

ORIGINAL

STEEL ■
HECTOR
& DAVIS
INTERNATIONAL™

Steel Hector & Davis LLP
200 South Biscayne Boulevard
Suite 4000
Miami, FL 33131-2398
305.577.7000
305.577.7001 Fax
www.steelhector.com

John T. Butler, P.A.
305.577.2939
jtb@steelhector.com

October 24, 2002

-VIA HAND DELIVERY-

Blanca S. Bayó
Director, Commission Clerk and Administrative Services
Florida Public Service Commission
2540 Shumard Oak Blvd.
Tallahassee, FL 32399-0850

RECEIVED - FPSC
02 OCT 24 PM 4:19
COMMISSION
CLERK

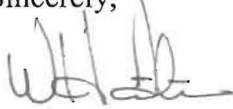
Re: Docket No. 020001-EI

Dear Ms. Bayó:

I am enclosing for filing in the above docket the original and fifteen (15) copies of the prefiled rebuttal testimony of Florida Power & Light Company witness Korel M. Dubin.

If there are any questions regarding this transmittal, please contact me at 305-577-2939.

Sincerely,


John T. Butler, P.A.

Enclosure

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

AUS 2
CAF
CMP
COM 5+original
CTR
ECR J. Bohrmann
SCL
OPC 1
MMS
SEC 1
OTH

RECEIVED & FILED

FPSC-BUREAU OF RECORDS

DOCUMENT NUMBER 1168
1168 OCT 24 08
FPSC-COMMISSION CLERK

1 **BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**

2 **FLORIDA POWER & LIGHT COMPANY**

3 **REBUTTAL TESTIMONY OF KOREL M. DUBIN**

4 **DOCKET NO. 020001-EI**

5 **OCTOBER 24, 2002**

6 **Q. Please state your name and business address.**

7 A. My name is Korel M. Dubin, and my business address is 9250 West Flagler
8 Street, Miami, Florida, 33174.

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

10 A. I am employed by Florida Power & Light Company (FPL) as the Manager of
11 Regulatory Issues in the Regulatory Affairs Department.

12

13 **Q. Have you previously filed testimony in this docket?**

14 A. Yes, I have.

15

16 **Q. What is the purpose of your testimony?**

17 A. The purpose of my testimony is to comment on the testimony of Staff's witness
18 Matthew Brinkley. Specifically, I will address recovery of incremental power
19 plant security costs through the fuel clause.

20

1 **Q. Mr. Brinkley states that “Security costs are appropriate for base rate**
2 **treatment. Security costs protect assets, people, and reliability. Security**
3 **costs have been and are still being recovered by the utilities through base**
4 **rates. Both Florida Power & Light Company and Florida Power**
5 **Corporation reported security costs in their MFRs filed in Docket Nos.**
6 **001148-EI and 000824-EI, respectively. The utilities’ heightened security**
7 **costs are simply previously unanticipated expenses which are being expended**
8 **to protect against future base rate expenses, not to reduce current or future**
9 **expenses which are recoverable through the fuel clause”. Do you agree with**
10 **Mr. Brinkley’s assessment of FPL’s incremental power plant security costs?**

11 **A.** No. I disagree with Mr. Brinkley’s characterization of these costs as “simply
12 previously unanticipated expenses.” Mr. Brinkley implies that FPL’s security
13 upgrades represent merely a budget variance. That is not the case. The upgrades
14 and associated expenses are extraordinary and unanticipated, as they are intended
15 to address the events of 9/11/01 and potential future terrorist attacks. The
16 principle underlying recovery of incremental costs through the fuel clause is to
17 provide a mechanism to recognize extraordinary changes in a utility’s operational
18 requirements that have occurred since its base rates were set and/or to
19 accommodate recovery of incremental expenses that are likely to be volatile and
20 hence would not appropriately be included in base rates. The Commission
21 recognized this when approving recovery of these incremental power plant
22 security costs through the Fuel Cost Recovery Clause. In Order No. PSC-01-
23 2516-FOF-EI, dated December 26, 2001, the Commission stated:

24 “We find that recovery of this incremental cost through the fuel clause is
25 appropriate in this instance because there is a nexus between protection of
26 FPL’s nuclear generation facilities and the fuel cost savings that result

1 from the continued operation of those facilities. Further, we believe that
2 this type of cost is a potentially volatile cost, making it appropriate for
3 recovery through a cost recovery clause. We are comforted that the true-up
4 mechanism inherent in the fuel clause will ensure that ratepayers pay no
5 more than the actual costs incurred. In addition, we find that recovery of
6 this cost through the fuel clause provides a good match between the timing
7 of the incurrence and recovery of the cost.

