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Subject:	Electronic Filing for Docket Nos. 060001-EI and 060362-EI -- FPL's Brief in Support of Gas Storage Petition and Procedural Proposal
Attachments:	Gas Storage Brief FINAL.doc; Appendix 1 to FPL Brief.pdf

Gas Storage Brief FINAL.doc (

Appendix 1 to FPL Brief.pdf (

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b.Docket Nos. 060001-EI and 060362-EI

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

d. There are a total of 22 pages (18 pages in Word file and 4 pages in PDF file).

e. The document attached for electronic filing is Florida Power & Light Company's Brief in Support of Petition to Recover Natural Gas Storage Project Costs and Motion to Approve Procedure for Final Decision on Petition, with accompanying Appendix 1 (July 21, 2005 edition of Natural Gas Weekly Update).

(See attached file: Gas Storage Brief FINAL.doc)(See attached file: Appendix 1 to FPL Brief.pdf)

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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition to Recover Natural Gas Storage Project Costs Through Fuel Cost Recovery Clause By Florida Power & Light Company	)))	Docket No. 060362-EI
In re: Fuel and Purchased Power Cost Recovery Clause with Generating Performance Incentive Factor	)))	Docket No: 060001-EI Filed: August 29, 2006

FLORIDA POWER & LIGHT COMPANY'S BRIEF IN SUPPORT OF PETITION TO RECOVER NATURAL GAS STORAGE PROJECT COSTS AND MOTION TO APPROVE PROCEDURE FOR FINAL DECISION ON PETITION

Florida Power & Light Company ("FPL"), pursuant to the Commission's directions at the August 15, 2006 agenda conference, hereby submits its Brief in Support of Petition to Recover Natural Gas Storage Project Costs and moves the Commission to approve the procedure for final approval of said petition set forth herein.

I. Introduction and Background

Brief Description of the Natural Gas Storage Project (the "Project")

As explained in greater detail in FPL's Petition to Recover Natural Gas Storage Project Costs Through the Fuel Adjustment Clause (the "Petition"), the Project contemplates FPL becoming an "anchor tenant" of the MoBay Gas Storage Hub in Mobile County, Alabama (the "Gas Storage Facility") that is to be built and operated by Falcon Gas Storage, Inc. ("MoBay"). FPL will be entitled to store up to six million dekatherms in the Gas Storage Facility, which corresponds to approximately five days of FPL's typical natural gas consumption. This storage capacity will enhance FPL's ability to manage day-to-day and intra-day changes in gas prices, thus helping FPL to avoid having to buy gas at times of extreme price spikes. It also will substantially improve FPL's ability to withstand disruptions to the Gulf of Mexico gas

production facilities, such as occurred during the 2005 hurricane season, without having to reduce the output of its gas-fired generating facilities. As such, the Project will serve as a physical hedge against the risks of both price volatility and supply unavailability. The Petition seeks Commission approval to recover through the fuel cost recovery ("FCR") Clause the costs that FPL must pay for access to and use of the Gas Storage Facility.

Procedural History

FPL filed the Petition on April 28, 2006. The Commission assigned the Petition to Docket No. 060362-EI and, from April through the end of July, Staff conducted an extensive review of the Project and the request for cost recovery contained in the Petition. As part of that review, Staff held two informal meetings to gather information and sent FPL over 50 data requests concerning the details of the Project and FPL's request for cost recovery. Notice of the meetings was sent to all parties in both Docket No. 060362-EI and Docket No. 060001-EI. The Office of Public Counsel ("OPC") and various intervener parties in Docket No. 060001-EI participated in the meetings and, at OPC's request, copies of all FPL's responses to Staff's data requests were sent to OPC.

