

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Petition for approval to) DOCKET NO. 940391-EI
recover orimulsion project costs) ORDER NO. PSC-94-0973-PHO-EI
through an oil-backout recovery) ISSUED: August 11, 1994
factor by FLORIDA POWER AND)
LIGHT COMPANY.)
_____)

Pursuant to Notice, a Prehearing Conference was held on August 4, 1994, in Tallahassee, Florida, before Commissioner Susan F. Clark, as Prehearing Officer.

APPEARANCES:

Matthew M. Childs, Esquire, Matthew M. Childs, P.A.,
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Tallahassee, Florida 32301
On behalf of Florida Power and Light Company.

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On behalf of Office of Public Counsel.

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Petersburg, Florida 33172
On behalf of ManaSota-88, Inc.

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Esquire, Florida Public Service Commission, 101 E. Gaines
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On behalf of the Commission Staff.

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Commission, 101 E. Gaines Street, Tallahassee, Florida
32399-0862
On behalf of the Commissioners.

PREHEARING ORDER

I. CASE BACKGROUND

Historically, Florida's electric utilities relied on oil as the primary fuel for electric generation. After the "oil shocks" of 1973 and 1979 the United States and Florida made the strategic

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decision to reduce the reliance on oil as an energy source, especially oil from foreign sources.

To implement this strategic decision, the Florida Public Service Commission enacted Rule 25-17.016, Florida Administrative Code, the Oil Backout Cost Recovery Factor. Subparagraph 2(a) states that the purpose of the rule is to provide "... for the recovery of costs of implementing ... supply side oil conservation measures the primary purpose of which is the economic displacement of oil generated electricity in Florida."

Qualified projects include:

1) Conversion of an existing oil-fired, steam cycle, generating unit to also burn a non-oil fuel, a combination of non-oil fuels, or a non-oil/oil fuel mixture.

2) Construction of transmission lines including any related land and land rights, substations, and support electrical equipment, within Florida when the primary purpose of the construction of the lines is to increase the importation or transfer of non-oil derived electrical energy on either a firm or a non-firm basis.

3) At the discretion of the Commission, other major supply-side oil conservation measures whose primary purpose is the economic displacement of oil-fired generation in the State of Florida.

The rule specifically excludes recovery for the costs of a project if "the primary purpose .. is to serve increased megawatt demand or for the recovery of the costs of a new generating unit."

To qualify under the rule, the utility must prove:

1. The primary purpose of the proposed project is the economic displacement of oil-fired generation in the State of Florida;

2. It has been shown by a preponderance of the evidence that there will be a positive Cumulative Present Value of Expected Net Savings to retail customers in Florida within the first ten (10) years of commercial operation of the proposed project; and

3. It has been shown by a preponderance of the evidence that a proposed project is the most economical alternative available.

The Commission has previously approved two projects for cost recovery under the clause:

1) The accelerated construction of Florida Power and Light Company's two 500 kv transmission lines from the Florida-Georgia interface south to Martin County (Order No. 11217 issued October 1, 1982 in Docket No. 820155-EU. This enabled FPL to purchase significant amounts of lower cost coal-fired capacity from the Southern Companies and thereby displace existing oil-fired generation; and

2) The conversion of Tampa Electric Company's Gannon Units 1-4 to burn coal instead of oil (Order No. 11223 issued October 5, 1982 in Docket No. 820055-EU.

On April 22, 1994 Florida Power and Light Company filed the petition which initiated this docket. FPL is seeking approval, pursuant to the oil backout rule, to recover the costs of converting its two 783 megawatt Manatee units to burn Orimulsion, rather than oil.

Orimulsion is the trademark name for a hydrocarbon (fossil) fuel found in the Orinoco river basin of Venezuela. It is mixed with water and other materials to form an emulsion. It is then transported via pipeline to various ports and shipped in tankers for use as a boiler fuel. Whether or not it is a "non-oil fuel" as defined by Rule 25-17.016(1)(a), F.A.C. is among the issues identified for resolution in this proceeding.

The final hearing is set for August 12, 1994.

II. PROCEDURE FOR HANDLING CONFIDENTIAL INFORMATION

A. Any information provided pursuant to a discovery request for which proprietary confidential business information status is requested shall be treated by the Commission and the parties as confidential. The information shall be exempt from Section 119.07(1), Florida Statutes, pending a formal ruling on such request by the Commission, or upon the return of the information to the person providing the information. If no determination of confidentiality has been made and the information has not been used in the proceeding, it shall be returned expeditiously to the person providing the information. If a determination of confidentiality has been made and the information was not entered into the record of the proceeding, it shall be returned to the person providing the information within the time periods set forth in Section 366.093(2), Florida Statutes.

