Ruth Nettles 090001-EI

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Subject: Electronic Filing / Dkt #090001-EI / FPL's brief on mechanism for refund

Attachments: FPL's brief on basis for refund FINAL.pdf; Exhibit 1.pdf; Exhibit 2.pdf; FPL's brief on basis for refund FINAL.doc

Electronic Filing

a. Person responsible for this electronic filing:

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b. Docket No. 090001 - EI
In RE: Fuel and purchased power cost recovery clause with generating performance incentive factor

c. The Document is being filed on behalf of Florida Power & Light Company.

d. There are a total of 24 pages.

e. The document attached for electronic filing is Florida Power & Light Company's Brief on Mechanism for Refund of $364,843,209 Over-recovery to Customers in January 2010, together with Exhibits 1 and 2 thereto.

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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

IN RE: Fuel and Purchased Power) Cost Recovery Clause and) Generating Performance) Incentive Factor)	DOCKET NO. 090001-EI FILED: December 11, 2009

FLORIDA POWER & LIGHT'S BRIEF ON MECHANISM FOR REFUND OF <u>$364,843,209 OVER-RECOVERY TO CUSTOMERS IN JANUARY 2010</u>

At the request of the Commission Staff, FPL respectfully submits this brief addressing the mechanism to refund the 2009 net fuel cost over-recovery of $364,843,209 to customers in January 2010, as directed by the Commission in Order No. PSC-09-0795-FOF-EI, issued in this docket on December 2, 2009.

1. FPL did not seek clarification of Order No. PSC-09-0795-FOF-EI regarding how the refund should be made, because FPL did not consider any clarification to be needed. Rather, when Order No. PSC-09-0795-FOF-EI was issued on December 2 without specific reference to the refund mechanism, FPL's counsel e-mailed Staff counsel to confirm that FPL would make the refund consistent with the calculations presented to all parties on November 4, 2009, and consistent with Order No. PSC-09-0024-FOF-EI. A copy of FPL's e-mail is attached hereto as Exhibit 1. FPL received no objections to the calculation of the fuel refund factor from Staff or any party to this docket and, accordingly, has prepared diligently to make the one-time refund on that basis starting at the beginning of January 2010.

2. FPL intends to refund the $364,843,209 over-recovery using the same mechanism that this Commission approved and FPL employed in March 2009 to refund replacement power costs associated with the March 2006 Turkey Point Unit 3 outage. Order No. PSC-09-0024-FOF-EI, issued in Docket No. 080001-EI (the predecessor to this docket) on January 7, 2009,

stated that "...only retail customers of record shall receive a refund and that refund shall be applied as a cent per kilowatt-hour credit to customer bills in the month the refund is made." FPL has taken the steps necessary to refund the $364,843,209 over-recovery to customers on that same basis during the January 2010 billing cycle. Because of the substantial amount of additional programming and other preparation that would be required to make a one-time refund on a different basis, a change in course at this time would inject increased costs, confusion and delay for customers. Moreover, the refund factor that FPL filed on November 4, 2009 has been widely communicated to customers. Changing the refund factor at this time would cause substantial, unnecessary customer confusion.

3. On November 4, 2009, two days after the Commission directed FPL to make a one-time refund, FPL filed and served revised E-schedules reflecting the effect of that refund. A copy of FPL's November 4, 2009 filing is attached hereto as Exhibit 2. Included with the revised E-Schedules was a schedule entitled "Calculation of 2009 Net Fuel True-up Refund Factor for January 2010." This schedule shows how FPL calculated the fuel refund factor that it intends to apply in January 2010. The calculation divides the total over-recovery of $364,843,209 by the projected jurisdictional <u>sales in January 2010</u> of 8,211,655 MWh, to derive a fuel refund factor of 4.446 cents per kWh. As noted on the schedule, for the refund to be arithmetically complete, this factor is to be applied to <u>bills in January 2010</u>. This methodology was confirmed in the transmittal letter for the November 4, 2009 filing, which states that the "4.446 cents/kWh refund factor ... will apply to customer bills for consumption in January 2010." This is exactly the method approved by the Commission in Order No. PSC-09-0024-FOF-EI. Thus, Staff and all parties have been aware of this methodology for about five weeks. FPL received no objections to the calculation of the fuel refund factor from Staff or any party to

this docket and, accordingly, has prepared diligently to make the one-time refund on that basis starting at the beginning of January 2010.

