BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

DOCKET NO. 130007-EI
FLORIDA POWER & LIGHT COMPANY

JUNE 28, 2013

ENVIRONMENTAL COST RECOVERY

TESTIMONY & EXHIBITS OF:

RANDALL R. LABAUVE

IN SUPPORT OF PETITION FOR APPROVAL OF NO_2 COMPLIANCE PROJECT

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

FLORIDA POWER & LIGHT COMPANY

TESTIMONY OF RANDALL R. LABAUVE

DOCKET NO. 130007-EI

JUNE 28, 2013

Q. Please state your name and address.

A. My name is Randall R. LaBauve, and my business address is 700 Universe Boulevard, Juno Beach, Florida 33408.

Q. By whom are you employed and in what capacity?

A. I am employed by Florida Power & Light Company ("FPL") as Vice President of Environmental Services.

Q. Have you previously testified in predecessors to this docket?

A. Yes.

Q. What is the purpose of your testimony in this proceeding?

A. The purpose of my testimony is to present for Commission review and approval for recovery through the Environmental Cost Recovery Clause ("ECRC") a new environmental compliance project: the NO_2 Compliance Project.

Q. Have you prepared, or caused to be prepared under your direction, supervision, or control, an exhibit in this proceeding?

A. Yes. I am sponsoring the following exhibits:

- RRL-2 U. S. Environmental Protection Agency ("EPA") Fact Sheet for the new 1-hour National Ambient Air Quality Standard ("NAAQS") for Nitrogen Dioxide ("NO_2")

- RRL-3 Florida Department of Environmental Protection ("DEP") Correspondence with EPA regarding Air Program State Implementation Plan Infrastructure Submittal for 2010 Revised NAAQS for NO_2
- RRL-4 FPL Correspondence with DEP regarding air quality impacts from operation of existing peaking GTs

Q. What change in regulation is requiring FPL's proposed NO_2 Compliance Project?

A. EPA revised its National Ambient Air Quality Standard ("NAAQS") for Nitrogen Dioxide ("NO_2"), implementing a new 1-hour standard. EPA's Fact Sheet summarizing the changes to the NO_2 standard is provided in Exhibit RRL-2 of my testimony. DEP, which is delegated authority to implement the NAAQS program in Florida, provided notice to EPA in January 2013 of its intent to implement the new standard and demonstrated that it had statutory authority to do so as provided in Exhibit RRL-3 of my testimony.

Q. Describe EPA's change to the NO_2 NAAQS.

A. Section 108 of the Clean Air Act ("CAA") requires EPA to set the NAAQS for nitrogen oxides and five other criteria pollutants considered harmful to public health and the environment (the other pollutants are ozone, particulate matter, carbon monoxide, sulfur dioxide, and lead). The law also requires EPA to periodically review the standards to ensure that they provide adequate health and environmental protection, and to update those standards as necessary. Following review of the science, risk, and policy assessments, should EPA conclude that a revision of a NAAQS is necessary the agency begins rulemaking to revise the standard.

EPA concluded that its existing annual standard for NO_2 of 53 ppb was not protective for short term exposures to human health and that a revision of the standard was necessary. In its review of the NO_2 standard, EPA concluded that, in addition to the existing stationary sources, there existed significant exposures from mobile sources which warranted revision of the standard and the implementation of new road-side NO_2 emission monitors. In February 2010, EPA promulgated a new 1-hour standard at a level of 100 ppb requiring new road-side monitors and review of stationary source NO_2 emissions during the air construction permitting of new and modified major sources under the Prevention of Significant Deterioration ("PSD") program.

Q. What is DEP's authority to enforce the NO_2 NAAQS?

A. Sections 110 and 113 of the CAA require the EPA to ensure that sources causing or contributing to a violation of a NAAQS abate their impacts by reducing emissions or ceasing operation. EPA's authority to enforce the CAA is delegated to the DEP under Florida's State Implementation Plan ("SIP"). DEP has the statutory duty and authority, pursuant to Chapter 403, Florida Statutes, and rules adopted under Chapter 62, Florida Administrative Code, to protect and maintain Florida's air quality, including ensuring attainment of the NO_2 NAAQS. Under Chapter 403, Fla. Stat., and rules promulgated thereunder, DEP is authorized to require any source found to be causing or contributing to pollution in excess of the NO_2 NAAQS to reduce such emissions.

Q. Describe how DEP will measure compliance with the NO_2 NAAQS.

A. The 1-hour NAAQS requires that DEP use monitor data to designate areas as attainment, non-attainment, or unclassifiable for those areas without sufficient monitoring. Areas which are designated non-attainment must reduce emissions from

sources with significant contributions through implementation of control measures including Reasonably Available Control Technology ("RACT") for existing major sources. For the new 1-hour standard, EPA requires the implementation of new road-side monitors in major metropolitan areas throughout the country including the Ft. Lauderdale Metropolitan area in Broward County. In addition to the existing and new road-side monitors, modeling of sources during the PSD permit application process for new and modified major sources is used to identify sources that are contributing to modeled non-attainment.

Q. Has FPL determined that any of its existing generation fleet will be impacted by the new 1-hour NO_2 standard?

A. Yes. FPL's older-generation peaking gas turbines ("GTs") will be impacted.

Q. Describe the problem with FPL's GTs.

A. Emission units that are located closer to property boundaries and have higher NOx emissions and shorter stacks may not adequately facilitate off-site dispersion of stack emissions to concentrations below the new 1-hour standard. FPL identified three plants with GTs that had similar emission characteristics and were likely to have significant contributions to NO_2 concentrations in the area surrounding the plant sites. Specifically, FPL analyzed the GTs at the following facilities: Lauderdale Plant ("PFL"), located in the City of Dania, Broward County; Port Everglades Plant ("PPE"), located in the City of Hollywood, Broward County; and Fort Myers Plant ("PFM"), located in the City of Tice, Lee County. FPL has a total of 48 peaking GTs at these three facilities, which were installed in the 1960s and entered into commercial operation in the early 1970s.

The GTs do not operate on a continuous basis throughout the year, but rather are used less frequently in order to serve peak demands. Thus, while their operation did not pose any problems for the prior annual NO_2 standard where the emissions are averaged over the year, the same is not true for the new 1-hour NO_2 standard. Due to their quick-start capability, the GTs constitute extremely important reliability resources for FPL for serving load in the South Florida area. FPL's analysis of these GTs included stack testing, atmospheric dispersion modeling using EPA approved models and guidance, and other data analysis. This analysis showed that emissions from the GTs, which are allowed under applicable permits, nonetheless can cause or contribute to ambient concentrations in excess of the new 1-hour NO_2 standard. In short, the GT emissions do not meet that standard.