B. It is the policy of the Florida Public Service Commission that all Commission hearings be open to the public at all times. The Commission also recognizes its obligation pursuant to Section 364.183, Florida Statutes, to protect proprietary confidential business information from disclosure outside the proceeding.

In the event it becomes necessary to use confidential information during the hearing, the following procedures will be observed:

- 1) Any party wishing to use any proprietary confidential business information, as that term is defined in Section 366.093, Florida Statutes, shall notify the Prehearing Officer and all parties of record by the time of the Prehearing Conference, or if not known at that time, no later than seven (7) days prior to the beginning of the hearing. The notice shall include a procedure to assure that the confidential nature of the information is preserved as required by statute.
- 2) Failure of any party to comply with 1) above shall be grounds to deny the party the opportunity to present evidence which is proprietary confidential business information.
- 3) When confidential information is used in the hearing, parties must have copies for the Commissioners, necessary staff, and the Court Reporter, in envelopes clearly marked with the nature of the contents. Any party wishing to examine the confidential material that is not subject to an order granting confidentiality shall be provided a copy in the same fashion as provided to the Commissioners, subject to execution of any appropriate protective agreement with the owner of the material.
- 4) Counsel and witnesses are cautioned to avoid verbalizing confidential information in such a way that would compromise the confidential information. Therefore, confidential information should be presented by written exhibit when reasonably possible to do so.
- 5) At the conclusion of that portion of the hearing that involves confidential information, all copies of confidential exhibits shall be returned to the

proffering party. If a confidential exhibit has been admitted into evidence, the copy provided to the Court Reporter shall be retained in the Commission Clerk's confidential files.

Post-hearing procedures

Rule 25-22.056(3), Florida Administrative Code, requires each party to file a post-hearing statement of issues and positions. A summary of each position of no more than 50 words, set off with asterisks, shall be included in that statement. If a party's position has not changed since the issuance of the prehearing order, the post-hearing statement may simply restate the prehearing position; however, if the prehearing position is longer than 50 words, it must be reduced to no more than 50 words. The rule also provides that if a party fails to file a post-hearing statement in conformance with the rule, that party shall have waived all issues and may be dismissed from the proceeding.

A party's proposed findings of fact and conclusions of law, if any, statement of issues and positions, and brief, shall together total no more than 60 pages, and shall be filed at the same time. The prehearing officer may modify the page limit for good cause shown. Please see Rule 25-22.056, Florida Administrative Code, for other requirements pertaining to post-hearing filings.

III. PREFILED TESTIMONY AND EXHIBITS

Testimony of all witnesses to be sponsored by the parties has been prefiled. All testimony which has been prefiled in this case will be inserted into the record as though read after the witness has taken the stand and affirmed the correctness of the testimony and associated exhibits. All testimony remains subject to appropriate objections. Each witness will have the opportunity to orally summarize his or her testimony at the time he or she takes the stand. Upon insertion of a witness' testimony, exhibits appended thereto may be marked for identification. After all parties and Staff have had the opportunity to object and cross-examine, the exhibit may be moved into the record. All other exhibits may be similarly identified and entered into the record at the appropriate time during the hearing.

Witnesses are reminded that, on cross-examination, responses to questions calling for a simple yes or no answer shall be so

answered first, after which the witness may explain his or her answer.

IV. ORDER OF WITNESSES

<u>Witness</u>	<u>Appearing For</u>	<u>Issues #</u>
<u>Direct</u>		
R. Silva	FPL	1 - 11, 20 - 23, 25, 26
K. M. Davis	FPL	12 - 19, 24, 27
Hugh Larkin, Jr.	OPC	13, 14, 17, 18, 20-24

Rebuttal

R. Silva	FPL	20 - 23
K. M. Davis	FPL	13, 14, 18, 24

V. BASIC POSITIONS

FPL: The proposed conversion of FPL's Manatee Plant to use Orimulsion will result in total projected net savings to customers of \$2.6 billion over twenty years, present valued to 1998, while reducing FPL's oil use by 35%. The conversion of the Manatee Plant meets the requirements of Rule 25-17.016. The Commission should grant approval for FPL to recover the costs of the proposed Orimulsion conversion under the Oil-Backout Cost Recovery Factor and establish a funded reserve to offset FPL's potential liability for the Pollution Control Equipment.