4. FPL maintains that continuation of the methodology approved by the Commission in Order No. PSC-09-0024-FOF-EI reflects sound regulatory policy. The true-up process for fuel cost recovery has always contemplated that customers will come and go but that factors will be calculated and applied to current consumption without trying to reach back to consumption occurring in prior periods. There is considerable potential for unnecessary expense and delay if the $364,843,209 over-recovery were refunded on a basis other than customer consumption that is billed in January 2010. By making the refund to customers of record in January 2010 based on consumption that is billed in that cycle, FPL is able to handle the refund as a straightforward cent-per-kWh adjustment to customers' current bills as shown on Exhibit 2. This requires limited reprogramming of FPL's normal billing systems. If those refunds were to apply to former customers who had taken service during part of that time period, however, FPL would have to generate a refund check for, and then attempt to locate, each such former customer. On November 2, 2009, the first day of hearing in this docket, this Commission considered the potential costs and practical limitations of such an approach, including providing separate refund checks to individual customers, and squarely rejected it. *See* Tr. 343-45.

5. Beyond the issue of added cost, FPL does not believe it is feasible at this time to base the refunds on consumption over a time period other than January 2010 and then make those refunds in January 2010. To comply with the direction in Order No. PSC-09-0795-FOF-EI that refunds be made in January 2010, the refunds need to start being made in a less than three weeks. Even under the best of circumstances, FPL could not possibly program and prepare to

make refunds on a basis other than a cent-per-kWh adjustment to customers' current bills by January 2010.

6. Staff's request for briefs on the refund mechanism posed a series of specific questions that it asked the parties to address. Each of those questions and FPL's response appears below.

a. *On what period of consumption (e.g. Jan. 2010 or Jan-Dec. 2009 or some other time period or methodology) should the refund be based?* As addressed above, the only practical and efficient method at this point for implementing the refund in January 2010 is a refund to customers of record during the January 2010 billing cycle based on their consumption for that period. <u>This method is consistent with prior Commission direction and yields the same overall results as if the over-recovery had been included in the calculation of the 12-month levelized fuel factor, which is the approach traditionally used for both over-recovery and under-recovery true-ups in the fuel cost recovery clause.</u> Any variance from the actual refund amount will become part of the 2010 over or under-recovery consistent with the normal process.

Using total consumption for 2009 would change the refund factor, due to inclusion of consumption for customers no longer on the system. As noted above, the factor that FPL filed on November 4, 2009 has been widely communicated to customers, and changing it now would cause substantial, unnecessary customer confusion.

b. *What are the costs to FPL of determining the amount of consumption per customer for 2009?* The real issue is not just determining the consumption for 2009, but modifying the billing system to compute refunds on that basis and then locating and making refunds to all customers – active and inactive – who consumed electricity in

2009. FPL's preliminary, high-level estimate of the cost for programming changes is in the range of $200,000 - $250,000. Perhaps more important, FPL estimates that it would take approximately seven months to implement those changes. In addition, FPL estimates that it would incur increased operational costs for preparing and mailing an estimated 130,000 refund checks to former customers, which likely would cost well over $100,000.

c. *Can FPL identify the amount of total refund per customer class?* FPL is uncertain as to what Staff is asking in this question. In one sense, the total refund per customer class can be determined easily using FPL's refund mechanism: it will be the total electric consumption for each class that is billed in January, multiplied by the cents-per-kWh refund factor that FPL filed on November 4, 2009. If Staff is asking instead whether FPL can determine what portion of the $364,843,209 over-recovery amount was originally attributed to the difference between fuel costs and fuel revenues by class, then FPL does not believe it is feasible to make such a determination. The $364,843,209 over-recovery is based on the approximately $444 million estimated/actual over-recovery true-up amount for 2009, less the approximately $79 million final true-up under-recovery amount for 2008. Neither of these true-up amounts was calculated on a customer class basis; rather they were calculated based on the difference between total fuel revenues collected and actual fuel costs incurred for those periods.

d. *Could FPL use a formula to establish a band around customer refunds so that each customer would get at least the minimum amount of refund but no more than a specified maximum amount of refund per customer?* This would not be feasible because it would result in improper treatment of taxes and fees. Moreover, FPL does not believe that such an approach would be appropriate or fair to customers. The original fuel cost recovery billing was done on a kWh basis, so the refund should be based on the same methodology. Otherwise, some customers would receive more of a refund than their fuel cost recovery billing would justify, while other customers would receive less.

7. For the foregoing reasons, the Commission should confirm FPL's plans to refund the $364,843,209 over-recovery as a cent-per-kWh adjustment to customer consumption that is billed in January 2010. This is consistent with recent Commission precedent, it can be done at a reasonable cost, and it is the only realistically feasible way to comply with the direction on page 20 of Order No. PSC-09-0795-FOF-EI that the refund be made to [FPL's] customers in January 2010." Most importantly, for FPL customers, this method will prevent additional costs, confusion and unnecessary delay in receiving the refund.

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CERTIFICATE OF SERVICE
Docket No. 090001-EI

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