On August 3, 2006, Staff filed its recommendation with the Commission (the "Staff Recommendation"), which recommended that the Petition be granted with one modification to the manner in which certain Project costs were to be recovered. The Staff Recommendation was scheduled to be considered by the Commission at the August 15, 2006, agenda conference. At no point from April 28 to August 14 (the eve of the agenda conference) did OPC or anyone else raise concerns about whether the Petition was consistent with the Stipulation and Settlement that was approved in FPL's last rate case, Docket No. 050045-EI (the "2005 Rate Case Stipulation").

However, late in the afternoon on August 14, the Office of the Attorney General issued a press release asserting that the Petition was inconsistent with the 2005 Rate Case Stipulation and then appeared at the agenda conference the next morning along with representatives of OPC, FIPUG, the AARP and the Florida Retail Federation to argue that assertion and urge rejection of the Petition.

Because these parties did not raise their concerns until the last minute, neither the Commission nor Staff was in a position to evaluate them fully at the agenda conference. Therefore, the Commission deferred its decision on the Petition to the September 19, 2006 agenda conference, directed all interested persons to file briefs by August 29, and directed Staff to submit an updated recommendation by September 7 based on the briefs and its own further evaluation of the Project.

Waiting until the last minute to raise concerns about the Petition has had an unfortunate consequence for FPL and its customers. The resulting deferral to the September 19 agenda means that there is little chance of a final Commission decision on the Petition before the end of September. MoBay has the right to terminate its contract with FPL if the Commission has not given final approval to the Project by September 29, 2006. FPL has tried unsuccessfully since the deferral to negotiate an extension of the September 29 deadline with MoBay. As discussed in greater detail in Section III of the Brief, FPL proposes to have the Commission consider and decide on the Petition as part of the November 6-8 fuel adjustment hearing. This would mitigate but certainly not eliminate the risk to FPL and its customers of losing the benefits of the Gas Storage Project. That risk could have been avoided entirely if the concerns about the Petition had been raised more timely.

Based on the colloquy at the August 15 agenda conference, FPL does not believe that the

Attorney General or any other interested person disputes that the Project would be prudent and in the best interests of FPL's customers. Nor, for that matter, does anyone disagree that FPL should be entitled to recover most of the elements of Project costs that are enumerated in Paragraph 13 of the Petition. Rather, the disagreement focuses on two particular elements of FPL's requested cost recovery, which are set forth in Subparagraphs 13(b) and (e) of the Petition: recovery of the cost of "Base Gas" that FPL must provide in order to help maintain gas pressure in the Gas Storage Facility (the "Base Gas Cost"); and recovery of the carrying costs associated with the substantial volume of gas that FPL expects to maintain in the Facility in order to be in a position to provide the hedging protection for which the Project is intended (the "Storage Carrying Costs"). This Brief will demonstrate that recovery of both of those elements is consistent with the 2005 Rate Case Stipulation and existing Commission policy for the FCR Clause.

II. Recovery of Base Gas Costs and Storage Carrying Costs As Hedging Costs Is Consistent With the Rate Stipulation and Prior Commission Practice

The Commission Has Expressly Approved Recovery of Hedging Related Costs Through the FCR Clause

In response to the dramatic price volatility experienced in the late 1990's and beyond, the Commission opened Docket No. 0116905 in 2001 to review electric utilities' risk management practices and procedures. This review culminated in the four major electric utilities, OPC and FIPUG entering into a Proposed Resolution of Issues (the "Hedging Resolution") that the Commission approved in Order No. PSC-02-1484-FOF-EI, dated October 30, 2002. The Hedging Resolution provided for electric utilities to recover hedging costs through the FCR Clause. As stated in Order No. PSC-02-1484-FOF-EI, at page 2, the purpose of the Hedging Resolution was to "remove disincentives that may currently exist for IOUs to engage in hedging

transactions by providing a cost recovery mechanism for prudently incurred hedging transaction costs, gains and losses, and incremental operating and maintenance expenses associated with new and expanded hedging programs."