In addition, in its Order No. 14546, the Commission concluded that a utility could properly recover through the Fuel Cost Recovery Clause, fuel-related costs "normally recovered through base rates but which were not recognized or anticipated in the cost levels used to determine current base rates and which, if expended, will result in fuel savings to customers." Therefore,

although FPL believes that recovery is most appropriate through an Oil-Backout Cost Recovery Factor, the cost of converting Manatee Units 1 and 2 to burn Orimulsion as a primary fuel would also qualify for recovery through FPL's Fuel and Interchange Cost Recovery Clause, pursuant to Commission Order No. 14546.

OPC:

Initially, FPL's petition to recover the conversion costs to burn Orimulsion at its Manatee Units 1 and 2 seemed to satisfy the spirit of the Oil-Backout Rule, even though Orimulsion is not listed as a non-oil fuel in the rule. FPL said the 1% sulfur oil used in these units would be replaced with a less expensive "non-oil fuel," an emulsion of "solid" bitumen and water which would economically displace 135 million barrels of oil-fired generation. Public Counsel's concerns, and the prefiled testimony of his witness, were directed mostly to the funded reserve for pollution control equipment which was not contemplated by the rule.

Consideration of the underlying purposes of the Rule and the physical characteristics of Orimulsion, however, indicated some problems and inconsistencies. The rule was apparently intended to reduce the use of, and dependence on, foreign oil. Alternative fuels such as coal, nuclear and natural gas were available domestically. Does the rule contemplate treating an imported, liquid, high-sulfur hydrocarbon which can be extracted, shipped, piped, stored and burned like oil as a non-oil fuel?

FPL's petition to allow oil-backout treatment is based entirely on the fact that the hydrocarbon extracted from the Orinoco River basin of Venezuela has been given the appellation "bitumen" instead of "heavy crude." Yet, bitumen is, essentially, just extra heavy crude oil. In fact, PDVSA, the state owned oil company, referred to the deposits as "heavy oil" until approximately 1987 (long after the Oil-Backout Rule was adopted in 1982) when it switched to "bitumen" to help keep the reserves exempt from OPEC oil production quotas. Application of the rule, however, should not turn on such subtleties.

Moreover, the fuel supply contract calls for Bitor America to provide either Orimulsion or high-sulfur fuel oil at the same price. Manatee Units 1 and 2 will not be "converted" to burn a non-oil fuel; they will be modified

to burn a cheaper, high-sulfur oil. FPL is to be commended for initiating a plan to lower its fuel costs, but there will be no "economic displacement of oil" as those terms are used in the Oil-Backout Rule.

MANASOTA: FPL is not entitled to any oil-backout cost recovery factor. FPL's proposed conversion to using Orimulsion as a fuel at its Manatee Units 1 & 2 is not the most economical alternative. FPL's proposed purchase of Orimulsion and the conversion of its Manatee Units 1 and 2 to burn Orimulsion is not reasonable and prudent.

STAFF: Staff takes no basic position on the Petition, pending further review of discovery, the evidence adduced at hearing and the post-hearing briefs of the parties. Staff's position on the issues are preliminary and based on materials filed to date by the parties and on discovery. Where Staff has taken preliminary positions, they are offered to assist the parties in preparing for the hearing. Staff's final positions will be based upon the record evidence and post-hearing argument and may differ from the preliminary positions.

VI. ISSUES AND POSITIONS

Issues preceded by an asterisk are fully stipulated by all parties taking a position on those issues.

***ISSUE 1:** Is Orimulsion a viable fuel for purposes of electric generation in Florida?

Yes. Orimulsion is a viable fuel for purposes of electric generation in Florida.

MANASOTA: No position.

***ISSUE 2:** Are there sufficient proven reserves of Orimulsion to meet Plant Manatee's fuel requirements for the term of the contract?

Yes. There are sufficient proven reserves of Orimulsion to meet Plant Manatee's fuel requirements for the term of the contract.

ISSUE 3: Will the use of Orimulsion contribute to fuel diversity for Florida Power and Light Company's system and for peninsular Florida?

FPL: Yes. Orimulsion adds another fuel to the fuel mix, and reduces both FPL and peninsular Florida's dependence upon oil.

OPC: No. Orimulsion should be viewed as a high-sulfur fuel oil.

MANASOTA: Agree with Public Counsel.

STAFF: Yes. Orimulsion will further diversify both FPL's and peninsular Florida's fuel mix.

ISSUE 4: Are Florida Power and Light Company's fuel price forecasts reasonable for planning purposes?