8 We believe that approving recovery of this incremental power plant
9 security cost through the fuel clause sends an appropriate message to
10 Florida's investor-owned electric utilities that we encourage them to
11 protect their generation assets in extraordinary, emergency conditions as
12 currently exist".

13 When determining to seek recovery of incremental power plant security costs
14 through the Fuel Cost Recovery Clause, FPL considered several factors: 1) the
15 guidance provided by NARUC and FERC, 2) the costs are fuel-related, and 3) the
16 costs are uncertain.

17
18 First, the NARUC and FERC both issued policy statements addressing cost
19 recovery to "safeguard the reliability and security of our energy supply
20 infrastructure". NARUC's resolution on "Supporting Recovery in State Regulated
21 Rates of Extraordinary Expenditures Necessary to Safeguard National Energy
22 Suppliers" issued in November 2001 states:

1 "Resolved, that States should approve applications by gas and electric
2 companies subject to their jurisdiction to recover prudently incurred costs
3 necessary to further safeguard the reliability and security of our energy
4 supply infrastructure and should allow companies to propose separate rate
5 recovery mechanisms, such as a surcharge to existing rates or deferred
6 accounting treatment."

7 FERC's Statement of Policy issued on September 14, 2001 states:

8 "In light of tragic events that have taken place in our country this week
9 and the high state of alert the country is now experiencing, the
10 Commission believes it is appropriate to provide regulatory guidance on
11 certain energy infrastructure reliability and security matters that may be
12 affected by this Commission's rate jurisdiction. The Commission
13 understands that electric, gas, and oil companies may need to adopt new
14 procedures, update existing procedures, and install facilities to further
15 safeguard their electric power transmission grid and gas and oil pipeline
16 systems. The Commission is aware that there may be uncertainty about
17 companies' ability to recover the expenses necessary to further safeguard
18 our energy infrastructure, especially if they are operating under frozen or
19 indexed rates. In order to alleviate this uncertainty, the Commission wants
20 to assure the companies we regulate that we will approve applications to
21 recover prudently incurred costs necessary to further safeguard the
22 reliability and security of our energy supply infrastructure in response to
23 the heightened state of alert. Companies may propose a separate rate

1 recovery mechanism, such as a surcharge to currently existing rates or
2 some other cost recovery method.

3

4 The Commission will give its highest priority to processing any filing
5 made for the recovery of extraordinary expenditures to safeguard the
6 reliability of our energy transportation systems and energy supply
7 infrastructure. The Commission views the reliability of our Nation's
8 energy transportation systems and energy supply infrastructure as critical
9 to meeting the energy requirements essential to the American people. The
10 Commission calls for the cooperation of the energy industry, customers,
11 and state and local governments to provide any additional safeguards
12 necessary to protect the country's vital energy transportation systems and
13 energy supply infrastructure.”

14

15 Second, FPL considered the fact that these increased security costs are fuel-
16 related, because the increased security protects FPL's ability to provide
17 economical nuclear and fossil generation to its customers. Clearly, the inability to
18 operate one or more of our generating units, particularly our nuclear generating
19 units, would have a significant impact on our fuel costs.

20

21 And, last, FPL considered that there are significant uncertainties in these costs.
22 FPL cannot predict what additional security requirements may be imposed or

1 found necessary in the future, or what those requirements may cost. As a result,
2 the level of incremental security costs is potentially volatile, making these costs
3 appropriate for recovery through a cost recovery clause.