Q. Has FPL evaluated the most cost-effective approach to avoid off-site exceedances of the 1-hour NO_2 standard at PFL, PPE and PFM sites where the GTs are located?

A. Yes. FPL's evaluation considered three options which could be implemented to reduce emissions and meet the new environmental standard: 1) Retrofitting the GTs with emission control equipment sufficient to meet the standard; 2) Retirement of all GTs and accelerating the next planned generating unit as needed to maintain system reliability; and 3) Changing out the GT combustion technology in favor of highly efficient combustion turbines ("CTs") that have much lower NO2 emissions and also meet system reliability requirements..

To understand the best alternative to reduce air quality impacts to the level set by EPA, economic evaluations of all three options were conducted by FPL's Resource

Allocation and Planning group. That analysis is presented in the testimony of FPL witness Enjamio. To determine the level of emission reductions needed, further emission dispersion modeling of the existing sources was conducted to identify the target level of emissions at which off-site impacts exceeding the NO_2 standard would be avoided. Technical evaluation for the modification and installation of controls on the existing GTs was performed by FPL's Power Generation Division and is discussed in the testimony of FPL witness Domenech. Analysis of costs for the change out of the existing GT technology with modern Combustion Turbine technology is provided by FPL witness DeBock.

The evaluation of the available options identified that the most cost-effective option for FPL's customers to reduce emission impacts was to change out the existing GT technology at the PFL and PFM plants with new Combustion Turbine technology and to retire the existing GT's at PPE.

Q. Has FPL discussed with DEP how to address the impact of the new 1-hour NO_2 standard on its GTs?

A. Yes. Once FPL concluded that the GT emissions could cause or contribute to ambient concentrations in excess of the 1-hour NO_2 standard and FPL had determined the most appropriate option for addressing that impact, FPL met with DEP to discuss the issue and FPL's concern about the potential loss of the quick-start capability that the GTs provide.

Q. What was the result of FPL's discussions with DEP?

A. DEP agreed with FPL's conclusion that measures need to be taken to avoid off-site exceedances of the 1-hour NO_2 standard at the PFL, PPE, and PFM sites. DEP

accepted FPL's proposal to modify the existing peaking unit technology with installation of high-efficiency, low-emitting CTs as an appropriate means of reducing the NO_2 emissions, and advised FPL that completing this compliance project by December 2016 is important to the implementation of DEP's NO_2 NAAQS program and Section 179(a) (2) of the CAA.

Importantly, DEP agreed to work with FPL on the schedule for compliance. FPL explained to DEP that a substantial lead time will be needed to complete this project and that FPL needs to continue operating the existing GTs for system reliability purposes until the new CTs are in service. FPL must apply for and receive the necessary permits and approvals for the project. Part of the approval process is to receive a federal greenhouse gas air permit from EPA, which can easily stretch out to two years. Further, FPL must have time to order the equipment and to construct the project. Based on these timing considerations, DEP has agreed that FPL will have until December 31, 2016 to bring the new CTs into service and that FPL may continue to operate the existing GTs, as permitted, to serve load until the new CTs are in service.

FPL and DEP agreed that in order to meet the December 31, 2016 in-service deadline, licensing of the project must begin immediately. Therefore, FPL advised DEP that it will file during Summer 2013 the necessary air construction permit applications for construction of the new CTs.

I memorialized FPL's understanding with DEP in a letter to Brian Accardo of DEP, dated June 3, 2013, which is attached as my Exhibit RRL-4. FPL presently expects to complete and file the permit applications before August 2013. Once they are filed with DEP, FPL will supplement its filing in this docket with copies of the permit applications. Likewise, once the air construction permits are issued by DEP, copies will be filed in the current ECRC docket.

Q. What is FPL's proposed timeline for construction of the new CTs and retirement of the existing GTs?

A. FPL is preparing initial design specifications for the construction of the CTs at the PFL and PFM sites. As discussed above, FPL intends to prepare and file an application in July 2013 with the Florida DEP for construction of the CTs. In order to achieve the December 2016 date, FPL will need to file a modification of the PFL and PFM Site Certifications in 2013, begin site preparation work and negotiate and award contracts for major components in 2013 and 2014, and begin actual construction of the generating units in 2015.

Q. Please summarize the basis for FPL's request for ECRC recovery.

A. The costs of the NO_2 Compliance Project are "environmental compliance costs" as envisioned in Section 366.8255 of the Florida Statutes. The NO_2 Compliance Project is required in order to avoid off-site exceedances of the new 1-hour NO_2 NAAQS standard, which DEP implements pursuant to its delegated authority under the CAA. The 1-hour NO_2 standard was adopted by DEP after FPL prepared its 2012 rate case, and no costs for the NO_2 Compliance Project were included in the 2013 projected test year minimum filing requirements ("MFRs") that were the basis for that case. FPL

witness Keith discusses the eligibility of the NO_2 Compliance Project for ECRC recovery in greater detail.

Q. Has FPL estimated the cost of the NO_2 Compliance Project?

A. Yes, as discussed in the direct testimony of FPL witness DeBock, FPL has prepared preliminary estimates for construction costs and is projecting a total capital expense of $822 million for installation of the new CT technology.

Q. How will FPL ensure that the costs incurred for this project are prudent and reasonable?

A. FPL will follow its standard procedures for all consultant services procurements, including competitive bidding where appropriate, in order to ensure costs are prudently incurred. FPL will revise project estimates as specific costs become available through consultant specific bids and costs. FPL will continue to perform due diligence over the life of this project to minimize costs. FPL witness DeBock addresses FPL's procurement practices for construction of the CTs in greater detail, including FPL's excellent track record in controlling the costs of building and operating CTs.

Q. Does this conclude your testimony?

A. Yes.

FACT SHEET
FINAL REVISIONS TO THE NATIONAL AMBIENT AIR QUALITY STANDARDS FOR NITROGEN DIOXIDE

SUMMARY OF ACTION

- On January 22, 2010, EPA strengthened the health-based National Ambient Air Quality Standard (NAAQS) for nitrogen dioxide (NO_2). The new standard will protect public health, including the health of sensitive populations – people with asthma, children and the elderly.

- EPA is setting a new 1-hour NO_2 standard at the level of 100 parts per billion (ppb). This level defines the maximum allowable concentration anywhere in an area. It will protect against adverse health effects associated with short-term exposure to NO_2, including respiratory effects that can result in admission to a hospital.

