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April 1, 2009

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COMMISSION
CLERK

-VIA HAND DELIVERY -

Ms. Ann Cole
Commission Clerk
Florida Public Service Commission
2540 Shumard Oak Blvd.
Tallahassee, FL 32399-0850

Re: Docket No. 090007-EI

Dear Ms. Cole:

I am enclosing for filing in the above docket the original and seven (7) copies of Florida Power & Light Company's Petition for Approval of Environmental Cost Recovery True-Up for the Period Ending December 2008 and FPL's Supplemental CAIR/CAMR/CAVR Filing, which is included as Attachment I to this petition, together with a CD containing the electronic version of same.

Also enclosed for filing are the original and fifteen (15) copies of the prefiled testimony and documents of Florida Power & Light Company witness T. J. Keith.

If there are any questions regarding this transmittal, please contact me at 561-304-5639.

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SGA 1
ADM 1
CLK 1

Sincerely,

Damaris Rodriguez for

John T. Butler

Enclosures
cc: Counsel for Parties of Record (w/encl.)

DOCUMENT NUMBER-DATE

02904 APR-1 8

FPSC-COMMISSION CLERK

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Environmental Cost)
Recovery Clause)

Docket No. 090007-EI
Filed: April 1, 2009

**PETITION FOR APPROVAL OF ENVIRONMENTAL COST RECOVERY
TRUE-UP FOR THE PERIOD ENDING DECEMBER 2008**

Florida Power & Light Company ("FPL") hereby petitions this Commission for approval of FPL's actual End-of-Period Environmental Cost Recovery Clause ("ECRC") true-up under-recovery amount of \$3,034,452 for the period January 2008 through December 2008 and an over-recovery of \$2,694,124 as the adjusted net true-up amount for the same period. In support of this Petition, FPL states as follows:

1. The actual End-of-Period ECRC true-up under-recovery of \$3,034,452 for the period January 2008 through December 2008 was calculated in accordance with the methodology set forth in Schedule A-2 for the Fuel Cost Recovery Clause, attached to Order 10093 dated June 19, 1981. This calculation and the supporting documentation are contained in the prepared testimony and exhibit of FPL witness T.J. Keith, which is being filed together with this Petition and incorporated herein.

2. In Order No. PSC-08-0775-FOF-EI, dated November 24, 2008, the Commission approved an under-recovery of \$5,728,576 as the estimated/actual ECRC true-up for the period January 2008 through December 2008.

3. The adjusted net true-up for the period January 2008 through December 2008 is an over-recovery of \$2,694,124, which is the difference between the actual true-up under-recovery of \$3,034,452 and the estimated/actual true-up under-recovery of \$5,728,576.

DOCUMENT NUMBER-DATE

02904 APR-18

FPSC-COMMISSION CLERK

4. Per Order No. PSC-08-0775-FOF-EI, issued on November 24, 2008, FPL is providing its current estimates of project activities and associated costs related to its Clean Air Interstate Rule (CAIR), Clean Air Mercury Rule (CAMR), and Clean Air Visibility Rule (CAVR)/BART Projects as Attachment I to this petition.

WHEREFORE, Florida Power & Light Company respectfully requests the Commission to approve an actual End-of-Period Environmental Cost Recovery true-up under-recovery amount of \$3,034,452, and an over-recovery of \$2,694,124 as the adjusted net true-up, for the period January 2008 through December 2008.

Respectfully submitted,

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By: *Damaris Rodriguez* *JTB*

John T. Butler
Florida Bar No. 283479

CERTIFICATE OF SERVICE
Docket No. 090007-EI

I HEREBY CERTIFY that a true and correct copy of Florida Power & Light Company's Petition for Approval of Environmental Cost Recovery True-Up for the Period Ending December 2008 has been furnished by hand delivery (*) or U.S. mail this 1st day of April, 2009 to the following:

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**FLORIDA POWER & LIGHT COMPANY
DOCKET NO. 090007-EI
ENVIRONMENTAL COST RECOVERY CLAUSE
FPL SUPPLEMENTAL CAIR/CAMR/CAVR FILING
APRIL 1, 2009**

Per Order No. 08-0775-FOF-EI, issued on November 24, 2008, the discussion below provides FPL's current estimates of project activities and associated costs related to its Clean Air Interstate Rule (CAIR), Clean Air Mercury Rule (CAMR) and Clean Air Visibility Rule (CAVR)/ BART Projects.

