of fuel costs? If not, what adjustments, if any, should be made?

OPC: OPC and FPL have agreed to defer this issue to the 2023 Fuel Docket.

5. STIPULATED ISSUES

None at this time.

6. **PENDING MOTIONS**

OPC has no pending motions at the time.

7. **STATEMENT OF PARTY'S PENDING REQUESTS OR CLAIMS FOR CONFIDENTIALITY**

There are no pending requests for claims for confidentiality filed by OPC.

8. **OBJECTIONS TO QUALIFICATION OF WITNESSES AS AN EXPERT**

OPC has no objections to the qualification of any witnesses as an expert in the field which they pre-filed testimony as of the present date.

9. **SEQUESTRATION OF WITNESSES**

OPC does not request the sequestration of any witness at this time.

10. **STATEMENT OF COMPLIANCE WITH ORDER ESTABLISHING PROCEDURE**

There are no requirements of the Order Establishing Procedure with which OPC cannot comply.

Respectfully Submitted,

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/s/Charles J. Rehwinkel

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CERTIFICATE OF SERVICE
DOCKET NO. 20220001-EI

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by electronic mail on this 28th day of October 2022, to the following:

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