- In addition to establishing an averaging time and level, EPA also is setting a new "form" for the standard. The form is the air quality statistic used to determine if an area meets the standard. The form for the 1-hour NO_2 standard, is the 3-year average of the 98^{th} percentile of the annual distribution of daily maximum 1-hour average concentrations.

- EPA also is retaining, with no change, the current annual average NO_2 standard of 53 ppb.

- This suite of standards will protect public health by limiting people's exposures to short-term peak concentrations of NO_2 – which primarily occur near major roads – and by limiting community-wide NO_2 concentrations to levels below those that have been linked to respiratory-related emergency department visits and hospital admissions in the United States.

- To determine compliance with the new standard, EPA is establishing new ambient air monitoring and reporting requirements for NO_2.
    - In urban areas, monitors are required near major roads as well as in other locations where maximum concentrations are expected.
    - Additional monitors are required in large urban areas to measure the highest concentrations of NO_2 that occur more broadly across communities.
    - Working with the states, EPA will site a subset of monitors in locations to help protect communities that are susceptible and vulnerable to NO_2-related health effects.

- The addition of a new 1-hour NO_2 standard and changes to the NO_2 monitoring network are consistent with the recommendations of the majority of the Clean Air Scientific Advisory Committee (CASAC). CASAC provides independent advice to the EPA Administrator on the relevant scientific and technical information and on the standards.

- These changes will not affect the secondary NO_2 standard, set to protect public welfare. EPA is considering the need for changes to the secondary standard under a separate review.

NO_2 AND PUBLIC HEALTH

- Current scientific evidence links short-term NO_2 exposures, ranging from 30 minutes to 24 hours, with an array of adverse respiratory effects including increased asthma symptoms, more difficulty controlling asthma, and an increase in respiratory illnesses and symptoms.

- Studies also show a connection between short-term exposure and increased visits to emergency departments and hospital admissions for respiratory illnesses, particularly in at-risk populations including children, the elderly, and asthmatics.

- NO_2 concentrations near major roads are appreciably higher than those measured at monitors in the current network. Concentrations in heavy traffic or on freeways can be twice as high as levels measured in residential areas or near smaller roads. Monitoring studies indicate that near-road (within about 50 meters) concentrations of NO_2 can be 30 to 100 percent higher than concentrations away from major roads.

- EPA's NAAQS for NO_2 is designed to protect against exposure to the entire group of nitrogen oxides (NO_x). NO_2 is the component of greatest concern and is used as the indicator for the larger group of NO_x. The sum of nitric oxide (NO) and NO_2 is commonly called NO_x. Other nitrogen oxides include nitrous acid and nitric acid.

- Emissions that lead to the formation of NO_2 generally also lead to the formation of other NO_x. Control measures that reduce NO_2 can generally be expected to reduce population exposures to all gaseous NO_x. This may have the co-benefit of reducing the formation of ozone and fine particles both of which pose significant public health threats.
    - NO_x react with ammonia, moisture, and other compounds to form small particles. These small particles penetrate deeply into sensitive parts of the lungs and can cause or worsen respiratory disease, such as emphysema and bronchitis, and can aggravate existing heart disease, leading to increased hospital admissions and premature death. EPA's NAAQS for particulate matter (PM) are designed to provide protection against these health effects.
    - NO_x react with volatile organic compounds to form ozone. Children, the elderly, people with lung diseases such as asthma, and people who work or exercise outside are at risk for adverse health effects from ozone. These effects include reduced lung function and increased respiratory symptoms, more respiratory-related emergency department visits and hospital admissions, and increased risk of premature death from heart or lung disease. EPA's NAAQS for ozone are designed to provide protection against these health effects.

REVISING THE NO_2 MONITORING NETWORK

- EPA is setting new requirements for the placement of new NO_2 monitors in urban areas. These include:

    Near Road Monitoring

    - At least one monitor must be located near a major road in any urban area with a population greater than or equal to 500,000 people. A second monitor is required

near another major road in areas with either:

(1) population greater than or equal to 2.5 million people, or

(2) one or more road segment with an annual average daily traffic (AADT) count greater than or equal to 250,000 vehicles.

These NO_2 monitors must be placed near those road segments ranked with the highest traffic levels by AADT, with consideration given to fleet mix, congestion patterns, terrain, geographic location, and meteorology in identifying locations where the peak concentrations of NO_2 are expected to occur. Monitors must be placed no more than 50 meters (about 164 feet) away from the edge of the nearest traffic lane.

- EPA estimates that the new NO_2 monitoring requirements will result in a network of approximately 126 NO_2 monitoring sites near major roads in 102 urban areas.

Community Wide Monitoring

- A minimum of one monitor must be placed in any urban area with a population greater than or equal to 1 million people to assess community-wide concentrations.
- An additional 53 monitoring sites will be required to assess community-wide levels in urban areas.
- Some NO_2 monitors already in operation may meet the community-wide monitor siting requirements.

Monitoring to Protect Susceptible and Vulnerable Populations

- Working with the states, EPA Regional Administrators will site at least 40 additional NO_2 monitors to help protect communities that are susceptible and vulnerable to NO_2 -related health effects.

- All new NO_2 monitors must begin operating no later than January 1, 2013.

- EPA Regional Administrators have the authority to require additional monitoring in certain circumstances, such as in areas impacted by major industrial point sources or a combination of sources where there is an indication that the standards may be exceeded. The Regional Administrators also have the authority to require additional near-road monitoring in urban areas where multiple peak concentration areas may be caused by a variety of mobile source factors including fleet mix, traffic congestion patterns, or terrain.

IMPLEMENTING THE NEW NO_2 STANDARD

- In this final rule, EPA is outlining the Clean Air Act requirements that states must address to implement the new NO_2 air quality standard.

- The new standard must be taken into account when permitting new or modified major sources of NOx emissions such as fossil-fuel fired power plants, boilers, and a variety of other manufacturing operations.

- EPA expects to identify or "designate" areas as attaining or not attaining the new standard by January 2012, within two years of establishing the new NO_2 standard. These designations

will be based on the existing community-wide monitoring network. Areas with monitors recording violations of the new standards will be designated "nonattainment." EPA anticipates designating all other areas of the country "unclassifiable" to reflect the fact that there is insufficient data available to determine if those areas are meeting the revised NAAQS.