Clean Air Interstate Rule (CAIR) Compliance Project Update:

SJRPP SCR and Ammonia Injection Systems - The installation of Selective Catalytic Reduction Systems (SCR) and Ammonia Injection Systems on St. Johns River Power Park (SJRPP) Units 1 and 2 scope remains at \$45.5 million. Construction and testing of the SCR on Unit 2 was completed in December 2008 with initial in-service operation occurring in January 2009. Construction of the Unit 1 SCR continues with the ductwork fabrication having been completed in December 2008. Installation of the ammonia injection system and controls are currently underway with the projected in-service date of April 2009.

Estimated CAIR O&M expenses for 2009 are \$631,000. Estimated annual O&M expenses beginning 2010 are \$1.2 million (FPL 20% ownership). O&M activities for the SCR include incremental operating staff, ammonia consumption, maintenance of the SCR ammonia injection skid and SCR auxiliary equipment.

Scherer SCR and FGD - Current capital cost estimates for the installation of the Wet Flue Gas Desulfurization (FGD) Scrubber and Selective Catalytic Reduction System (SCR) with Ammonia Injection System on Scherer Unit 4 remains unchanged at \$392.6 million. The construction of plant infrastructure required for the reagent supply and waste by-product removal from the emission controls being implemented at Plant Scherer is currently underway and FPL's share of the costs for those facilities needed for support of Unit 4 are included in the project costs. Unit specific engineering and design work on the FGD and SCR for Unit 4 was completed in 2008 and procurement of materials needed for the construction of the equipment is currently underway. Foundation work for construction of the FGD and SCR and the foundation for the new chimney for output from the FGD were completed in 2008.

Project work planned for 2009 includes: Delivery and installation of SCR structural steel; delivery and installation of SCR ammonia storage facility; completion of FGD chimney liner & absorber foundation activities; Scherer common FGD facility work including limestone handling prep equipment, tanks, piping, and electrical; begin construction of FGD gypsum waste disposal facility. Georgia Power Company has not provided O&M estimates for the SCR and FGD for 2012 and beyond when the FGD and SCR are projected to be in-service.

O&M activities for the SCR include incremental operating staff, ammonia consumption, maintenance of the SCR ammonia injection skid and SCR auxiliary equipment. O&M activities for the FGD include limestone consumption, limestone and by-product handling operation, FGD operations, FGD tower and auxiliary equipment maintenance.

800 MW unit cycling project - The 800 MW unit cycling project is currently underway, with anticipated completion in 2010 at the Martin and Manatee Plants. Mr. LaBauve introduced this project in his September 1, 2006 testimony and subsequently provided an estimate for implementation of the projects with a total capital cost of \$104.8 million. Planned project work at the Martin and Manatee Plants for 2009 includes condenser tube replacements, steam turbine projects, boiler projects, and balance of plant changes for one unit at each plant for a total estimated capital cost of \$40.2 million and an estimated O&M expense of \$653 thousand. Planned work for 2010 for the completion of the 800 MW cycling project includes steam turbine work on Martin Unit 1 and remaining boiler and steam turbine work on Manatee Unit 1. FPL projects the 2010 costs at an estimated capital cost of \$26.6 million and an O&M cost estimated at \$598 thousand. FPL plans to complete the project work at the Manatee and Martin plants in 2010 with a revised estimated total project cost of \$108.8 million in capital costs and \$2.3 million in O&M expenses. Increases to the capital project costs from the prior estimate are primarily the result of the reclassification of boiler Heat Recovery Area (HRA) work from the O&M project to the capital project, and also a result of higher than projected labor costs for the boiler and condenser tube work. Projected total O&M costs for the 800 MW project have decreased from the prior estimate as a result of the reclassification of HRA work from O&M to capital.

FPL's recent analysis of the 800 MW cycling project using revised load projections demonstrates that there exists significant savings in both emission allowance costs and in fuel costs. These savings are in excess of the remaining capital and O&M costs for the 800 MW project.

