

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Environmental cost recovery clause.

DOCKET NO. 100007-EI
ORDER NO. PSC-11-0083-FOF-EI
ISSUED: January 31, 2011

The following Commissioners participated in the disposition of this matter:

ART GRAHAM, Chairman
LISA POLAK EDGAR
RONALD A. BRISÉ
EDUARDO BALBIS
JULIE I. BROWN

APPEARANCES:

JOHN T. BUTLER, ESQUIRE, 700 Universe Boulevard, Juno Beach, Florida
33408-0420
On behalf of FLORIDA POWER & LIGHT COMPANY (FPL)

CHARLIE BECK, ESQUIRE, Office of Public Counsel, 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)

MARTHA CARTER BROWN, ESQUIRE, Florida Public Service Commission,
2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850
On behalf of the Florida Public Service Commission (STAFF)

MARY ANNE HELTON, Assistant General Counsel, Florida Public Service
Commission, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850
Advisor to the Florida Public Service Commission.

**FINAL ORDER APPROVING PROJECTED EXPENDITURES AND TRUE-UP
AMOUNTS FOR ENVIRONMENTAL COST RECOVERY FACTORS
FOR FLORIDA POWER & LIGHT COMPANY**

BY THE COMMISSION:

I. BACKGROUND

As part of our ongoing environmental cost recovery proceedings, a hearing was held on January 26, 2011, in this docket. The purpose of the hearing was to establish environmental cost

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recovery factors for Florida Power & Light Company (FPL) to be recovered in 2011. At the hearing, the parties addressed the issues set out in Order No. PSC-11-0042-PHO-EI, the Prehearing Order, issued January 25, 2011. Part II of this Order addresses the stipulated generic issues in the case and Part III addresses the stipulated company-specific issues in the case. We have authority pursuant to Section 366.8255, Florida Statutes (F.S.).

II. STIPULATED GENERIC ENVIRONMENTAL COST RECOVERY ISSUES

- A. We approve as reasonable the following final environmental cost recovery true-up amounts for FPL for the period ending December 31, 2009:

\$4,500,429 over-recovery.

- B. We approve as reasonable the following estimated environmental cost recovery true-up amounts for FPL for the period January 2010 through December 2010:

\$35,720,891 over-recovery.

- C. We approve as reasonable the following projected environmental cost recovery amounts for FPL for the period January 2011 through December 2011:

\$172,374,599.

- D. We approve as reasonable the following environmental cost recovery amounts, including true-up amounts for FPL for the period January 2011 through December 2011:

The total environmental cost recovery amount, adjusted for prior period true-ups and revenue taxes, is \$132,248,429.

- E. We approve as reasonable the determination that the depreciation rates to be used to develop the depreciation expense included in the total environmental cost recovery amounts for FPL for the period January 2011 through December 2011 shall be the depreciation rates that are in effect during the period the allowed capital investment is in service.

- F. We approve as reasonable the following jurisdictional separation factors for FPL for the projected period January 2011 through December 2011:

| | |
|---|------------|
| Retail Energy Jurisdictional Factor | 98.02710% |
| Retail CP Demand Jurisdictional Factor | 98.03105% |
| Retail GCP Demand Jurisdictional Factor | 100.00000% |

- G. We approve as reasonable the following environmental cost recovery factors for FPL for the period January 2011 through December 2011:

| <u>Rate Class</u> | <u>Environmental Recovery Factor (\$/kWh)</u> |
|---|---|
| RS1/RST1 | .00140 |
| GS1/GST1 | .00135 |
| GSD1/GSDT1/HLFT (21-499 kW) | .00121 |
| OS2 | .00135 |
| | |
| GSLD1/GSLDT1/CS1/CST1/ HLFT (500-1,999 kW) | .00117 |
| GSLD2/GSLDT2/CS2/CST2/ HLFT (2,000 kW+) | .00106 |
| GSLD3/GSLDT3/CS3/CST3 | .00100 |
| ISST1D | .00125 |
| ISST1T | .00077 |
| SST1T | .00077 |
| SST1D1/SST1D2/SST1D3 | .00125 |
| CILC D/CILC G | .00104 |
| CILC T | .00097 |
| MET | .00124 |
| OL1/SL1/PL1 | .00062 |
| SL2/GSCU1 | .00097 |

- H. For billing purposes, the revised environmental cost recovery factors for FPL shall become effective with the first billing cycle starting 30 days after the Commission renders its decision. Thereafter, FPL's environmental cost recovery factors shall remain in effect until modified by the Commission.

FPL may make the appropriate adjustments in its 2011 actual/estimated true-up calculation to reflect 2011 actual revenues and actual expenses affected by the delayed implementation of the 2011 environmental cost recovery factors.

