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Subject: Electronic Filing for Docket 080001-EI / Florida Power & Light Company's Response to Petition to Intervene of the Florida Retail Federation
Attachments: Response to FRF petition to intervene FINAL.doc

Electronic Filing

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b. Docket No. 080001-EI

In Re: Fuel and Purchased Power Cost Recovery Clause with Generating Performance Incentive Factor

c. The documents are being filed on behalf of Florida Power & Light Company.

d. There are a total of **9** pages.

e. The document attached for electronic filing is Florida Power & Light Company's Response to Petition to Intervene of the Florida Retail Federation

(See attached file: Response to FRF petition to intervene FINAL.doc)

DOCUMENT NUMBER - DATE

05484 JUN 25 8

FPSC-COMMISSION CLERK

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Fuel and Purchased Power) Docket No: 080001-EI
Cost Recovery Clause with Generating)
Performance Incentive Factor) Filed: June 25, 2008

**FLORIDA POWER & LIGHT COMPANY'S RESPONSE TO PETITION
TO INTERVENE OF THE FLORIDA RETAIL FEDERATION**

Florida Power & Light Company ("FPL") hereby responds to the Petition to Intervene that was filed on June 18, 2008 by the Florida Retail Federation ("FRF").

FPL does not object to FRF's intervention in this docket. However, Paragraph 9 of the FRF Petition alleges ultimate facts that are demonstrably inaccurate, which FPL believes it is important to correct.

FPL Has Satisfied the Commission's Criteria for a Mid-Course Correction

First of all, FRF alleges that "[n]either FPL nor PEF is eligible to apply for a mid-course correction, because their actual fuel costs are not more than 10 percent above their projected 2008 fuel costs." FRF Petition at ¶9 (emphasis in original). This completely misreads the current standard by which investor owned utilities ("IOUs") such as FPL are not only permitted but required to report under- or over-recoveries. On April 16, 2007, the Commission issued Order No. PSC-07-0333-PAA-EI in the predecessor to this docket ("Order 07-0333"), which definitively updated and clarified its mid-course correction procedure. Because FRF's allegations evidence a fundamental misunderstanding of that procedure, it will be useful to quote at length the Commission's conclusions:

Conclusion

DOCUMENT NUMBER-DATE

05484 JUN 25 8

FPSC-COMMISSION CLERK

Upon consideration, we determine that to ensure consistency in the electric utilities' interpretation of Commission Order Nos. 13694 and PSC-98-0691-FOF-PU on a prospective basis commencing June 1, 2007, the appropriate method to determine whether actual fuel costs are ten percent greater than or less than projected fuel costs is to divide the *estimated* End-of-Period Total Net True-up by the current period's total actual and estimated Jurisdictional Fuel Revenue Applicable-to-Period.

The estimated End-of-Period Total Net True-up *represents the utilities' best estimate, using the most current projections, of what the actual balance will be on Schedule A-2 – Calculation of True-up and Interest Provision, Line C11, at the end of the current period less any previous periods' true-ups for which recovery has been deferred, by order, until after the current recovery period.* The current period's total actual Jurisdictional Fuel Revenue Applicable-to-Period should be consistent with the amount reported in the Period-to-Date column on Schedule A-2, Line C3, and the *estimated amount of Jurisdictional Fuel Revenue Applicable-to-Period should represent the most current projection of those amounts for future months in the current period.*

The above line numbers and amount titles are from the monthly Fuel and Purchased Power Cost Recovery filings, for Fuel and Purchased Power Cost Recovery. The appropriate method to determine whether actual capacity costs are ten percent greater than or less than projected capacity costs is to make a similar percent calculation using up-to-date Capacity Cost Recovery revenue and true-ups.

Timing of Notification of Over- or Underrecovery

The notification of a ten-percent estimated over- or underrecovery must include a petition for cost-recovery factor correction, or include an explanation why a mid-course correction is not practical. In determining whether a mid-course correction is practical, an IOU may consider such things as the potential correction's estimated magnitude and the correction's timing. An IOU may also consider possible offsets between fuel- and capacity-cost over/under recoveries. With or without offsets between the fuel- and capacity-cost over/under recoveries, notice of a plus-or-minus ten percent estimated over- or underrecovery for either clause is required.