Rule Challenge – On July 11, 2008 the United States Circuit Court of Appeals for the District of Columbia Circuit issued an opinion vacating the United States Environmental Protection Agency's ("EPA's") CAIR. On December 23, 2008 the Court issued an opinion on rehearing of the July 11 decision and remanded CAIR to the EPA without vacatur, instructing EPA to remedy CAIR's flaws in accordance with the Court's July 11 opinion. This results in CAIR remaining in effect in its current form until it is revised for the July 11 opinion. No timetable is set for the EPA to revise CAIR, but the Court reminded EPA that it did not intend to grant an indefinite stay of the effectiveness of the July 11 opinion. Because the Court did not vacate CAIR, FPL and other utilities must continue to comply with its current requirements beginning in 2009 until the rule is revised. FPL will continue to work on behalf of its customers with EPA to reverse the use of the fuel adjustment factors, which FPL argued, and the Court agreed, are improper in the final published CAIR.

CEMS Plan for GTs - The Low Mass Emitting (LME) Continuous Emissions Monitoring Systems (CEMS) have been installed, tested, and are now in operation at the Fort Myers, Port Everglades, and Fort Lauderdale Gas Turbine Parks, as required by the CAIR.

Testing of the GT CEMS is required every five years at current operating conditions to maintain certification of the monitoring systems. In addition, it is anticipated that \$ 5,000 per year will be spent on routine maintenance of these CEMS systems. It should be noted that the LME option is available for a gas turbine only if its emissions remain under EPA-prescribed thresholds. If any gas turbine emits more than 50 tons of NOx or 25 tons of SO2 in a given calendar year, the testing for that gas turbine will be required every year, instead of every 5 years. That would increase the testing costs for non-qualifying gas turbines to \$65,000 per year, along with \$5,000 per year for maintenance.

Purchases of allowances - Future purchases of allowances will be made as needed for compliance with the annual and ozone season NOx requirements. FPL has revised its estimate to reflect the changes which were made in the projected operation of FPL fossil generating units, including the additional generation at West County Energy Center, and the modernization of the Cape Canaveral and Riviera Plants, and emission reductions from the implementation of the CAIR projects. While FPL has received allocations to its existing CAIR fossil generating units, FPL has projected, but does not know precisely, the number of allowances it will be allocated under the CAIR NOx Annual and Ozone Season new source set-aside program. As a result of the lower than previously projected system load, and changes in FPL's generation plan mentioned above, FPL projects that it may have sufficient allowances for compliance in the initial phase of CAIR without purchasing additional allowances.

As discussed in each of its CAIR projects, FPL believes it is prudent to continue with the SJRPP SCR installation, Scherer Multi-pollutant controls installation, and the 800 MW cycling project. FPL's revised estimate projects an excess of annual NOx allowances in subsequent years beginning in 2010 and has estimated an average annual excess of approximately \$15.1 million for the 2010 through 2020 period. Please note, however, that FPL's actual NOx allowance requirements depend upon a number of factors that are difficult to predict, and it is possible that FPL's actual allowance requirements will differ significantly from the future year allowance projection. It is also likely that the future actual prices for the NOx allowances will differ substantially from the projected prices affecting both estimated compliance costs and projected revenue from allowance sales.

Actual CAIR Capital expenses through 2008 were \$127.8 million.

| CAIR CAPITAL COST ESTIMATES (\$Millions) | | | |
|-------------------------------------------------|-------------|-------------|----------------------|
| PROJECT | 2009 | 2010 | TOTAL PROJECT |
| SJRPP-SCR/Ammonia Injection System | 17.0 | 7.9 | 45.5 |
| Scherer-SCR/FGD | 123.4 | 90.6 | 392.6 |
| 800 MW Unit Cycling - Martin | 20.5 | 6.1 | 52.5 |

| | | | |
|----------------------------------|------------------------------|------------------------------|------------------------------|
| 800 MW Unit Cycling - Manatee | 19.7 | 20.5 | 56.3 |
| CEMS at GTs | Capital project completed | Capital project completed | Capital project completed |
| Allowances | N/A | N/A | N/A |
| CO2 Compliance | Not yet available | Not yet available | Not yet available |

Actual CAIR O&M expenses through 2008 are \$3.1 million.

| CAIR O&M COST ESTIMATES (\$Millions) | | | |
|-------------------------------------------------|-------------------|-------------------|--------------------------------------------------------|
| PROJECT | 2009 | 2010 | TOTAL PROJECT |
| SJRPP- SCR/Ammonia Injection System | .631 | 1.2 | 1.2 (2011+ annual operating costs are on-going) |
| Scherer-SCR/FGD | 0 | 0 | Not yet available |
| 800 MW Unit Cycling – Martin | .432 | .032 | .953 |
| 800 MW Unit Cycling – Manatee | .221 | .566 | 1.347 |
| CEMS at GTs | 0.070 | 0.005 | .019 (2011+ annual operating costs are on-going) |
| Allowances | 0 | 0 | N/A |
| CO2 Compliance | Not yet available | Not yet available | Not yet available |

Note: FPL is projecting \$3.0 M for purchases of allowances in 2010.