FPL: Yes. FPL's base forecast of "commodity" or market fuel prices was prepared by DRI/McGraw Hill (DRI), a recognized energy market and economic consulting firm, and reflects DRI's view of future energy market conditions. FPL applied the terms of its long-term fuel supply and transportation contract, as appropriate, to DRI's forecast of fuel market prices to determine projected delivered costs of fuel oil, natural gas and coal to FPL's generating plants. The delivered price of Orimulsion was calculated applying the price formula in the Orimulsion Supply Contract to the projected delivered cost of coal at St. John's River Power Park.

In order to address the uncertainty of fuel prices in the future, FPL performed the economic analysis of the Orimulsion project using the "base case" forecast, as well as a "low fuel price" and a "high fuel price" forecast that provide a reasonable range of what energy prices will be in the future. The "low fuel price" and "high fuel price" forecasts reflect the views of energy experts who expect fuel prices to be lower, or higher than DRI's view. The use of a well developed "base case" forecast, as well as alternate scenario forecasts, results in an effective analysis that is reasonable for planning purposes.

OPC: No position.

MANASOTA: No position.

STAFF: The application of the 1993 FPL/DRI forecast of "commodity" or market fuel prices prepared by DRI/McGraw Hill (DRI) results in over-escalation of projected delivered costs of fuel oil, natural gas, coal and orimulsion to FPL's generating plants. FPL has since provided a 1994 updated version that projects the price of all fuel types to be noticeably lower than the previous year's projections. This reaffirms Staff's belief that the 1993 "low fuel price" forecast is more representative of current market and future operating conditions than the 1993 "base case". However, since FPL's "low fuel price" also demonstrated that the Orimulsion conversion project is cost-effective, Staff agrees that a reasonable fuel price forecast was used in FPL's evaluation.

***ISSUE 5:** What is the appropriate on-site inventory level of primary and secondary fuel?

FPL currently projects that its total inventory of primary fuel will be approximately 1.3 million barrels of Orimulsion. The inventory will be stored at the Manatee Plant and the storage facilities at Port Manatee. This volume is sufficient to provide approximately twenty days of operation at an average capacity factor of 83%. In addition, FPL plans to maintain sufficient 1.0% sulfur residual fuel oil inventory on hand during certain months of the year to operate both Units at full power for one-hundred-ninety-two (192) consecutive hours.

It is not necessary or appropriate to predetermine a specific inventory level for the primary fuel at the Manatee Plant. Various factors will impact the level of inventory to be held. These factors will vary on an on-going basis, and include such things as, the size and time of the deliveries, plant maintenance schedules and the projected need for switching to fuel oil.

OPC: No position.

MANASOTA: No position.

***ISSUE 6:** Is the Fuel Supply Contract adequate to ensure Florida Power and Light Company's retail customers a reliable and cost-effective fuel supply?

The Fuel Supply Contract between Florida Power and Light Company and Bitor is adequate to ensure Florida Power and Light Company's retail customers a reliable and cost-effective fuel supply.

OPC: No position.

MANASOTA: No position.

*ISSUE 7: Is the Conversion Services Contract adequate to ensure Florida Power and Light Company's retail customers reliable and cost-effective service from Plant Manatee?

Yes. The Conversion Services Contract is adequate to ensure Florida Power and Light Company's retail customers reliable and cost-effective service from Plant Manatee.

OPC: No position.

MANASOTA: No position.

*ISSUE 8: Does the conversion of the Plant Manatee units to burn Orimulsion represent the most economical alternative available to Florida Power and Light Company?

Yes. The conversion of the Plant Manatee units to burn Orimulsion represents the most economical alternative available to Florida Power and Light Company.

OPC: No position.

MANASOTA: No position.

*ISSUE 9: Does the proposed pollution control equipment consist of mature and viable technologies?

Yes. The pollution control equipment planned for the Manatee Units are similar to the equipment tested successfully at Northern Indiana Public Service Corporation's Bailey Station under the Federal Clean Coal Technology Program.

OPC: No position.

MANASOTA: No position.

***ISSUE 10:** Does the proposed Orimulsion project at Plant Manatee adversely affect Florida Power and Light Company's 1994 expansion plan?

No. The proposed Orimulsion project at Plant Manatee does not adversely affect Florida Power and Light Company's 1994 expansion plan.

OPC: No position.

MANASOTA: No position.

***ISSUE 11:** Is it appropriate to use demand side management (DSM) for the period 1998-2017 to fulfill equivalent availability shortfalls due to increased planned maintenance from burning Orimulsion in the Manatee units?