- Once the expanded network of NO_2 monitors is fully deployed and three years of air quality data have been collected, EPA intends to redesignate areas in 2016 or 2017, as appropriate, based on the air quality data from the new monitoring network.

BACKGROUND

- The Clean Air Act requires EPA to set national ambient air quality standards for pollutants considered harmful to public health and the environment. National standards exist for six pollutants: nitrogen dioxide, ozone, particulate matter, carbon monoxide, sulfur dioxide, and lead.

- For each of these pollutants, the Clean Air Act requires EPA to set the health-based or "primary" standards at a level judged to be "requisite to protect the public health with an adequate margin of safety" and establish secondary standards that are "requisite" to protect public welfare from "any known or anticipated adverse effects associated with the pollutant in the ambient air" including effects on vegetation, soils, water, wildlife, buildings and national monuments, and visibility. EPA is considering the need for changes to the secondary NO_2 standard under a separate review.

- The law also requires EPA to review the standards and their scientific basis every five years to determine whether revisions are appropriate.

- Nitrogen dioxide is one of a group of highly reactive gasses known as "oxides of nitrogen." NO_2 forms quickly from emissions from cars, trucks and buses, power plants, and off-road equipment. In addition to contributing to the formation of ground-level ozone and fine particle pollution, NO_2 is linked with a number of adverse effects on the respiratory system.

- EPA first established standards for NO_2 in 1971, setting both a primary standard (to protect health) and a secondary standard (to protect the public welfare) at 53 ppb, averaged annually. Prior to the current review, the Agency reviewed the standards twice since 1971, but chose not to revise the standards at the conclusion of each review.

- All areas presently meet the 1971 NO_2 NAAQS, with annual NO_2 concentrations measured at community-wide monitors well below the level of the standard (53 ppb). Annual average ambient NO_2 concentrations, as measured at community-wide monitors, have decreased by more than 40 percent since 1980. Currently, the annual average NO_2 concentrations range from approximately 10-20 ppb.

- EPA expects NO_2 concentrations to continue decreasing as a number of mobile source regulations take effect. Tier 2 standards for light-duty vehicles began phasing in during 2004, and new NO_x standards for heavy-duty engines are phasing in between 2007 and 2010

model years. Current air quality monitoring data reflect only a few years of vehicles entering the fleet that meet these stricter NO_x tailpipe standards.

FOR MORE INFORMATION

- To download a copy of the final rule, go to EPA's Web site at: http://www.epa.gov/air/nitrogenoxides.

- This final rule and other background information are also available either electronically at http://www.regulations.gov, EPA's electronic public docket and comment system, or in hardcopy at the EPA Docket Center's Public Reading Room.

- The Public Reading Room is located in the EPA Headquarters, Room Number 3334 in the EPA West Building, located at 1301 Constitution Avenue, NW, Washington, DC. Hours of operation are 8:30 a.m. to 4:30 p.m. eastern standard time, Monday through Friday, excluding Federal holidays.

- Visitors are required to show photographic identification, pass through a metal detector, and sign the EPA visitor log. All visitor materials will be processed through an X-ray machine as well. Visitors will be provided a badge that must be visible at all times.

- Materials for this action can be accessed using Docket ID No. EPA-HQ-OAR-2006-0922.

FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION
BOB MARTINEZ CENTER
2600 BLAIRSTONE ROAD
TALLAHASSEE, FLORIDA 32399-2400

RICK SCOTT
GOVERNOR

JENNIFER CARROLL
LT. GOVERNOR

HERSCHEL T. VINYARD JR.
SECRETARY

January 22, 2013

Ms. Gwendolyn Keyes Fleming
Regional Administrator
U. S. Environmental Protection Agency (EPA) – Region 4
61 Forsyth Street, SW
Atlanta, GA 30303-8909

Dear Ms. Keyes Fleming:

Re: Air Program: State Implementation Plan Infrastructure Submittal for the 2010 Revised National Ambient Air Quality Standard for Nitrogen Dioxide

On behalf of the Florida Department of Environmental Protection, I hereby confirm that, to the best of my knowledge, the requirements of Sections 110(a)(1) and 110(a)(2) of the Clean Air Act are adequately addressed in Florida's existing approved State Implementation Plan (SIP) with respect to the implementation of the 2010 revised national ambient air quality standard for nitrogen dioxide (NO_2). A notice of hearing appeared in the Florida Administrative Register on December 14, 2012 (enclosed), and a hearing, if requested, was to be held January 16, 2013. A hearing was not requested and therefore not held. EPA was the only entity that submitted comments. These comments have all been addressed in the following document, which explicitly demonstrates the correlation between the Section 110(a)(2) infrastructure elements and the Florida Statutes and SIP-approved Florida rules that address each such element. An exact duplicate of this submittal in a searchable format has been e-mailed to the Air Planning Branch. If you have any questions on this submittal or need additional information, please contact Chad Stevens at (850) 717-9089. Thank you for your continued support of our efforts to implement the Clean Air Act in Florida.

Sincerely,

Katy L. Fenton, Deputy Director
Division of Air Resource Management

CRS/mb

Enclosure

cc: Scott Davis, Chief, Air Planning Branch, EPA Region 4 (by electronic mail)

STATE OF FLORIDA
DEPARTMENT OF ENVIRONMENTAL PROTECTION

State Implementation Plan Infrastructure Confirmation for the 2010 Revised National Ambient Air Quality Standard for Nitrogen Dioxide

Introduction

The United States Environmental Protection Agency (EPA) revised the national ambient air quality standard (NAAQS) for Nitrogen Dioxide (NO_2) on February 9, 2010. *See* 75 Fed. Reg. 6474 (Feb. 9, 2010). Within three years of EPA's promulgation of a revised NAAQS, states must address basic SIP "infrastructure" elements listed under section 110(a)(2) of the Clean Air Act (CAA), including emissions inventories, monitoring, and modeling to assure attainment and maintenance of that new NAAQS. *See* 42 U.S.C. § 7410(a)(1) & (2). EPA has historically referred to the submittals in which states must address these requirements as "infrastructure SIPs."[1]

Section 403.061(35), Florida Statues, grants the Florida Department of Environmental Protection (DEP) the broad authority to "[e]xercise the duties, powers and responsibilities required of the state under the federal [CAA], 42 U.S.C. ss. 7401 et seq" and "implement the programs required under that act in conjunction with its other powers and duties." By virtue of this statute, DEP has the authority and responsibility to act on behalf of the State of Florida to develop and revise a SIP as required by CAA section 110(a)(1) and to ensure that the SIP adequately addresses the required infrastructure elements prescribed under CAA section 110(a)(2).