Clean Air Mercury Rule (CAMR) Compliance Project Update:

On February 8, 2008 the United States District Court of Appeals ruled that EPA’s delisting rule for mercury emissions from coal-fired Electric Generating Units (EGUs) utility boilers and the CAMR were unlawful and vacated both rules. On February 6, 2009, the United States Department of Justice withdrew its petition for certiorari in *EPA v. New Jersey*. On February 12, 2009, industry intervenors filed a letter with the Supreme Court responding to EPA's decision to move for dismissal of the Agency's request for review of the D.C. Circuit's decision in *New Jersey v. EPA*, which vacated the CAMR and EPA's rule delisting coal- and oil-fired EGUs from regulation under § 112 of the Clean Air Act (Delisting Rule).

On February 23, 2009, the U.S. Supreme Court dismissed EPA’s petition for certiorari in the case of *EPA v. State of New Jersey*, following the EPA’s request to withdraw the petition. As a result, the 2008 D.C. Circuit’s ruling vacating EPA’s Delisting Rule and CAMR stands firm. Following EPA’s withdrawal of its petition for a writ of certiorari, EPA has begun efforts to develop appropriate standards to regulate power plant emissions under section 112.

On February 3, 2009, Congresswoman Eddie Bernice Johnson (D-TX) introduced an amendment (H.R. 821) to the Clean Air Act (Act) that would require EPA to promulgate mercury emission standards for EGUs. EPA would have one year from the date the amendment is enacted to set maximum achievable control technology (MACT) standards for EGUs pursuant to Section 112 of the Act.

The Georgia Environmental Protection Division (EPD) promulgated two major rules to implement mercury reductions within Georgia that included a rule to adopt the CAMR federal mercury cap and trade program: Rule 391-3-1-.02(15) – “*Georgia Mercury Trading Rule*” and a Georgia state specific Multipollutant Rule: Rule 391-3-1-.02(2)(sss) – “*Multipollutant Control for Electric Utility Steam Generating Units*”. The Multipollutant Rule was promulgated to specify the implementation of specific air pollution control equipment for reductions in mercury, sulfur dioxide, and nitrogen oxides emissions from coal-fired EGUs. The rule requires controls to be implemented on specific EGUs within the state to control the emissions of Sulfur Dioxide (SO₂), Nitrogen Oxides (NO_x) and mercury (Hg). Section 4(i) of the Multipollutant Rule requires that Scherer Unit 4 may not be operated after April 30, 2010, unless it is equipped and operated with sorbent injection and a baghouse for the control of mercury emissions.

Installation of the mercury controls that would have been needed to comply with the CAMR requirements remains necessary to comply with the requirements of the Georgia Multipollutant Rule therefore installation of mercury controls on Plant Scherer Unit 4 must continue. The Georgia Multipollutant Rule requires that each of the four units at Plant Scherer install and operate a sorbent injection system with a baghouse collection device for removal of mercury. The vacatur of CAMR does not change the compliance obligations at Plant Scherer, including FPL’s share of Unit 4. FPL anticipates that controls being installed at Plant Scherer for mercury control will be needed to comply with the monitoring and reporting requirements will ultimately be required to demonstrate compliance with monitoring of the final MACT rule. Specifically, FPL will comply with the mercury reduction requirements of the Georgia Multipollutant Rule by using the following projects identified previously under CAMR:

1. Installation of Fabric Filter Baghouse and Mercury Sorbent Injection System on Scherer Unit 4.
2. Installation of HgCEMS on Scherer Unit 4.
3. Installation of HgCEMS on SJRPP Units 1 & 2 was completed in 2008 prior to the EPA decision (certification testing and operation delayed until the monitoring requirements begin for mercury MACT compliance.)

FPL has revised the cost estimates for the installation of mercury controls at Plant Scherer as a result of estimated increases in labor and material costs.

