

FLORIDA PUBLIC SERVICE COMMISSION

Fletcher Building
101 East Gaines Street
Tallahassee, Florida 32399-0850

MEMORANDUM

APRIL 20, 1995

TO: DIRECTOR, DIVISION OF RECORDS AND REPORTING

FROM: DIVISION OF LEGAL SERVICES (ERSTLING) *He* *or* *mf*
DIVISION OF ELECTRIC AND GAS (HAPP) *Walt* *JDS*

RE: FLORIDA POWER & LIGHT COMPANY
DOCKET NO. 950002-EG - CONSERVATION COST RECOVERY CLAUSE

AGENDA: MAY 2, 1995 - REGULAR AGENDA - POST HEARING DECISION -
PARTICIPATION IS LIMITED TO COMMISSIONERS AND STAFF

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: I:\PSC\LEG\WP\950002R.RCM

CASE BACKGROUND

As part of the Commission's continuing energy conservation cost proceedings, a hearing was held on March 8 and 9, 1995, in this docket. By final Order No. PSC-95-0398-FOF-EG, issued March 23, 1995, the Commission authorized actual true-up amounts and cost recovery factors, subject to adjustments for company specific issues. On April 7, 1995, Florida Power & Light Company (FPL) timely filed a Motion for Reconsideration to Order No. PSC-95-0398-FOF-EG.

DISCUSSION OF ISSUES

ISSUE 1: Should the Commission grant FPL's motion for reconsideration of portions of Order No. PSC-95-0398-FOF-EI?

RECOMMENDATION: Yes. In its motion, FPL informed the Commission that there were two errors in quantifying the actual end-of-the-year true-up amount. The mistakes are the result of calculation errors and do not affect the ECCR factors approved for FPL. Because the Commission has the power to correct errors in

DOCUMENT NUMBER-DATE

03778 APR 17 95

FPSC-RECORDS/REPORTING

DOCKET NO. 950002-EG
APRIL 20, 1995

final orders regarding rates, staff recommends that the Commission grant FPL's Motion for Reconsideration. See, Richter v. Florida Power Corp., 366 So. 2d 798, 800 (Fla. Dist. Ct. App. 1979).

STAFF ANALYSIS: In its Motion for Reconsideration, FPL advised the Commission that the finding on page 3 of the Order No. PSC-95-0398-FOF-EI that the "actual end-of-the-period true-up amount for the period of October 1, 1993, through September 30, 1994" of "\$ (3,795,705) Overrecovery" is in error. The correct true-up amount is \$(4,113,134). This error is comprised of two separate mistakes quantifying amounts that were disallowed by the Commission which are discussed below.

Conservation Goals Expenses

The Commission disallowed recovery of Conservation Goals docket expenses. In Prehearing Order No. PSC-95-0308-PHO-EG, FPL's Conservation Goals docket expenses were shown as \$285,056 for the period ending September 30, 1994. However, at the hearing, during the course of oral argument on the issue, counsel for FPL used the amount of \$286,233 to reflect the total amount of conservation goals expenses charged to Energy Conservation Cost Recovery (ECCR) by FPL. Inadvertently, this amount was ruled upon rather than the actual \$285,056 attributable to the period ending September 30, 1994. As noted above, this Commission has the power to correct final orders where a mistake has occurred, particularly where that mistake involves rates (including adjustments to fuel charges or energy charges). Therefore, staff recommends that the Commission grant FPL's Motion for Reconsideration as to the Conservation Goals docket expenses. Staff recommends that these expenses and the annual true-up be adjusted by the amount of \$1,177; the net result is Conservation Goals docket expenses of \$285,056 for the period ending September 30, 1994.

Real Time Pricing Expenses

By Order No. PSC-95-0398-FOF-EG the Commission disallowed FPL's Real Time Pricing Program (RTP) expenses. At the hearing, FPL had stipulated and the intervenors, the Office of the Public Counsel (OPC) and the Florida Industrial Power Users Group (FIPUG), agreed that "approximately \$310,000 of expenses associated with FPL's Commercial/Industrial RTP Research Project which FPL charged to its Conservation Research & Development (CRD) Program will not be recovered in the current ECCR factor." By error this amount was not included in the end-of-the-year actual true-up overrecovery of \$(3,795,705). FPL has also advised that there is a scrivener's error in the ordering paragraph on page 13 of Order No. PSC-95-0398-FOF-EG which shows the unrecoverable amount to be approximately \$320,000 in lieu of the \$310,000 stipulated to.