Yes. Is it appropriate to use demand side management (DSM) for the period 1998-2017 to fulfill equivalent availability shortfalls due to increased planned maintenance from burning Orimulsion in the Manatee units. If there is a degradation of performance, DSM is one method which could be used to offset the potentially lower equivalent availability.

OPC: No position.

MANASOTA: No position.

***ISSUE 12:** How should the rate of return on the utility's unrecovered investment be calculated?

If the Orimulsion conversion costs for Plant Manatee are approved for recovery through an adjustment clause mechanism, the Rate of Return will be calculated using the ratio of Long-term Debt, Short-term Debt, Preferred Stock and Common Equity as a percentage of investor sources included in the last rate proceeding, and the actual Deferred Taxes and ITC, if any, directly attributable to the project. The cost rates utilized for Long-term Debt, Short-term Debt, Preferred Stock and Common Equity will be based on the weighted average of the cost rates from the last rate proceeding and the midpoint for Common Equity as approved by the Commission for all purposes. Prepaid deferred income taxes will be included in the rate base rather than the capital structure.

OPC: No position.

MANASOTA: No position.

ISSUE 13: Is it appropriate for Florida Power and Light Company to establish a reserve for the potential liability of the pollution control equipment?

FPL: Yes. The Oil-Backout Rule allows a company to retain two-thirds of the positive net savings as accelerated recovery of its investment in an Oil-Backout project. However, in this case FPL will not own the pollution control equipment, but under certain conditions, may be required to pay termination charges or to purchase the pollution control equipment. The funded reserve FPL is requesting will protect FPL's customers and shareholders against this potential liability. This is important since Orimulsion promises significant current and future benefits to the customers. In the event that Orimulsion is no longer a viable fuel and FPL is required to purchase the pollution control equipment and burn fuel oil at the Manatee plant, the future savings from the project could be reduced. Therefore, without use of the funded reserve, future customers could be required to pay the remaining liability at a time when benefits of the cheaper fuel could be eliminated or significantly reduced, if all of the net savings go to the benefit of the current customers.

OPC: No. FPL will only have to invest in pollution control equipment if circumstances cause it to burn oil, instead of Orimulsion, at Manatee. As such, it cannot be an oil-backout cost.

MANASOTA: Agree with Public Counsel.

STAFF: There are inter-generational concerns, along with other matters regarding the appropriateness of the reserve for the pollution control equipment that need to be addressed through the hearing process.

ISSUE 14: If a reserve for the potential liability of the pollution control equipment is appropriate, should it be a funded or unfunded reserve?

FPL: Funded. FPL is proposing an external funded reserve rather than an internal unfunded reserve to provide better assurance that the funds necessary to meet FPL's potential liability, should it be required to terminate the Orimulsion contract, would be more readily available.

OPC: If a reserve is appropriate, it should be a funded reserve.

MANASOTA: No position.

STAFF: If a reserve is appropriate, an unfunded reserve with a dedicated line of credit appears to be most cost-effective.

***ISSUE 15:** What is the appropriate depreciation rate(s) to be used for the investments being added as a result of Orimulsion?

The depreciation rate should be 5% based on a projected twenty year life of the project. If there are any interim retirements during the term of the contract, all costs associated with the interim retirement and replacement equipment will be recovered in the same manner as the original conversion costs.

MANASOTA: No position.

***ISSUE 16:** How should Florida Power and Light Company recover the undepreciated value of the retirements and the related cost of removal associated with the conversion of Manatee Plant to burn Orimulsion?

The undepreciated value of the retirements and the removal costs associated with the assets being retired as a result of the conversion process, of approximately \$2.1 million, should be accounted for as interim retirements. If this project is approved for recovery through an adjustment clause mechanism, these costs should be recovered consistent with the other conversion investment through application of two-thirds of the net savings.

MANASOTA: No position.

***ISSUE 17:** How should Florida Power and Light Company account for the Orimulsion project, exclusive of the pollution control equipment reserve?

For accounting purposes, there are three types of costs associated with the Orimulsion project: (i) the estimated costs FPL will incur to convert the Manatee Plant to burn Orimulsion; (ii) fuel costs that include the costs for the use of the pollution control equipment owned by Pure Air of Manatee under the Pollution Control Service Agreement and; (iii) incremental O&M costs incurred as a result of burning Orimulsion. FPL will record the capital costs to convert the plant to plant-in-service. The costs of the Orimulsion fuel, including the costs of pollution control services provided by Pure Air of Manatee will be accounted for as fuel costs. The incremental O&M costs associated with the Orimulsion Project will be accounted for as O&M expenses. In addition, if the project is approved for recovery through an adjustment clause mechanism, the revenues and expenses associated with the project will be recorded in subaccounts consistent with the Oil Backout Rule, 25-17.015, F.A.C.