Shortly before it approved the Hedging Resolution, the Commission had approved a stipulation resolving FPL's 2001-2002 base rate proceeding. That stipulation provided in part that "FPL will not use the various cost recovery clauses to recover new capital items which traditionally and historically would be recoverable through base rates." Order No. PSC-02-0501-AS-EI, Docket Nos. 001148-EI and 020001-EI, dated April 11, 2002, at page 17. Notwithstanding this limitation on the use of cost recovery clauses, the parties to the Hedging Resolution -- and ultimately the Commission -- felt that removal of disincentives to hedging was an important enough goal that FCR Clause recovery of hedging costs was appropriate.

The Parties to the 2005 Rate Case Stipulation Expressly Agreed That FPL Could Continue to Recover Hedging Costs Through the FCR Clause.

The assertion by the Attorney General and others that recovery of Base Gas Costs and Storage Carrying Costs through the FCR Clause would violate the 2005 Rate Case Stipulation hinges on the following statement in Paragraph 3 thereof:

> During the term of this [2005 Rate Case Stipulation], except as otherwise provided for in this [2005 Rate Case Stipulation], or except for unforeseen extraordinary costs imposed by government agencies relating to safety or matters of national security, FPL will not petition for any new surcharges, on an interim or permanent basis, to recover costs that are of a type that traditionally and historically would be, or are presently, recovered through base rates.

They argue that the Base Gas Costs and Storage Carrying Costs are "of a type that traditionally and historically would be, or are presently, recovered through base rates" and hence that recovery through the FCR Clause as FPL requests would be inconsistent with the 2005 Rate Case

Stipulation. As support for their assertion that the Base Gas Costs and Storage Carrying Costs are base rate in nature, they point to Staff's recommendation that those costs should be recovered through the FCR Clause until the 2005 Rate Case Stipulation expires and then should be considered as base rate items.

This argument is superficially appealing, but it completely ignores the express agreement by the Attorney General, OPC and all the other parties to the 2005 Rate Case Stipulation that FPL would be entitled to continue to use the FCR Clause to recover hedging costs until the expiration of the 2005 Rate Case Stipulation. As noted above and discussed in greater detail below and in the Petition, the Project constitutes a physical hedge against the risks of supply unavailability and price volatility. The Petition expressly seeks recovery of the Project costs as hedging costs, so if the parties to the 2005 Rate Case Stipulation agreed that hedging costs should continue to be recovered through the FCR Clause during the term of that stipulation, they cannot legitimately object to FPL's request to recover those costs through the FCR Clause.

The 2005 Rate Case Stipulation itself does not speak to the recovery of hedging costs. This was an oversight, which the parties[1] confirmed to the Commission at the August 24, 2005 hearing on the stipulation that they wished to correct as follows:

> Pursuant to a stipulation approved in Order No. PSC-02-1484-FOF-EI, issued October 30, 2002, in Docket No. 011605-EI, FPL currently recovers incremental hedging costs through the Fuel Cost Recovery Clause (Fuel Clause). In its petition for a rate increase, FPL proposed to recover these costs through base rates instead. The [2005 Rate Case Stipulation] is silent on how incremental hedging costs will be recovered. *The parties clarified that they intended for recovery of these costs to continue through the [FCR] Clause during the term of the [2005 Rate Case Stipulation]. Because the Stipulation is silent in this regard, the parties indicated that they would take action to memorialize their intent in this year's [FCR] Clause proceedings.*

[1] The parties to the 2005 Rate Case Stipulation were FPL, the Office of the Attorney General, OPC, FIPUG, the South Florida Hospital & Healthcare Association, The Commercial Group, the AARP, the Florida Retail Federation, and the Federal Executive Agencies.