DEP hereby confirms that the requirements of sections 110(a)(1) and the infrastructure elements required by sections 110(a)(2)(A)-(M) of the CAA are adequately addressed in Florida's existing approved SIP with respect to the implementation of the 2008 revised national ambient air quality standard for NO_2. Furthermore, DEP confirms that all elements of Florida's approved SIP have undergone public notice in accordance with the requirements of 40 CFR 51.102. This document demonstrates the correlation between the section 110(a)(2) infrastructure elements and the Florida Statutes and SIP-approved Florida rules that address each such element.

Rules and Statutes

Florida's existing SIP consists largely of Florida Administrative Code (F.A.C.) rules adopted by DEP and approved by EPA through the SIP revision process. The complete list of DEP rules approved and incorporated by reference into Florida's SIP is published by EPA in the United States Code of Federal Regulations at 40 CFR 52.520(c). The list includes each F.A.C. rule section number and effective date, with a corresponding EPA approval date for each rule section. The F.A.C. rules are available online at the Florida Department of State website (https://www.flrules.org/default.asp) and at the DEP Division of Air Resource Management website (http://www.dep.state.fl.us/air/rules/current.htm).

[1] This specific term does not appear in the statute, but EPA uses the term to distinguish this particular type of SIP submission designed to address basic structural requirements of a SIP from other types of SIP submissions designed to address other different requirements, such as ''nonattainment SIP'' submissions required to address the nonattainment planning requirements of part D, ''regional haze SIP'' submissions required to address the visibility protection requirements of CAA section 169A, NSR permitting program submissions required to address the requirements of parts C and D, and a host of other specific types of SIP submissions that address other specific matters.

There are five rule chapters of the F.A.C. that contain SIP-approved rule sections that directly or indirectly address implementation of the NO_2 NAAQS:

- **Chapter 62-204, F.A.C., Air Pollution Control –General Provisions**. All EPA regulations cited throughout DEP's air pollution rules are adopted and incorporated by reference in Rule 62-204.800, F.A.C. The purpose and effect of each such adopted regulation is determined by the context in which it is cited. This rule is referenced in the discussion below regarding the requirements in sections 110(a)(2)(A), (B), (C), (D), (F), (J), and (K) of the CAA.
- **Chapter 62-210, F.A.C., Stationary Sources –General Requirements.** This rule chapter establishes definitions and the general requirements for major and minor stationary sources of air pollutant emissions. It provides criteria for determining the need for an owner or operator to obtain DEP authorization by permit to conduct certain activities involving sources of air pollutant emissions, and it establishes reporting requirements and requirements relating to estimating emissions. This chapter also sets forth special provisions related to compliance monitoring, stack heights, circumvention of pollution control equipment, and excess emissions. This rule chapter is referenced in the discussion below regarding the requirements in sections 110(a)(2)(A), (B), (C), (D), (F), (J), and (K) of the CAA.
- **Chapter 62-212, F.A.C., Stationary Sources –Preconstruction Review.** This rule chapter establishes the preconstruction review requirements for proposed new emissions units, new facilities, and modifications to existing units and facilities. The requirements of this chapter apply to those proposed activities for which an air construction permit is required. This chapter includes general preconstruction review requirements and specific requirements for emissions units subject to both attainment and nonattainment area preconstruction review (i.e., New Source Review). This rule chapter is referenced in the discussion below regarding the requirements in sections 110(a)(2)(A), (B), (C), (D), (F), (J), and (K) of the CAA.
- **Chapter 62-296, F.A.C., Stationary Sources –Emission Standards.** This rule chapter establishes emission limiting standards and compliance requirements for stationary sources of air pollutant emissions. It establishes emission limitations for specific categories of facilities and emissions units, including reasonably available control technology (RACT). This rule chapter is referenced in the discussion below regarding the requirements in section 110(a)(2)(A), (D), and (F) of the CAA.
- **Chapter 62-297, F.A.C., Stationary Sources –Emissions Monitoring.** This rule chapter establishes test procedures for determining the compliance of air pollutant emissions units with emission limiting standards. This rule chapter is referenced in the discussion below regarding the requirements in sections 110(a)(2)(A) and (F) of the CAA.

As mentioned above, many of the current SIP-approved rules have been adopted by DEP under the authority of section 403.061(35), Florida Statutes. Beyond the broad authority given to DEP by this statute to implement the CAA, DEP relies on other Florida Statutes for authority to conduct various air program activities such as permitting, monitoring, fee collection, compliance assurance, enforcement, and emergency response. These statutes are essential to Florida's implementation of the NO_2 NAAQS and are referenced in the discussion below regarding the requirements of section 110(a)(2) of the CAA. For the most part, the Florida Statutes are referenced only to confirm DEP's legal authority to implement the SIP; however, certain statutes have been approved and incorporated into Florida's SIP and are noted as such. The Florida Statutes are available online at http://www.leg.state.fl.us/Statutes.

Section 110(a)(2) Elements – Implementing Rules and Statutes

110(a)(2)(A) – Emission limits and other control measures: SIPs must include enforceable emission limits and other control measures, means, or techniques; schedules for compliance; and other related matters.

- Rules: SIP-approved rule chapters 62-204, 62-210, 62-212, 62-296, and 62-297, F.A.C., collectively include emission limits and other control measures for pollutant-emitting activities that contribute to NO_2 concentrations in the ambient air and provide authority for DEP to establish such limits and measures as well as schedules for compliance through SIP-approved permits.
- Statutes: Section 403.061(9), Florida Statutes, authorizes DEP to "[a]dopt a comprehensive program for the prevention, control, and abatement of pollution of the air... of the state,") and section 403.8055, Florida Statutes, authorizes DEP to "[a]dopt rules substantively identical to regulations adopted in the Federal Register by the United States Environmental Protection Agency pursuant to federal law...."

110(a)(2)(B) – Ambient air quality monitoring: SIPs must provide for the establishment and operation of ambient air quality monitors; the compilation and analysis of ambient air quality data; and the submission of these data to EPA upon request.