Cost-recovery periods currently coincide with calendar years. A ten-percent over- or underrecovery may arise between the fuel hearing (early November) and the end of the year. After the hearing, we could not implement a correction before January. Therefore, the way to address such an over- or underrecovery would be to consider the effect on the coming year's over- or underrecovery percent. The End-of-Period Total Net True-up includes the difference between estimated and actual Prior-Period True-ups. With this inclusion, in January or February, a mid-

course correction caused entirely by that prior-period difference would be possible. If between the fuel hearing and the end of the year, an IOU becomes aware of an over- or underrecovery that would cause the coming year's over- or underrecovery percent to be outside the plus-or-minus ten-percent range, it shall promptly notify the Commission.

Upon consideration, we find that any time the absolute value of the percentage calculated for over- or underrecovery either for Fuel and Purchased Power Cost Recovery or for Capacity Cost Recovery is ten percent or greater, the utility shall promptly notify the Commission.

Order 07-0333 at 5-6 (emphasis added).

The foregoing makes it abundantly clear that mid-course correction calculations are to be made for the entire calendar year to which they apply. To the extent that actual fuel-cost data are available, they are to be used. For the remainder of the year, the calculation is to be based on the "most current projection" of fuel costs. That is exactly what FPL did in determining that a \$746 million under-recovery is expected by the end of 2008. *See* Petition of Florida Power & Light Company for Mid-Course Correction to its Fuel Adjustment Factors, dated June 3, 2008 ("FPL Mid-Course Correction Petition"), at ¶8.

When that \$746 million under-recovery is divided by the estimated/actual Jurisdictional Fuel Revenues Applicable to Period of approximately \$5.785 billion, the result is 12.9%, which substantially exceeds the 10% threshold specified in Order 07-0333. *See* Appendix 1, page 6 to FPL Mid-Course Correction Petition. Once FPL determined that its expected under-recovery exceeded the 10% threshold, it was obligated by Order 07-0333 to report that under-recovery to the Commission. Order 07-0333 goes on to require that when a utility reports that it has exceeded the 10% threshold, it "must include a petition for cost-recovery factor correction, or include an explanation why a mid-course correction is not practical." FPL saw no reason why a mid-course correction would not be practical; in fact, as discussed below, FPL concluded that it would be

impractical and would work against the interests of customers *not* to complete the mid-course correction this year.

The Myth of “Lost Revenues”

FRF alleges incorrectly that \$329 million of the mid-course correction represents “lost revenues.” This mischaracterizes FPL’s request, apparently based on Paragraph 9 of the FPL Mid-Course Correction Petition, which refers to “a \$329,450,601 (5.4%) decrease in Jurisdictional Fuel Revenues (page 6, line C3)” However, Paragraph 9 was merely reporting on the elements of the under-recovery calculation that are shown on the Commission-prescribed E Schedules that document the under-recovery. One cannot conclude from the fact that sales and hence fuel revenues were lower than originally projected, that a substantial portion of the under-recovery is a result of “lost revenues.” In fact, if sales were not lower than originally projected, there is a good chance that FPL’s under-recovery would be *higher* because FPL would have to go deeper into its unit dispatch to serve load and hence would have to run less fuel-efficient units.

The plain reality is that the under-recovery is driven by an increased unit cost of fuel compared to the original projections. This point is made in Footnote 1 to Paragraph 9 of the FPL Mid-Course Correction Petition which explains that, in spite of lower sales, fuel costs for the period are going up substantially, because of the increased unit cost of fuel:

Although FPL is projected to experience a reduction of approximately \$278 million in Jurisdictional Total Fuel Costs due to the lower fuel consumption that accompanies the projected reduction in MWh sales, this is more than offset by a projected increase of approximately \$549 million related to the much higher fuel cost per MWh.

This same point was made in Staff's Second Mid-Course Correction Data Request, Request No. 4, in which Staff calculated that \$595 million out of a total 2008 estimated/actual under-recovery of \$613 million was attributable to the increased fuel cost per MWh.¹ Finally, Staff's June 23 recommendation on the FPL Mid-Course Correction Petition (the "Staff Recommendation"), at page 14, clearly recognized the reality that FPL's under-recovery is driven by an increased unit cost of fuel: "Table 5 shows the impact of higher natural gas and oil prices in 2008, resulting in additional costs relative to revenues produced by current factors of \$613,312,551 compared to the original estimate."