Order No. PSC-05-0902-S-EI, Docket No. 050045-EI, dated September 14, 2005, at page 6 (emphasis added). Consistent with this clarification, all of the parties to the 2005 Rate Case Stipulation that were parties to Docket No. 050001-EI (the 2005 FCR Clause proceeding)[2] entered into a stipulation on October 17, 2005 that provided in relevant part as follows:

> ISSUE: Should FPL be allowed to continue recovering incremental hedging costs through the [FCR] Clause during the term of the [2005 Rate Case Stipulation] that was approved in Order No. PSC-05-0902-S-EI, Docket No. 050045-EI, dated September 14, 2005, on the same basis as FPL has been recovering such costs pursuant to the Proposed Resolution of Issues that was approved in Order No. PSC-02-1484-FOF-EI, Docket No. 011605-EI, dated October 30, 2002?
>
> POSITION: Yes. FPL's continued recovery of incremental hedging costs through the [FCR] Clause during the term of the [2005 Rate Case Stipulation] is reasonable and consistent with the intention of the parties to the [2005 Rate Case Stipulation].

This stipulation was approved by the Commission as reasonable in Order No. PSC-05-1252-FOF-EI, Docket No. 050001-EI, dated December 23, 2005, at page 6.

Thus, there is clear, indisputable confirmation that the parties to the 2005 Rate Case Stipulation specifically intended and agreed that FPL would be permitted to recover hedging costs through the FCR Clause throughout the term of the 2005 Rate Case Stipulation, which will continue until at least December 31, 2009. The Attorney General and others cannot plausibly argue in the face of this that they understood the 2005 Rate Case Stipulation not to permit recovery of hedging-related costs in that manner.

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[2] The parties to this stipulation were FPL, OPC, FIPUG, the Florida Retail Federation, the AARP, and the Federal Executive Agencies. The Office of the Attorney General, the South Florida Hospital & Healthcare Association and The Commercial Group were not signatories to this stipulation because they were not parties to Docket No. 050001-EI, and all parties concurred that it was appropriate for the stipulation to be specifically among the parties to the docket in which it was being implemented.

The Project Constitutes a Physical Hedge, Which Is One of the Two Types of Hedging Contemplated for FCR Clause Recovery Under the Hedging Resolution.

The Attorney General and others appeared to argue at the August 15 agenda conference that the Project is not really a form of hedging, such that its costs would not qualify for FCR Clause recovery pursuant to the stipulation in Docket No. 050001-EI discussed above. This argument too is insupportable.

While the specifics of the argument were not made clear at the August 15 agenda conference, basically the thrust was that hedging is supposed to entail the use of various forms of financial instruments, such as derivatives, options and swaps, to buffer against the impact of price changes for a commodity in the future. This is indeed one form of hedging. However, the Hedging Resolution specifically refers to both "physical" and "financial" hedging throughout, and includes a note at the end specifically clarifying that "[n]o implication concerning the relative merits of using financial versus physical hedging techniques should be drawn from this proposed resolution." *See* Order No. PSC-02-1484-FOF-EI, at pages 6 and 7.

In contrast to financial hedging's reliance on separate financial instruments, physical hedging involves the use of forward contracts to purchase the commodity itself, and/or the use of physical means of storing or producing the commodity to provide protection against future price swings. Natural gas storage is commonly characterized as a form of physical hedging. For example, the United States Department of Energy publishes the Natural Gas Weekly Update, the July 21, 2005 edition of which commented in a review of natural gas activity that "[s]everal companies noted that storage (as a physical hedge) is the only hedge they employ, choosing not to use financial hedges at all." A copy of the July 21, 2005 Natural Gas Weekly Update is attached hereto as Appendix 1.

Thus, the Project fits squarely within the concept of hedging that the Hedging Resolution

was intended to address. Any argument to the contrary by the Attorney General or others is simply untenable.

Base Gas Costs and Storage Carrying Costs are Properly Recoverable As Hedging Costs.

The Attorney General and others argue that, regardless of what the 2005 Rate Case Stipulation contemplates as to recovery of hedging costs, the Base Gas Costs and Storage Carrying Costs are not proper hedging costs because they ordinarily would be recovered through base rates. As with the other elements of their argument, this too has no foundation.