FPL plans to petition the Commission in its August 2009 Estimated/Actual filing for approval of a modification to its CAMR project to recognize that the activities planned for Plant Scherer to comply with the now-vacated CAMR will be implemented instead to

comply with the Georgia Multipollutant Rule. FPL believes that mercury controls being installed at Plant Scherer to comply with the Georgia rule will be equivalent to those which are likely to be required under a MACT rule. For the SJRPP units, FPL and majority owner JEA, had planned to comply with the Phase I of the CAMR through the co-benefits removal of mercury by the SCR and scrubber for units burning bituminous coals. The planned addition of the SCR on both SJRPP units to comply with CAIR would achieve the co-benefit reductions as both units had been constructed with Scrubbers installed. FPL will evaluate the future mercury control requirements for Plant Scherer and SJRPP as the EPA reviews its options in response to the CAMR vacature. FPL and JEA will evaluate the appropriate technology for implementation at SJRPP to comply with a future mercury reduction requirement.

Actual CAMR Capital expenses through 2008 are \$42.8 million.

| CAMR CAPITAL COST ESTIMATES (\$Millions) | | | |
|-----------------------------------------------------|-------------|-------------|----------------------|
| PROJECT | 2009 | 2010 | TOTAL PROJECT |
| SJRPP-Mercury CEMS | 0 | 0 | 0.0 |
| Scherer-Sorbant Injection/Baghouse/ Mercury CEMS | 78.6 | 21.0 | 99.6 |

Clean Air Visibility Rule (CAVR) / Best Available Retrofit Technology (BART) Project Update:

FPL has successfully demonstrated through modeling that all the applicable units under the particulate control portion of the BART regulations, with the exception of Turkey Point Fossil Units 1 & 2 (PTF 1&2), do not cause a significant amount of particulate visibility impairment. Due to this demonstration, no further action will be required to comply with particulate emissions, except at PTF 1 & 2.

FPL successfully concluded negotiations with the Florida Department of Environmental Protection (FDEP) regarding PTF 1 & 2 in February 2009, with the Department accepting FPL's proposed plan to comply with the BART requirements under the Regional Haze program. FPL and the FDEP agreed on the following compliance options for particulate and opacity control under BART:

1. Installation of modern multi-cyclone separators;
2. Switching to a lower sulfur fuel (from 1.0% to 0.7%);
3. Adoption of a lower Particulate Matter (PM) emission limit from 0.1 lb./mmbtu to 0.07 lb./mmbtu;
4. Conducting a fuel additive test program with the goal of a further PM reduction to 0.05 lb./mmbtu, if feasible;

5. Accepting a steady-state opacity limit of 20% based on an annual average for 99% of the annual steady-state operating periods.

The projected cost of this Emission Reduction Strategy is estimated to be \$7.3 million Capital with \$1.9 million increased O&M per year which FPL will not include recovery of costs under the ECRC.

FPL anticipates that the FDEP will issue a draft permit for compliance with BART by the second quarter of 2009. Once the permit becomes final, the BART project will be completed. The required implementation date will not be until December 2013. In order to minimize the effect on total system load and availability, installation will be conducted using a staged approach, with work done during the unit's planned outages currently scheduled between now and 2013.

In addition to the compliance requirement under the BART rule, FDEP's regional haze rule 62-296.341, Reasonable Progress Control Technology (RPCT), requires that an electric utility unit which had a "Significant Contribution to Regional Haze", as evidenced by SO₂ emissions in 2002 to address visibility impacts to the Class 1 areas. In an August 2007 workshop the FDEP identified six FPL generating units which they had determined are subject to the RPCT requirements:

1. PTF 1 & 2
2. PPE 3 & 4
3. PMT 1 & 2

FPL will need to address the RPCT requirements through submittal of an air construction permit that evaluates the RPCT factors for each of the six generating units. The permit application must be submitted no later than January 31, 2012. In compliance with the RPCT requirements, the FDEP must issue the final air construction permits implementing the applicant's RPCT proposal no later than December 31, 2017. FPL plans to begin analysis and evaluation in 2011 for the RPCT factors for the affected generating units.

Actual CAVR Capital expenses through 2008 are \$0.

Actual CAVR O&M expenses through 2008 are \$0.040 million. FPL has projected a preliminary estimated O&M total cost of \$.030 million for the period beginning in 2011 through 2012 for the required RPCT analysis of the six generating units.