DOCKET NO. 950002-EG
APRIL 20, 1995

Ordinarily, staff would simply recommend that the scrivener's error be corrected and that the Commission adjust the end-of-year actual true-up by the stipulated and approved RTP amount of approximately \$310,000. This would be in accord with the Commission's power to regulate utilities and to amend the final order to correct a mistake. Richter, 366 So. 2d at 800; Reedy Creek Utilities v. Florida Public Service Commission, 418 So. 2d 249, 253 (Fla.1982).

In this instance, however, FPL further requests that the "accurate value" which should be used for the RTP adjustment is \$312,679. This "accurate value" amount of \$312,679 is not part of the official record. FPL further informs us that OPC and FIPUG, the other parties to the approved stipulation, have authorized FPL "to represent that they are agreeable to the use of \$312,679 as the amount of RTP expenses to be reflected in the true-up calculation."

Although FPL does not specifically state so, it appears from FPL's Motion for Reconsideration that FPL regards the stipulation's use of the word "approximately" before the \$310,000 amount to contemplate the substitution of the actual value or \$312,679. There is a difference of \$2,679 between the two amounts and this difference does not affect the ECCR factors. The purpose of a motion for reconsideration is to point out some matter of law or fact which the Commission failed to consider or overlooked in its prior decision. Diamond Cab Co. of Miami v. King, 146 So. 2d 889 (Fla. 1962); Pinegree v. Quaintance, 394 So. 2d 161 (Fla. Dist. Ct. App. 181). While the approved stipulation provides no specific language which allows for an adjustment, it is unclear whether the Commission intended the actual value (accurate value) to be substituted for the approximate amount. This ambiguity in the language of the stipulation ruled upon by Commission could be considered an oversight and, as such, would fall within the framework of the purpose of a motion for reconsideration. See Diamond, 146 So. 2d 880 (Fla. 1962). In addition, if the Commission approves the use of the actual value amount, this action would negate the need for further minor adjustments during the next true-up period and would render the scrivener's error noted above moot. Therefore, since the parties and intervenors are in accord, the adjustment would have no affect upon the ECCR factors, and there is ambiguity as to the terms of the stipulation, staff recommends that the Commission grant FPL's Motion for Reconsideration as to RTP adjustments.

DOCKET NO. 950002-EG
APRIL 20, 1995

ISSUE 2: If the Commission grants FPL's Motion for Reconsideration, what is the accurate end-of-the-year true-up amount for FPL?

RECOMMENDATION: The accurate end-of-the-year true-up amount is \$(4,113,134) overrecovery. This figure incorporates the corrections and adjustments noted in Issue 1 and additional interest of \$5,926 associated with the corrections.

STAFF ANALYSIS: The correct true-up amount is \$(4,113,134) overrecovery. FPL prepared a schedule, which we have modified slightly, that is attached hereto and labeled Attachment A. This schedule reconciles the corrections to the true-up shown in Order No. PSC-95-0398-FOF-EI. The calculation for the additional interest amount of \$5,926 was done by FPL and the amount appears to be accurate.

ATTACHMENT A

**Florida Power & Light Company
Energy Conservation Cost Recovery Clause
Reconciliation of Filed True-up to True-up per FPSC Order**

True-up Per Filing (CT-3 page 5 of 6, line 11, "Total" column)	\$3,509,472
Disallowance of Goals Docket costs (Order No. PSC-95-0398-FOF-EI, Pages 6 & 9)	286,233
True-up per Order No. PSC-95-0398-FOF-EI, Page 3	<u>3,795,705</u>
Actual disallowed RTP costs (Stipulated to be \$310,000. See Order No. PSC-95-0398-FOF-EI)	312,679
Adjustment to disallowed Goals Docket costs	(1,177)
Increase in interest provision related to disallowances	5,926
True-up after giving effect to the disallowances and interest provision change	<u>\$4,113,134</u>