Postponing the Mid-Course Correction Would Be Detrimental to FPL's Customers

Finally, the FRF Petition suggests that the Commission should not permit FPL to implement its mid-course correction until a full evidentiary hearing has been held. This proposal is similar to one made by FIPUG, which Staff has recommended that the Commission reject. Staff Recommendation at 7-9. Waiting to implement the mid-course correction until after an evidentiary hearing is held would be both unnecessary and inappropriate. A hearing is unnecessary because, as is the case in all fuel proceedings, the revenues collected pursuant to the mid-course correction are subject to review and true-up at the subsequent fuel clause hearing. And a hearing would be inappropriate

¹ The culmination of Request No. 4 was the following question, which FPL answered in the affirmative: "Does FPL agree that the above expression of FPL's estimated/actual 2008 under recovery [*i.e.*, that the under-recovery consisted of approximately \$595 million attributable to increased unit fuel costs and only approximately \$18 million attributable to other causes] shows the contributions of revenues and expenses better than does the table on page 6 of the mid-course petition, which attributes -\$329,450,601 of the under recovery to lost revenues, and only -\$283,861,950 to increased expenses?"

because it would work against one of the fundamental purposes of a mid-course correction, which is to adjust fuel cost recovery factors promptly to reflect major changes in projected fuel costs. Holding a hearing before implementing the mid-course correction likely would result in a substantial reduction in the number of months remaining in 2008 over which collection would be spread.

As Staff pointed out with respect to FIPUG,

[T]he purpose of Order No. 13694, which requires notification of mid-course corrections, is to protect the ratepayers. Because the utility will recover its reasonably incurred fuel costs (including any under-recoveries) through the fuel clause either by a mid-course correction or by an increase in next year's fuel factor, the mid-course correction is not for the benefit of the utility. ... With the purpose of mid-course corrections being ratepayer protection, it is staff's opinion that FIPUG's concerns as set forth in its motions can be adequately addressed in the normal course of the fuel docket without dismissing or abating the Commission's opportunity to reach a decision on FPL's mid-course correction petition.

Staff Recommendation at 7. That reasoning applies equally to FRF. While both FIPUG and FRF have tried to package their "delay and defer" proposals as being for the benefit of customers, the reality is that they would achieve just the opposite, frustrating the Commission's efforts to: (1) limit the amount of interest customers must pay on the outstanding under-recovery balance (*see* Order No. 23906), (2) prevent or limit consumer "rate shock" resulting from volatile fuel prices (*see* Order No. 21325), (3) match fuel revenues with fuel costs (*see* Order No. PSC-02-0501-AS-EI), and (4) provide a better price signal to customers (*see* Order Nos. PSC-03-0849-PCO-EI, PSC-03-0400-PCO-EI, PSC-03-0382-PCO-EI, and PSC-03-0381-PCO-EI).

The Staff Recommendation summarizes information that FPL provided on what its 1000-kWh residential bills would be in 2008 and 2009, with varying timing for

collection of FPL's \$746 million under-recovery.² The bill comparisons show that FPL's proposed mid-course correction, which would collect the under-recovery over the period August – December 2008, is preferable to any of the recovery alternatives because it would send more accurate price signals, better levelize the 2008 and 2009 bills, avoid a potential compound fuel recovery increase in 2009, reduce interest charges to customers and reduce intergenerational inequity. Staff Recommendation at 16-17.

Staff also correctly points to several non-fuel factors that are likely to contribute to additional bill impacts in 2009, making postponement of the mid-course correction into 2009 especially inappropriate. *Id.* Moreover, on June 20 FPL filed with the Commission and served all parties information showing that a current (June 16) fuel forecast indicates that even with the mid-course correction in place, FPL could end up with an under-recovery on the order of \$300 million at the end of 2008. In the face of all these upward cost pressures, the Commission would be ill-advised to heed FRF's call for postponing the mid-course correction because of the substantial rate instability that could occur as a result.

² In addition to collection of the under-recovery as FPL proposed, the bill scenarios considered denying the requested mid-course correction and allowing any under-recovery to be collected in 2009 fuel factors (Option B); collecting 50% of the identified under-recovery during August through December of 2008 and deferring the remaining 50% to 2009 (Option C); and collecting the under-recovery over 17 months, from August 2008 through December 2009 (Option D).

WHEREFORE, FPL respectfully requests that the Commission, if it grants FRF's Petition to Intervene, reject the inaccurate and inappropriate allegations of ultimate fact contained therein.

Respectfully submitted,

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CERTIFICATE OF SERVICE

Docket No. 080001-EI

I HEREBY CERTIFY that a true and correct copy of the foregoing Response of Florida Power & Light Company to Petition to Intervene of the Florida Retail Federation has been furnished by electronic delivery on this 25th day of June, 2008, to the following:

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