- Rules: SIP-approved rule chapters 62-204, 62-210, and 62-212, F.A.C., require the use of Federal Reference Method or equivalent monitors and also provide authority for DEP to establish monitoring requirements through SIP-approved permits.
- Statutes: Section 403.061(1), Florida Statutes, authorizes DEP to "[a]pprove and promulgate current and long-range plans developed to provide for air and water quality control and pollution abatement." Section 403.061(9), Florida Statutes, authorizes DEP to "[a]dopt a comprehensive program for the prevention, control, and abatement of pollution of the air and waters of the state...." Section 403.061(11), Florida Statutes, authorizes DEP to "[e]stablish ambient air quality... standards for the state as a whole or for any part thereof."
- Note: As of the date of this infrastructure submittal the development of the NO_2 monitoring network is ongoing; therefore Florida's NO_2 monitoring strategy will be established per the requirements set forth in the 2012 and any subsequent Annual Monitoring Network plan relevant to the development of Florida's NO_2 monitoring network.

110(a)(2)(C) – Program for enforcement of control measures and new source review: SIPs must include a program that provides for: enforcement of all SIP measures; statewide permitting of minor sources; and permitting of the construction of new or modified stationary sources to meet prevention of significant deterioration (PSD) and nonattainment new source review (NNSR) requirements.

- Rules: SIP-approved rule chapters 62-204, 62-210, and 62-212, F.A.C., collectively establish a preconstruction, new source permitting program that meets the PSD and NNSR requirements under parts C and D of the CAA for pollutant-emitting activities that contribute to NO_2 concentrations in the ambient air and also provide for the enforcement of NO_X emission limits and control measures. DEP's EPA-approved preconstruction review program applies to both major and minor sources. New major sources and major modifications that are subject to PSD or NNSR permitting must demonstrate that the source or modification will not cause or contribute to a violation of any NAAQS or PSD increment and provide an analysis of additional impacts of the source or modification, including impacts on visibility. All new or modified major sources of

NO_x emissions will apply the Best Available Control Technology (BACT) to reduce NO_X emissions in accordance with the CAA and EPA PSD permitting requirements.

- Statutes: Section 403.061(6), Florida Statutes, requires DEP to "[e]xercise general supervision of the administration and enforcement of the laws, rules, and regulations pertaining to air and water pollution." Section 403.121, Florida Statutes, authorizes DEP to seek judicial and administrative remedies, including civil penalties, injunctive relief, and criminal prosecution for violations of any DEP rule or permit.
- Note: EPA has promulgated a Federal Implementation Plan (FIP) for the Florida PSD program to address the preconstruction permitting of Greenhouse gases (76 FR 82246). The FIP in conjunction with the above referenced SIP approved rules and Florida Statutes meet the requirements of Section 110(a)(2)(C).

110(a)(2)(D)(i) – Interstate transport: SIPs must include provisions prohibiting any source or other type of emissions activity within the state emitting any air pollutant in amounts which will (i) contribute significantly to nonattainment in, or interfere with maintenance by, any other state with respect to any such primary or secondary NAAQS or (ii) interfere with measures required to be included any other state's SIP to prevent significant deterioration of air quality or to protect visibility.

- Rules: SIP-approved sections of Chapters 62-204, 62-210, and 62-212, F.A.C., require any new major source or major modification to undergo PSD or NNSR permitting and thereby demonstrate that it will not cause or contribute to a violation of any NAAQS or PSD increment in Florida or any other state and require that the owner or operator provide an analysis of additional impacts of the source or modification, including impacts on visibility. All new or modified major sources of NO_x emissions will apply the Best Available Control Technology (BACT) to reduce NO_X emissions in accordance with the CAA and EPA PSD permitting requirements. The above chapters, along with Chapter 62-296, F.A.C., also provide for implementation of the EPA Clean Air Interstate Rule (CAIR).
- Statutes: Section 403.061(14), Florida Statutes, authorizes DEP to "[e]stablish a permit system whereby a permit may be required for the operation, construction or expansion of any installation that may be a source of air pollution...." (with the definition of "pollution" provided in section 403.031(7), Florida Statutes), and section 403.087, Florida Statutes, provides specific requirements for implementation of a permit system for operation of reasonably expected sources of air pollution.
- Note 1: Florida's regional haze plan for addressing visibility-impairing pollutants is, as of the date of this infrastructure submission, proposed to be fully approved under Florida's SIP by EPA (77 FR 73369). This plan ensures that Florida will not interfere with visibility protection in other states.
- Note 2: DEP understands per EPA's November 2012 memorandum addressing the vacatur of the 2011 Cross-State Air Pollution Rule,[2] that EPA does not expect this SIP infrastructure submission to address the requirement for SIPs to prohibit significant contribution to nonattainment in, or interfere with maintenance by, any other state with respect to any such primary or secondary NAAQS.

110(a)(2)(D)(ii) – Interstate and international transport provisions: SIPs must include provisions ensuring compliance with the applicable requirements of sections 115 or 126(b) of the CAA.

[2] McCarthy, Gina, Assistant EPA Administrator, Memo to Air Division Directors, Regions 1-10, Re: *Next Steps for Pending Redesignation Requests and Pending State Implementation Plan Actions Affected by the Recent Court Decision Vacating the 2011 Cross-State Air Pollution Rule,* November 19, 2012.

- Rules: SIP-approved sections of Chapters 62-204, 62-210, and 62-212, F.A.C., require any new major source or major modification to undergo PSD or NNSR permitting and thereby provide notification to other potentially affected federal, state, and local government agencies.
- Statutes: Section 403.061(14), Florida Statutes, authorizes DEP to "[e]stablish a permit system whereby a permit may be required for the operation, construction or expansion of any installation that may be a source of air pollution...." (with the definition of pollution provided in section 403.031(7), Florida Statutes), and section 403.087, Florida Statutes, provides specific requirements for implementation of a permit system for operation of reasonably expected sources of air pollution.

110(a)(2)(E) – Adequate resources and authority, conflict of interest, and oversight of local government: States must provide for adequate personnel, funding, and legal authority under state law to carry out its SIP and related issues; comply with conflict-of-interest requirements under CAA section 128; and ensure adequate oversight of any local government agency responsible for implementation of any SIP provision.

- Statutes: Section 403.061(2), Florida Statutes, authorizes DEP to "[h]ire only such employees as may be necessary to effectuate the responsibilities of the department." Section 403.061(4), Florida Statutes, authorizes DEP to "[s]ecure necessary scientific, technical, research, administrative, and operational services by interagency agreement, by contract, or otherwise." Section 403.182, Florida Statutes, authorizes DEP to approve local pollution control programs. Section 320.03(6), Florida Statutes, authorizes DEP to establish an Air Pollution Control Trust Fund and use a $1 fee on every motor vehicle license registration sold in the state for air pollution control purposes. Section 112.3143(4) and section 112.3144, Florida Statutes, both of which have been adopted and incorporated into Florida's SIP and, together, require disclosure of conflicts of interest by public officials consistent with the requirements of CAA section 128.
- Note: The DEP understands that when EPA does a completeness determination and final approval for any SIP submittal, it implicitly determines that the requirements of CAA section 110(a)(2)(E) are met. Each submittal must provide for adequate personnel, funding, and legal authority under state law to carry out the proposed SIP revision. In order for a submittal to be deemed complete, any local and regional implementation plans must be submitted through the state agency. In Florida's case, no local or regional areas submit implementation plans; DEP is solely responsible for the SIP.