At the outset, FPL wishes to emphasize that the Base Gas Costs and Storage Carrying Costs are not presently recovered by FPL, through base rates or anywhere else. The Project was developed subsequent to FPL's preparation of the 2006 MFRs that were the basis for its rate request in Docket No. 050045-EI. There are no costs either directly for the Project or analogous to the Project incorporated into those MFRs. Thus, if FPL is going to recover the costs of the Project, it will be as hedging costs through the FCR Clause.

The fundamental problem with arguing that costs should not be recovered as hedging costs because they are ordinarily treated as base rate items is that it proves too much. Many forms of hedging costs would, under ordinary circumstances, be included in the calculation of base rates. The most obvious example is the incremental operating and maintenance ("O&M") expenses associated with managing a hedging program, which Paragraph 6 of the Hedging Resolution specifically contemplates recovering through the FCR Clause. O&M expenses typically would be recovered through base rates and, in fact, the Hedging Resolution contemplates that they ultimately will. However, the Hedging Resolution recognizes that, if a utility establishes or expands its hedging program in between base rate proceedings, it would

ordinarily have no mechanism to recognize and recover the incremental O&M expenses associated with managing that program until the next such proceeding occurred. This would create the sort of "disincentives ... to engage in hedging transactions" that the Hedging Resolution was intended to remove. Therefore, the Hedging Resolution permits a utility to recover through the FCR Clause hedging-related O&M expenses that are incremental to those included in the prior base rate proceeding, *until they can be included in base rates at the time of the next base rate proceeding.*[3]

In fact, this process of initial recovery through the FCR Clause followed by a transition to base rate recovery is exactly what the Staff Recommendation contemplates on pages 5 and 6 for both the Base Gas Costs and the Storage Carrying Costs:

> Because of the unique and beneficial nature of this project, the return (carrying cost) on the unamortized balance of base gas could be recovered temporarily through the fuel adjustment clause until the current base rate stipulation[4] (Stipulation) expires. At that time, the return on the unamortized balance of base gas would be considered a base rate item and would no longer be eligible for recovery through the fuel adjustment clause.
>
> -and-
>
> Given the beneficial purpose and the unique nature of the gas storage project, staff believes that it is appropriate to temporarily include the gas inventory carrying cost in the fuel adjustment clause. Staff also believes that the appropriate long-term accounting treatment for the gas inventory is to include it in rate base. Therefore, the gas inventory should be included in working capital at the expiration of the current Stipulation

Thus, the Staff Recommendation is fully in line with the intent of the Hedging Resolution, not (as the Attorney General and others erroneously contend) a tacit admission that FCR Clause

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[3] The Hedging Resolution originally set a deadline of December 31, 2006 for this transition to base rate recovery to occur. However, as discussed above, the stipulations approved in Docket Nos. 050045-EI and 050001-EI specifically extended FPL's opportunity to recover hedging costs through the FCR Clause until the expiration of the 2005 Rate Case Stipulation no earlier than December 31, 2009.

recovery is inappropriate for the Base Gas Costs and Storage Carrying Costs.

Finally, recovery of Base Gas Costs and Storage Carrying Costs is not, as the Attorney General and others argue, inconsistent with the Commission's existing FCR practices. The Base Gas Costs and Storage Carrying Costs are addressed separately below.