4 Mr. Brinkley is correct that there are security costs included in FPL's MFRs filed
5 in Docket No. 001148-EI. However, the costs in the MFRs do not include any
6 incremental power plant security costs as a result of 9/11/01 that FPL has sought
7 to recover through the fuel clause. On November 9, 2001, FPL filed adjustments
8 to its 2002 Total Company O&M and Capital forecast in Docket No. 001148-EI
9 due to certain revisions including the impact of the September 11, 2001 tragedies
10 on the forecasted costs and expenses. The footnote on Attachment 1 of the
11 November 9, 2001 filing states that the adjusted forecast "Reflects recovery of
12 additional security costs through the fuel clause as filed 11/05/2001 in Docket
13 010001-EI." Thus, these incremental power plant security costs as a result of
14 9/11/01 were never included in base rates.

15

16 **Q. Mr. Brinkley proposes "that the Commission, in determining whether and to**
17 **what extent 'incremental' expenses may be recovered through the fuel**
18 **clause, [should] consider offsetting expenses proposed for recovery through**
19 **the fuel clause with any base rate benefits associated with those expenses ... I**
20 **believe offsetting is necessary to guard against double recovery". Would you**
21 **please comment on Mr. Brinkley's proposal?**

22 **A.** While an offsetting adjustment might be appropriate in evaluating whether certain
23 types of increased costs are eligible for recovery through the fuel clause, Mr.
24 Brinkley's proposal is irrelevant to the recovery of FPL's incremental power plant
25 security costs since these costs are discrete, truly incremental costs. FPL

1 determines that an expense should be classified as a cost related to security
2 against terrorism if the power plant security requirements have been imposed
3 since and in response to the events of 9/11/01. For the nuclear plants, FPL
4 responds to NRC-mandated security requirements and complies with
5 requirements imposed. For the fossil plants, after 9/11/01, security guards were
6 required at selected fossil units, especially at Turkey Point due to its close
7 proximity to the nuclear units. These incremental power plant security costs are
8 tracked and segregated by work order and charged only to the fuel clause, thus
9 ensuring there is no double recovery.

10

11 **Q. Mr. Brinkley states that “I believe it appropriate to consider moving these**
12 **security costs into base rates at least by December 31, 2005, the end of the**
13 **rate settlements approved in ... Order No. PSC-02-0501-AS-EI, in Docket**
14 **Nos. 001148-EI and 020001-EI, issued April 11, 2002, for Florida Power &**
15 **Light Company. Please comment on this recommendation.**

16 **A.** It is unnecessary and premature to make such a decision at this time. Whether to
17 recover incremental security costs in base rates should be considered the next time
18 base rates change.

19

20 **Q. Mr. Brinkley states that “Only for the projected test year are rates set to**
21 **recover the dollar amount of expense in a utility’s Minimum Filing**
22 **Requirements (MFRs). Each year subsequent to the projected test year, it is**
23 **expected that the utility will sell more energy with the additional revenues**
24 **covering increases in expenses since the projected test year, assuming the**

1 **company's return on equity is stable. At a minimum, expenses from a base**
2 **year used for comparison purposes need to be grossed up by the growth rate**
3 **in energy sold since the base year.” Do you agree that this sort of “gross up”**
4 **adjustment would be appropriate for FPL?**

5 A. No. Mr. Brinkley proposes to make an adjustment to reflect revenues in the
6 calculation of incremental costs by grossing up the expense in the base year by the
7 growth rate in energy sold. This proposal is inconsistent with the Revenue
8 Sharing Plan that was included in the Stipulation and Settlement approved by the
9 Commission, in Order No. PSC-02-0501-AS-EI, Docket No. 001148-EI dated
10 April 11, 2002. The Revenue Sharing Plan provides a mechanism for FPL to
11 share with customers the benefits of additional revenues above prescribed
12 thresholds. That mechanism represented a compromise on revenue sharing that
13 was acceptable to all of the signatories to the stipulation in Docket No. 001148-EI
14 and that would apply for the remainder of 2002 and for calendar year 2003, 2004
15 and 2005. That compromise did not contemplate making additional adjustments
16 such as the one that Mr. Brinkley's proposal suggests, which would have the
17 effect of shifting the balance of revenue sharing away from what the parties had
18 agreed to accept.

19

20 **Q. Does that conclude your rebuttal testimony?**

21 A. Yes it does.