III. STIPULATED FPL COMPANY-SPECIFIC ISSUES

- A. We approve the following stipulation regarding whether FPL should be allowed to recover the costs associated with its proposed St. Lucie Turtle Net - Update Project:

Yes. The St. Lucie Turtle Net Project was originally filed for recovery through the Environmental Cost Recovery Clause (ECRC) in Docket No. 020648-EI, on June 18, 2002, and subsequently approved through Order No. PSC-02-1421-PAA-EI, issued on October 17, 2002. The Incidental Take Statement contained in the Endangered Species Act Section 7 Biological Opinion, issued to FPL on May 4, 2001, by the National Marine Fisheries Service, limits the number of lethal turtle takings FPL is permitted at its St.

Lucie Power Plant. Also, Appendix B of the Facility Operating License for St. Lucie Unit 2, which was granted to FPL by the United States Nuclear Regulatory Commission, requires FPL to maintain a specified net system and to limit lethal takes of sea turtles to prescribed levels. In 2009, an unforeseen intrusion of large quantities of algae occurred that damaged the existing net support structure. The proposed update project will create a more robust barrier structure for effectively securing the turtle net to help FPL to remain in compliance with Appendix B to the Facility Operating License. FPL expects to begin the project during the last quarter of 2010 and expects to complete the project during the last quarter of 2011. The company projects to incur \$1.4 million of capital costs and currently there are no operating and maintenance (O&M) costs projected for these activities.

- B. We approve the following stipulation regarding whether FPL should be allowed to recover the costs associated with its proposed Martin Plant Barley Swamp Iron (BBS-Iron) Project:

Yes. FPL's Martin Plant received a renewed Industrial Wastewater Facility Permit No. FL0030988 from the Florida Department of Environmental Protection, which included Administrative Order AO-15-TL (AO). The AO requests that FPL conduct an engineering evaluation of methods for meeting the water quality standard at the outfall of the Barley Barber Swamp (BBS), and comply with the Class III Fresh water quality standard for iron (4.8 mg/L before June 11, 2011, and 1.0 mg/L forward). Per the AO, FPL conducted an engineering evaluation at the BBS which determined that the BBS was above the allowable iron levels. The proposed BBS-Iron project will engineer and install a siphon and a new discharge piping system to turn the existing flow away from the BBS and back into the Martin Plant's cooling pond. FPL believes that the project will enable the company to remain in compliance with the new requirements set forth by the AO. FPL plans to complete the project by March 1, 2011, with projected total costs of \$255,000.

- C. We approve the following stipulation determining how the costs associated with FPL's proposed Martin Plant BBS-Iron Project should be allocated to the rate classes:

Capital and O&M costs for BBS-Iron Project should be allocated to the rate classes on an average 12 CP demand basis.

- D. We approve the following stipulation regarding whether FPL should be allowed to recover the costs associated with its proposed 800 MW Unit Electro Static Precipitators (ESPs) Project for complying with the proposed maximum achievable control technology (MACT) rule:

FPL shall be allowed to recover the reasonable and prudent costs associated with its proposed 800 MW Units Electro Static Precipitators (ESPs) Project (the "ESP Project") for compliance with the United States Environmental Protection Agency's (EPA's)

maximum achievable control technology (MACT) rule in the following manner and under the following conditions:

1. FPL is authorized to proceed with implementation of the ESP Project at the time that EPA issues a proposed MACT rule that has the effect of requiring ESPs at oil-fired power plants, such as FPL's 800 MW units. FPL will consult with Staff and interested parties at the time that EPA issues the proposed MACT rule, concerning the rule's requirement for ESPs and FPL's decision on whether to proceed with the ESP Project pursuant to those proposed requirements.
2. During the period between EPA's issuance of the proposed MACT rule and issuance of the final MACT rule, FPL will exclude the costs incurred for the ESP project from the ECRC-recoverable accounts and instead will be authorized to record the cost of the ESP work in non-ECRC construction accounts and accrue a return at the then-current authorized AFUDC rate on the amounts recorded in the non-ECRC construction accounts.
3. If the final MACT rule requires ESPs, then FPL would be authorized to transfer the balance of all reasonable and prudent costs from the non-ECRC construction accounts, which would include all accrued AFUDC, to ECRC-recoverable accounts and begin the normal process of ECRC recovery for those and future reasonable and prudent capital expenditures and O&M expenses associated with the ESP Project.
4. If the final MACT rule does not require ESPs, FPL will be authorized to recover the reasonable and prudent amounts expended, including the accrued AFUDC, on the ESP Project as follows:
 - a. If FPL determines, based on consultation with Staff and interested parties, that completing the first ESP installation or otherwise continuing with the ESP Project is not cost-effective for FPL and its customers and that the ESP Project should be cancelled, FPL will establish a regulatory asset for the reasonable and prudent amount that FPL had incurred and irrevocably committed to the ESP project prior to issuance of the final MACT rule ("cancellation costs"). On the effective date of new base rates set for FPL in a general base rate proceeding, whether by Commission determination or settlement approved by the Commission, FPL will be authorized to recover the cancellation costs through such base rates by (i) amortizing the balance over five years as an expense, and (ii) including the unamortized balance in rate base and earning a return thereon at FPL's then-current cost of capital. Accrual of AFUDC on the ESP project will cease on the date that the regulatory asset is established.
 - b. If FPL determines, based on consultation with Staff and interested parties, that it is cost-effective for FPL and its customers to complete the first ESP installation notwithstanding that the final MACT rule does not require ESPs, then FPL will continue to record the expenditures for the first ESP in the non-ECRC