110(a)(2)(F) – Stationary source emissions monitoring: SIPs must provide for the establishment and operation of emissions monitoring systems by source owners or operators, and for the submission of periodic emissions reports from such sources.

- Rules: SIP-approved sections of Chapters 62-204, 62-210, 62-212, 62-296, and 62-297, F.A.C., to the extent such rule sections require emissions monitoring and reporting for pollutant-emitting activities that contribute to NO_2 concentrations in the ambient air, including requirements for the installation, calibration, maintenance, and operation of equipment for continuously monitoring or recording emissions, or provide authority for DEP to establish such emissions monitoring and reporting requirements through SIP-approved permits; and require reporting of NO_X emissions in such manner as to allow the state to correlate such data with applicable emission limitations and comply with the provisions of the EPA Air Emissions Reporting Rule.
- Statutes: Section 403.061(13), Florida Statutes, which authorizes DEP to "[r]equire persons engaged in operations which may result in pollution to file reports which may contain... any other such information as the department shall prescribe..."; also, section 403.8055, Florida Statutes, which authorizes DEP to "[a]dopt rules substantively identical to regulations adopted in the Federal Register by the United States Environmental Protection Agency pursuant to federal law...."

110(a)(2)(G) – Emergency powers: States must have authority comparable to that in section 303 of the CAA to address activities causing imminent and substantial endangerment to public health and to provide contingency plans to implement such authority.

- Statutes: Section 403.131, Florida Statutes, authorizes DEP to: seek injunctive relief to enforce compliance with this chapter or any rule, regulation or permit certification, or order; to enjoin any violation specified in section 403.061(1), Florida Statutes (i.e., the failure to obtain a permit or comply with any DEP permit or rule or comply with any Florida Statute administered by the DEP); and to seek injunctive relief to prevent irreparable injury to the air, waters, and property, including animal, plant, and aquatic life, of the state and to protect human health, safety, and welfare caused or threatened by any violation." Section 120.569(2)(n), Florida Statutes, authorizes DEP to issue emergency orders to address immediate dangers to the public health, safety, or welfare; both of which have been adopted and incorporated into Florida's SIP.

110(a)(2)(H) – Future SIP revisions: States must have authority to revise its SIP in response to changes in the NAAQS, availability of improved methods for attaining the NAAQS, or any EPA finding that the SIP is substantially inadequate.

- Statutes: Section 403.061(35), Florida Statutes, as previously described in the "Introduction" above, grants DEP the broad authority to implement the CAA. Moreover, section 403.061(9), Florida Statutes, authorizes DEP to "[a]dopt a comprehensive program for the prevention, control, and abatement of pollution of the air ... of the state, and from time to time review and modify such programs as necessary."

110(a)(2)(I) – Nonattainment areas: States must meet the applicable requirements of part D of the CAA relating to nonattainment areas.

- Note: DEP understands that EPA does not expect this SIP infrastructure submission to address this element.

110(a)(2)(J) – Consultation with government officials; public notification of NAAQS violations; and compliance with PSD and visibility requirements: States must consult with local governments and federal land managers pursuant to the provisions of section 121 of the CAA; notify the public of instances or areas exceeding the NAAQS pursuant to section 127 of the CAA; and meet the requirements of part C of the CAA (relating to PSD and visibility protection).

- Rules: SIP-approved sections of Chapters 62-204, 62-210, and 62-212, F.A.C. require intergovernmental consultation, public notice, and compliance with the requirements of part C and D of the CAA. SIP-approved rule chapters 62-204, 62-210, and 62-212, F.A.C., collectively establish a preconstruction, new source permitting program that meets the PSD requirements under part C of the CAA for pollutant-emitting activities that contribute to NO_2 concentrations in the ambient air. New major sources and major modifications that are subject to PSD permitting must demonstrate that the source or modification will not cause or contribute to a violation of any NAAQS or PSD increment and provide an analysis of additional impacts of the source or modification, including impacts on visibility. All new or modified major sources of NO_x emissions will apply the Best Available Control Technology (BACT) to reduce NO_X emissions in accordance with the CAA and EPA PSD permitting requirements.
- Statutes: Section 403.061(21), Florida Statutes, authorizes DEP to "[a]dvise, consult, cooperate, and enter into agreements with other agencies of the state, the Federal Government, other states, interstate agencies, groups, political subdivisions, and industries affected by the provisions of this act, rules, or policies of the department" and section 403.061(20), Florida Statutes, authorizes DEP to "[c]ollect and disseminate information ... relating to pollution."

- Note 1: Notification to the public of instances or areas exceeding the NAAQS and associated health effects is provided through implementation of the Air Quality Index reporting system in all required areas.
- Note 2: EPA has promulgated a FIP for the Florida PSD program to address the preconstruction permitting of Greenhouse gases (76 FR 82246). The FIP in conjunction with the above referenced SIP approved new source preconstruction permitting program meet the PSD requirements of part C of the CAA.
- Note 3: Florida's regional haze plan for addressing visibility-impairing pollutants is, as of the date of this infrastructure submission, proposed to be fully approved under Florida's SIP by EPA (77 FR 73369). This plan ensures that Florida will meet the visibility requirements in part C of the CAA.

110(a)(2)(K) – Air quality modeling: States must provide for the performance of air quality modeling as required by EPA to predict the effects on air quality of emissions of NAAQS pollutants and for submission of such data to EPA.

- Rules: SIP-approved sections of Chapter 62-204, 62-210, and 62-212, F.A.C., require use of EPA-approved modeling of pollutant-emitting sources that contribute to NO_2 concentrations in the ambient air.
- Statutes: Section 403.061(13), Florida Statutes, authorizes DEP to "[r]equire persons engaged in operations which may result in pollution to file reports which may contain information relating to locations, size of outlet, height of outlet, rate and period of emission, and composition and concentration of effluent and such other information as the department shall prescribe to be filed...." Section 403.061(18), Florida Statutes, authorizes DEP to "[e]ncourage and conduct studies, investigations, and research relating to pollution and its causes, effects, prevention, abatement, and control."
- Note: DEP has the technical capability to conduct or review all air quality modeling associated with the NSR program and all SIP-related modeling, except photochemical grid modeling which is performed for DEP under contract. All such modeling is conducted in accordance with the provisions of 40 CFR Part 51, Appendix W, "Guideline on Air Quality Models." DEP agrees to submit any NSR or SIP modeling files to EPA upon request.