MANASOTA: No position.

***ISSUE 18:** If approved, how should Florida Power and Light Company account for the reserve, whether funded or unfunded, for the potential liability of the pollution control equipment?

To establish a funded reserve for the potential liability, in accordance with Commission Rule 25-6.0143, Use of Accumulated Provision Accounts 228.1, 228.2 and 228.4, FPL would record a credit, for the associated revenues received, to the reserve in a newly established subaccount of account 228.4; Orimulsion Project Reserve, with a corresponding debit to an expense account. A subaccount of Account 190; Accumulated Deferred Income Taxes - Orimulsion Project Reserve would be established for the deferred income taxes resulting from taxes paid on the revenues received to fund the reserve. The after income tax amount would be contributed to the fund and recorded to a newly established subaccount of Account 128.3; Other Special Fund - Orimulsion Project Fund. Earnings on the fund would be recorded in the fund on an after income tax basis, with the Reserve reflecting the

gross of income tax amounts and the deferred tax effects being recorded by debiting Account 190, Deferred Income Tax account. As the reserve is flowing back to the customers the reserve will be debited and the fund and the 190 Deferred Income Tax account will be credited until all accounts are zero. All of the accounts established to account for the funded reserve will be removed from rate base for determination of revenue requirements.

The entries to establish an unfunded reserve would be the same except that Account 135, Cash is used in place of Account 128.3, Other Special Fund -Orimulsion Project Fund and there are no earnings on the fund to be credited to the reserve. If the reserve is unfunded, the Reserve net of Account 190 Deferred Income Taxes will be included in rate base for the determination of revenue requirements.

***ISSUE 19:** Which taxes, if any, should Florida Power and Light Company be allowed to recover?

It is appropriate for FPL to recover all taxes associated with the Orimulsion project. Investment tax credit (ITC) amortization related to ITC for the project, if any, should be included in the determination of the recoverable tax expense.

OPC: No position.

MANABOTA: No position.

ISSUE 20: Does Florida Power and Light Company's Orimulsion project qualify as a supply-side, oil conservation measure pursuant to Rule 25-17.016, Florida Administrative Code?

FPL: Yes. The Orimulsion project at Manatee Plant will convert two existing oil-fired, steam cycle, generating units to burn Orimulsion, a non-oil fuel; it will provide economic fuel switching and multi-fuel firing capability; and its primary purpose is the economic displacement of oil-fired generation in the State of Florida. Therefore, the purpose of the Manatee conversion is consistent with the purpose of the rule. In addition the Orimulsion project meets the three tests prescribed by the rule as

discussed below in FPL's response to Issues 21 through 23.

OPC: No. FPL has simply switched from using a low sulfur oil for which scrubbing is unnecessary to using high sulfur oil for which scrubbers are required.

MANASOTA: Agree with OPC.

STAFF: Florida Power and Light Company's proposed Orimulsion project meets two of the three qualification criteria. The company has demonstrated that the project will produce a cumulative present value of expected net savings to its retail customers in Florida within the first ten years of commercial operation. In addition, the company has demonstrated that the proposed project is the most economical alternative available. However, the primary purpose of the project is not the economic displacement of oil-fired generation in Florida. The primary purpose of the project is to reduce the cost of fuel to FPL's ratepayers. Therefore, this project should not be qualified as a supply-side, oil conservation measure pursuant to Rule 25-17.016, Florida Administrative Code.

Although Staff does not believe the company's proposed Orimulsion project qualifies as an Oil-Backout project, Staff believes the project will produce significant fuel savings to FPL's ratepayers. Therefore, Staff believes the Commission should allow Florida Power and Light Company to recover the costs of the Orimulsion project through the fuel and purchased power cost recovery clause. Recoverable costs should be calculated consistent with the cost recovery methodology established in Rule 25-17.016, Florida Administrative Code.

ISSUE 21: Is the primary purpose of the Orimulsion project the economic displacement of oil-fired generation in the State of Florida?