As discussed in more detail in the Petition, tenants at the Gas Storage Facility are required to provide or pay for a quantity of gas that will be injected into the storage reservoir to help maintain pressure in the reservoir and hence facilitate injection and removal of the working volume of gas. This Base Gas remains in the reservoir until the end of the storage agreement term, at which time it is either physically removed or sold to a subsequent tenant. In either event, FPL's customers would get the benefit of the Base Gas at that time. Base Gas is thus directly analogous to the "non-recoverable oil" that sits at the bottom of oil storage tanks (*i.e.,* "tank bottoms"). Non-recoverable oil is needed to keep the oil level in a tank high enough for the working volume of oil to be removed by the suction piping in the tank. Non-recoverable oil remains in the tank until it is periodically cleaned, at which time the oil is removed and burned as fuel. Pursuant to Order No. 12645, Docket No. 830001-EI, dated November 3, 1983, FPL and other utilities have been authorized to charge the cost of non-recoverable oil to the FCR Clause when the oil is loaded into the tanks, with a credit to the FCR Clause when it is ultimately removed and burned. This is precisely the treatment that FPL seeks with respect to the Base Gas Costs.

The Staff Recommendation concludes that Base Gas is more closely analogous to the coal at the bottom of a coal pile ("base coal"), which Order No. 12645 distinguished from non-recoverable oil and required utilities to capitalize and amortize over a period of years. Based on

[4]Order No. PSC-05-0902-S-EI, issued September 14, 2005, in Docket No. 050045-EI

this conclusion, the Staff Recommendation proposes that the Base Gas Costs be recorded as a regulatory asset, to be amortized over the Project's term with a return earned through the FCR Clause on the unamortized balance. FPL does not object to the proposed recovery mechanism but must respectfully disagree with Staff as to the analogy between Base Gas and base coal. As discussed in Order No. 12645, base coal actually becomes part of the physical foundation of the coal pile and, as such, is a physical property asset. This is not the case for either Base Gas or non-recoverable oil. Moreover, unlike Base Gas or non-recoverable oil, base coal is never removed from the coal pile and burned. FPL understands those two distinctions to be the basis for the Commission's decision in Order No. 12645 to require different accounting treatments for base coal and non-recoverable oil. Base Gas is clearly much more analogous to non-recoverable oil and therefore the logic of Order No. 12645 dictates that the Commission follow the accounting treatment for non-recoverable oil and not base coal.

As to Storage Carrying Costs, FPL expects the Attorney General and others to analogize those costs to fuel inventory and urge that they should only be recovered (eventually) as an element of the base rate working capital calculation. While superficially appealing, however, this analogy is fundamentally inapt. Underlying the concept of base rate recovery for fuel inventory is the notion that an inventory of fuel must be kept on hand in the ordinary course of business, in order to operate a power plant. As such, the fuel inventory is little different conceptually from an inventory of materials and supplies that are needed to operate the plant. Accordingly, capitalizing the fuel inventory as part of working capital represents a reasonable accounting treatment.

This line of reasoning works for oil-fired and coal-fired plants but it breaks down entirely for gas-fired plants. Gas storage is not required for the ordinary operation of gas-fired plants.

Gas can be transferred directly from the pipeline into the plant, with no need to accumulate and store it onsite. As a consequence of this difference, FPL has no tradition of gas storage corresponding to the fuel oil tanks or coal piles at the plants that use those fuels. The Project thus serves no ordinary operational need at FPL's gas-fired plants; they have operated and can continue to operate on a day-to-day basis without the Project. Rather, the Project is being contemplated purely for the purpose of hedging against the risks of supply unavailability and price volatility discussed above. Consistent with this distinction, FPL does not now and has never included any stored gas in its base rate working capital calculations. Disallowing FCR Clause recovery of the Storage Carrying Costs by analogizing them to traditional fuel inventory practices would thus be inappropriate and unfair.

Conclusion

For all the foregoing reasons, the Base Gas Costs and Storage Carrying Costs are properly recoverable as hedging costs through the FCR Clause. Failure to permit such recovery would serve as a serious disincentive to FPL's pursuit of this and future physical hedging opportunities, to the disadvantage of FPL and its customers. This would be inconsistent with the letter and spirit of the Hedging Resolution and the 2005 Rate Case Stipulation.