110(a)(2)(L) – Permitting fees: States must assess permitting fees to cover the costs of reviewing, approving, implementing, and enforcing major stationary source permits.

- Statutes: Paragraph 403.087(6)(a), Florida Statutes, directs DEP to " require a processing fee in an amount sufficient, to the greatest extent possible, to cover the costs of reviewing and acting upon any application for a permit...."
- Note: The subject costs are covered by the Air Pollution Control Trust Fund, which is made up of various funding sources.

110(a)(2)(M) – Consultation and participation by affected local entities: States must provide for consultation and participation in SIP development by local political subdivisions affected by the SIP.

- Statutes: Section 403.061(21), Florida Statutes, authorizes DEP to "[a]dvise, consult, cooperate, and enter into agreements with other agencies of the state, the Federal Government, other states, interstate agencies, groups, political subdivisions, and industries affected by the provisions of this act, rules, or policies of the department."
- Note: DEP has specific operating agreements with eight county air pollution control agencies (Duval, Orange, Hillsborough, Pinellas, Sarasota, Palm Beach, Broward, and Miami-Dade) that delineate the duties and responsibilities of each such county in carrying out Florida's air program, including applicable portions of the SIP.

FPL.

June 3, 2013

Mr. Brian Accardo
Director
Division of Air Resource Management
Florida Dept. of Environmental Protection
2600 Blair Stone Road
Tallahassee, FL 32399

Re: Analysis and Plan regarding the new 1-hour NO_2 National Ambient Air Quality Standard

Dear Mr. Accardo:

I am writing to you on behalf of Florida Power & Light Company ("FPL") in regards to our recent discussions related to the impact of the new 1-hour NO_2 standard on FPL facilities.

As you are aware, on January 22, 2010, the U.S. Environmental Protection Agency ("EPA") strengthened the National Ambient Air Quality Standard ("NAAQS") for NO_2. Specifically, EPA created an entirely new 1-hour human health-based standard for NO_2. This new 1-hour standard marks a significant change in the form of the NO_2 standard by focusing on short term exposures rather than long term exposures. EPA set the new 1-hour standard at 100 parts per billion.

Earlier this year, the Florida Department of Environmental Protection ("DEP") submitted a revision to its State Implementation Plan ("SIP") to implement the new 1-hour NO_2 standard pursuant to its statutory duty and authority under Chapter 403, Florida Statutes, and rules adopted under Chapter 62, Florida Administrative Code, to protect and maintain Florida's air quality, including ensuring NAAQS attainment. Based on DEP's recommendation, EPA has already designated all of Florida as attainment/unclassifiable for the new NO_2 standard. In reviewing the potential impacts of this new NO_2 standard, FPL became aware that emission units with higher NOx emissions and shorter stacks, and which are located closer to property boundaries, may not adequately facilitate off-site dispersion of stack emissions to concentrations below the new 1-hour standard.

FPL conducted an analysis of three of its electrical generating facilities with older-generation peaking gas turbines ("GTs") that have these characteristics. Specifically, FPL analyzed the GTs at the following facilities: Lauderdale Plant, located in the City of Dania, Broward County; Port Everglades Plant, located in the City of Hollywood, Broward County; and Fort Myers Plant, located in the City of Tice, Lee County. FPL has 48 peaking GTs at these three facilities, which were installed in the 1960s and entered into commercial operation in the early 1970s. The GTs do not operate on a continuous basis during the entire year, but rather are used occasionally in order to serve peak demands. Thus, while their less frequent operation did not pose concerns relative to the prior annual NO_2 standard, even occasional operation is relevant to the new 1-hour NO_2 standard. Regardless, due to their quick-start capability, the GTs constitute extremely important reliability resources for FPL for serving load in the South Florida area.

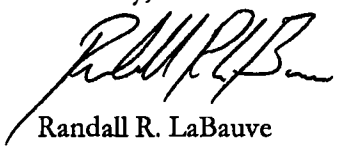
FPL's analysis of these GTs, as presented to DEP, included stack testing, dispersion modeling and other data analysis. This analysis showed that emissions from the GTs, which are allowed under applicable permits, nonetheless would not disperse sufficiently to bring off-site concentrations below the new 1-hour standard. If left unresolved, such emissions could thus lead to EPA designating the area as nonattainment. FPL's evaluation concluded that the most cost-effective solution is to remove 48 of the existing GTs at the three facilities and replace them with new, highly efficient combustion turbines (CTs) with low NO_2 emissions. This solution, as FPL's analysis demonstrated to DEP, resolves the offsite impacts at these three facilities.

As a result of its analysis, FPL discussed with DEP its need for certainty regarding a timely resolution of this issue, while ensuring its ability to reliably meet demand. FPL understands that completing this project as expeditiously as practicable is necessary to DEP's implementation of the NAAQS program and Section 172 of the Clean Air Act. As FPL explained in our meetings, a substantial lead time is needed to complete this project. Specifically, FPL must apply for and receive the necessary permits and approvals for the project. Part of the approval process is to receive a federal greenhouse gas air permit from EPA, which can easily stretch out to two years. Further, FPL must have time, after licensing and permitting, to order the equipment and to construct the project. Therefore, DEP has agreed that, in order to resolve the offsite impact issues related to the new NO_2 standard, FPL will bring the new CTs into service by December 31, 2016. DEP has acknowledged that FPL may operate the existing GTs, as permitted, to serve load until the new CTs are in service.

In order to meet this in-service deadline, licensing of the project must begin immediately. In that regard, FPL will file the necessary air construction permit applications by this summer for construction of the new CTs. This should allow adequate time for DEP and EPA to issue the permits and for FPL to implement and construct the project by December 31, 2016. FPL understands that this response plan and timing is acceptable to DEP.

Thank you for the opportunity to meet with you and your staff to find a mutually agreeable path forward to reduce those off-site impacts to a level below this new regulatory air standard, on a timetable that meets FPL's operational needs.

Sincerely,



Randall R. LaBauve
Vice-President
Environmental Services