FPL: Yes. FPL compared the total projected annual system energy cost of the twenty year contract period, with and without the conversion of the Manatee Plant to Orimulsion. The total projected fuel savings ("gross," not considering capital and operation and maintenance costs) due to the Orimulsion conversion over this twenty year period are approximately \$6.9 billion in nominal

dollars, or \$3.1 billion, cumulative present valued to 1998. Of the \$3.1 billion total projected fuel savings, \$2.1 billion, or 67%, will result from the displacement of oil generation, and the balance from the displacement of other energy sources. The Orimulsion conversion at Manatee Plant is projected to displace approximately 87,000 Gigawatt-hours of oil generation. This is equivalent to 135 million barrels of oil, or 35% of the total projected oil use for the twenty-year period. Therefore, the conversion of Manatee Plant to burn Orimulsion results "primarily" in the displacement of oil, and it does so at significant savings.

OPC: No. FPL has simply switched from using a low sulfur oil for which scrubbing is unnecessary to using high sulfur oil for which scrubbers are required.

MANASOTA: Agree with OPC.

STAFF: No. The primary purpose of the Orimulsion project is to reduce the cost of fuel to Florida Power and Light Company's ratepayers.

***ISSUE 22:** Does a preponderance of the evidence indicate that the Orimulsion project will have a positive Cumulative Present Value of Expected Net Savings to retail customers in Florida within the first ten (10) years of commercial operation?

Yes. FPL's system dispatch models show that a positive cumulative present value of expected net savings to Florida Power and Light's retail customers within the first ten years is due to displacement of heavy oil, coal and natural gas fired generation, as well as savings in purchased energy and payments for as-available energy. Public Counsel's agreement on this issue should not be construed as agreement that Orimulsion qualifies as a non-oil fuel.

***ISSUE 23:** Does a preponderance of the evidence indicate that the Orimulsion project is the most economical alternative available?

FPL: Yes. FPL has compared Orimulsion to the most cost-effective alternatives to reduce FPL's reliance on oil. The projected savings to be derived from the Orimulsion conversion of the Manatee Plant have been compared to those of (1) converting Martin Units 1 and 2 to use

pulverized coal or, alternately, (2) modifying the same Martin Units 1 and 2 to operate at full power on natural gas. These two alternatives would enable FPL to replace expensive 0.7% Sulfur residual fuel oil with pulverized coal or natural gas, respectively, at FPL's Martin Units 1 and 2. The Martin Units were selected for these analyses as they are comparable in size to the Manatee Units. The Martin Units would also have a lower cost of conversion to operate on natural gas due to their proximity to the gas pipeline. This comparison shows that the net savings generated by the Orimulsion conversion at Manatee Plant are much greater than with either alternative.

In addition, ongoing reviews of the availability and cost of other fuels and energy sources have not identified any other fuel or energy source with economic advantages comparable to those provided by the Orimulsion conversion, due to the low, coal-based price of Orimulsion, and the small conversion cost. See response to Issue 8.

OPC: No. It appears to be the most economical alternative for reducing fuel costs at Manatee Units 1 and 2, but, since Orimulsion should be considered a fuel oil for purposes of the rule, it is not an alternative that reduces the amount of oil burned at those units or on FPL's system.

MANASOTA: Agree with OPC.

STAFF: Yes, because it is the most economic alternative available. See Issue 8.

ISSUE 24: Is the recovery of dollars to establish a funded reserve allowable pursuant to Rule 25-17.016, Florida Administrative Code?

FPL: Yes. If FPL had owned the pollution control equipment it would have been considered a part of FPL's Oil-Backout investment and, therefore, FPL would be allowed, under the Oil-Backout Rule to use up to two-thirds of the positive net savings as accelerated depreciation. Therefore, FPL should be permitted to fund the reserve since it chose non-ownership to obtain more benefits for its customers and shareholder with less risk. The form of the transaction should not impede FPL's ability to recover all of its prudently incurred costs. The

pollution control equipment, whether recorded as plant-in-service or as a funded reserve for a potential liability is necessary for creation of the \$2.6 billion in net fuel savings over the life of the contract. The net results is that FPL may incur a potential plant type cost, the recovery of which on an accelerated basis is consistent with the Oil-Backout Rule.

OPC: No. FPL will not make an investment in pollution control equipment unless, and until, circumstances require it to burn high-sulfur fuel oil instead of Orimulsion.

STAFF: No. Although the rule does not specifically prohibit the establishment of the reserve, the rule does not provide for retention of any actual net savings to fund a reserve. The rule states that two-thirds of the actual net savings associated with the project should be applied as additional depreciation of the qualified oil-backout project. The rule further states that upon full depreciation of the project, cost recovery related to the two-thirds of the actual net savings shall terminate and only the actual oil/non-oil operating and maintenance expense differential of the qualified oil-backout project shall be recovered through the Oil-Backout Cost Recovery Factor.