construction accounts and accrue AFUDC on the balance until the ESP is completed. At the time of completion, FPL will be authorized to (i) transfer the balance in those non-ECRC construction accounts to rate base Plant in Service accounts and (ii) include all O&M expenses associated with the first ESP in the determination of net operating income, for all surveillance and rate-setting purposes thereafter.

5. Any determination of the prudence and reasonableness of FPL's costs for the ESP Project will be made at the time FPL seeks to recover such costs through the ECRC or base rates, depending on the circumstances described above; provided, however, that pursuant to this stipulation the prudence of FPL's decision to proceed with the ESP Project will not be subject to further review.
6. This stipulation is entered into by the parties for the purpose of settlement and shall have no precedential value.

- E. We approve the following stipulation determining how the costs associated with FPL's proposed 800 MW Units ESPs Project should be allocated to the rate classes:

Capital costs for the Project should be allocated to the rate classes on an average 12 CP demand basis. O&M costs should be allocated to the rate classes on an energy basis.

- F. We approve the following stipulation regarding whether FPL should submit to the Commission monthly schedules to report the operation status of its three Next Generation Solar Energy Centers:

Yes. Gathering cost and performance data as well as information pertaining to reduced fuel consumption and emission reductions resulting from the output of the solar projects is consistent with the intent of Section 366.92(1), F.S. Monthly filings by FPL would provide the most efficient means of gathering such data. Information not directly ascertainable from operating data can be manually calculated for the purposes of the monthly filing; however, staff would reserve the opportunity to pursue simulated approximations, for comparison purposes, through a discovery request each year in the ECRC proceeding, recognizing that FPL will require additional time to respond to such discovery in the event that simulated approximations are requested that cover a period of more than one month.

- G. We approve the following stipulation regarding whether the Commission should approve FPL's 2010 Supplemental Clean Air Interstate Rule (CAIR), Clean Air Mercury Rule (CAMR) and Clean Air Visibility Rule (CAVR) Filing:

Yes. Completion of the compliance activities discussed in FPL's Supplemental CAIR/CAMR/CAVR Filing of April 1, 2010, is required by existing federal and state environmental rules and regulatory requirements for air quality control and monitoring; and the associated project costs appear reasonable and prudent. FPL shall file, as part of

its annual ECRC final true-up testimony, a review of the efficacy of its CAIR/CAMR/CAVR compliance plans, and the cost-effectiveness of its retrofit options for each generating unit in relation to expected changes in environmental regulations and ongoing state and federal CAIR legal challenges. The reasonableness and prudence of individual expenditures, and FPL's decisions on the future compliance plans made in light of subsequent developments, shall continue to be subject to the Commission's review in future ECRC proceedings on these matters.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that the stipulations and findings set forth in the body of this order are hereby approved. It is further

ORDERED that Florida Power & Light Company shall abide by the stipulations and findings herein. It is further

ORDERED that Florida Power & Light Company is authorized to collect the environmental cost recovery amounts with the first billing cycle starting 30 days after we render our decision. The currently approved factors shall remain in effect until that time. Thereafter, the environmental cost recovery factors shall remain in effect until modified by this Commission. Florida Power & Light Company may make the appropriate adjustments in its 2011 actual/estimated true-up calculations to reflect 2011 actual revenues and actual expenses affected by the delayed implementation of the 2011 environmental cost recovery factors.

By ORDER of the Florida Public Service Commission this 31st day of January, 2011.



ANN COLE
Commission Clerk

(S E A L)

MCB

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), Florida Statutes, to notify parties of any administrative hearing or judicial review of Commission orders that is available under Sections 120.57 or 120.68, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing or judicial review will be granted or result in the relief sought.

Any party adversely affected by the Commission's final action in this matter may request:

- 1) reconsideration of the decision by filing a motion for reconsideration with the Office of Commission Clerk, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, within fifteen (15) days of the issuance of this order in the form prescribed by Rule 25-22.060, Florida Administrative Code; or
- 2) judicial review by the Florida Supreme Court in the case of an electric, gas or telephone utility or the First District Court of Appeal in the case of a water and/or wastewater utility by filing a notice of appeal with the Office of Commission Clerk, and filing a copy of the notice of appeal and the filing fee with the appropriate court. This filing must be completed within thirty (30) days after the issuance of this order, pursuant to Rule 9.110, Florida Rules of Appellate Procedure. The notice of appeal must be in the form specified in Rule 9.900(a), Florida Rules of Appellate Procedure.