***ISSUE 25:** If the Commission determines that Florida Power and Light Company's Orimulsion project qualifies as an oil-backout project, should the Company be granted the authority to recover the costs of the Orimulsion project through an Oil-Backout Cost Recovery Factor?

Yes. The Orimulsion conversion project will result in significant fuel savings to FPL's customers. The costs of converting Manatee Units 1 and 2 to burn Orimulsion as a primary fuel, including the purchase of Orimulsion and pollution control services, were not considered or anticipated in determining FPL's current base rates. Therefore, FPL believes that recovery through the Oil-Backout Cost Recovery Factor is appropriate.

MANASOTA: No position.

STAFF: Yes.

***ISSUE 26:** Is Florida Power and Light Company's decision to purchase Orimulsion and convert the Manatee Plant to burn Orimulsion prudent and reasonable?

Yes. The Plant Manatee Orimulsion conversion project is prudent and reasonable.

VII. EXHIBIT LIST

<u>Witness</u>	<u>Proffered By</u>	<u>I.D. No.</u>	<u>Description</u>
R. SILVA	FPL	RS - 1	Document 1/Comparative Analysis of Orimulsion Conversion versus no Conversion Case. Expected Savings from Conversion over 20-Year Term
R. SILVA	FPL	RS - 2	Document 2/Comparative Analysis of Orimulsion Conversion versus no Conversion Case Expected savings from Conversion over 10-Year Term
R. SILVA	FPL	RS - 3	Document 3/Projected Oil-Backout Project Savings - Base Case
R. SILVA	FPL	RS - 4	Document 4/1993 FPL/DRI Base Case Delivered Fuel Price Forecast
R. SILVA	FPL	RS - 5	Document 5 / 1993 Alternative Cases Delivered Fuel Price Forecast
R. SILVA	FPL	RS - 6	Document 3/Projected Oil-Backout Project Savings-Alternative Cases
R. SILVA	FPL	RS - 7	Document 7/Fuel Supply Contract

(continued)

<u>Witness</u>	<u>Proffered By</u>	<u>I.D. No.</u>	<u>Description</u>
R. SILVA	FPL	RS - 8	Document 8/Conversion Services Contract
R. SILVA	FPL	RS - 9	Document 9/Pollution Control Services Contract
K. M. DAVIS	FPL	KMD - 1	Document 1/Calculation of Cash Flows From (To) Customer
K. M. DAVIS	FPL	KMD - 2	Document 2/Comparison of Net Savings to Customer Assuming Different Funding Scenarios
K. M. DAVIS	FPL	KMD - 3	Document 3/Potential Liability and Calculation of Fund Excess

Rebuttal

R. SILVA	FPL	RS - 1	Orimulsion Oil Displacement (Manatee Plant)
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Parties and Staff reserve the right to identify additional exhibits for the purpose of cross-examination.

VIII. PROPOSED STIPULATIONS

FPL: None at this time.

OPC: None.

STAFF: Staff is not aware of any issues that have been stipulated at this time.

IX. PENDING MOTIONS

None.

X. RULINGS

ManaSota-88 Inc.'s petition to intervene in this docket was granted at the prehearing conference.

It is therefore,

ORDERED by Commissioner Susan F. Clark, as Prehearing Officer, that this Prehearing Order shall govern the conduct of these proceedings as set forth above unless modified by the Commission.

By ORDER of Commissioner Susan F. Clark, as Prehearing Officer, this 11th day of August, 1994.



Susan F. Clark, Commissioner
and Prehearing Officer

(S E A L)

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NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.59(4), Florida Statutes, to notify parties of any administrative hearing or judicial review of Commission orders that is available under Sections 120.57 or 120.68, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing or judicial review will be granted or result in the relief sought.

Any party adversely affected by this order, which is preliminary, procedural or intermediate in nature, may request: 1) reconsideration within 10 days pursuant to Rule 25-22.038(2), Florida Administrative Code, if issued by a Prehearing Officer; 2) reconsideration within 15 days pursuant to Rule 25-22.060, Florida Administrative Code, if issued by the Commission; or 3) judicial review by the Florida Supreme Court, in the case of an electric, gas or telephone utility, or the First District Court of Appeal, in the case of a water or wastewater utility. A motion for reconsideration shall be filed with the Director, Division of Records and Reporting, in the form prescribed by Rule 25-22.060, Florida Administrative Code. Judicial review of a preliminary, procedural or intermediate ruling or order is available if review of the final action will not provide an adequate remedy. Such review may be requested from the appropriate court, as described above, pursuant to Rule 9.100, Florida Rules of Appellate Procedure.