III. The Commission Should Consider and Decide the Petition at the November 6-8, 2006 Hearing in Docket No. 060001-EI

As discussed in the Petition, FPL has entered into a Precedent Agreement with MoBay, pursuant to which it has a period of time to seek approval of the Project by this Commission. The deadline originally specified in the Precedent Agreement would have been in May 2006, but FPL was able to extend that deadline to September 29, 2006. To date, FPL has not been

successful in obtaining a further extension of the deadline beyond September 29. If the Commission does not give final approval to the Project by September 29, then both FPL and MoBay have the right to terminate the Precedent Agreement thereafter. In the case of FPL, that termination right extends only for 90 days, which would be until December 28, 2006. Therefore, if the Commission has not given its final approval to the Project by September 29, FPL will have to decide whether to terminate the Precedent Agreement no later than December 28.

The upshot is that, if the Commission were to give its final approval to the Project after September 29 but before December 28, FPL could elect not to terminate the Precedent Agreement and (assuming that MoBay did not decide to exercise its own termination rights in the interim) continue forward with the Project on the present terms and pricing. Accordingly, it is extremely important to FPL and its customers that the Commission make a final decision before December 28 as to whether or not it will approve FPL's request for FCR Clause recovery of Project costs.[5] If the Commission proceeds on its present path toward making a PAA decision on the Petition at the September 19, 2006 agenda conference, FPL doubts that there will be a final decision by December 28. This is because, regardless of what the Commission decides on September 19, it is likely that the PAA order will be protested and thus set into play a hearing process that could not realistically be completed by the end of December.

FPL believes that the best opportunity for the Commission to avoid this scheduling problem is to make approval of the Petition an issue to be resolved at the hearing that is scheduled for November 6-8, 2006 in Docket No. 060001-EI (the FCR Clause docket), with the intent of reaching a bench decision on that issue at the end of the hearing. Docket No. 060001-EI is a logical and reasonable venue for deciding this issue because FPL is seeking FCR Clause recovery for the

Project costs.

In anticipation and support of its scheduling proposal, FPL intends to file testimony concerning the Project, specifically including its request for FCR Clause recovery of Base Gas Costs and Storage Carrying Costs, as part of the September 1, 2006 projection filing. FPL proposes that any party wishing to oppose FPL's cost-recovery request would file testimony on September 22, 2006 (the CASR date for intervener testimony) and that FPL would be entitled to file rebuttal to any such testimony on October 6, 2006 (the CASR date for rebuttal testimony).

FPL reiterates that, while the scheduling proposal outlined above gives FPL the best opportunity under the circumstances to preserve the benefits of the Project for its customers, the Project may not remain available on its current terms until December 28. MoBay will have a right of termination as of September 29 if, as is likely, the Commission has not made a final decision approving the Project by that date. There are no guarantees that MoBay will not exercise its termination right before December 28. In fact, the longer a final decision is delayed, the more likely it will be for MoBay to exercise its right. If that occurred, FPL could attempt to renegotiate its contract with MoBay but likely would have to accept less favorable terms. This "window of vulnerability" could have been avoided if the Commission had been able to make a PAA decision at the August 15 agenda conference as scheduled, but unfortunately the last-minute objections of the Attorney General and others necessitated the Commission's deferral to September 19. In turn, that deferral has forced FPL to resort to the schedule proposal outlined above.

FPL has attempted to contact counsel for all parties to Docket Nos. 060001-EI and 060362-EI, as well as the Office of the Attorney General, to determine whether they object to the foregoing procedural proposal. FPL has confirmed that OPC, FIPUG, the AARP, the Federal Executive Agencies, Gulf Power Company, Progress Energy Florida and Tampa Electric Company do not

object. FPL has not yet received a response from the others.

WHEREFORE, FPL respectfully requests the Commission to consider and approve the Petition to Recover Natural Gas Storage Project Costs Through the Fuel Adjustment Clause on the procedural schedule proposed herein.

Respectfully submitted this 29th day of August, 2006.

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CERTIFICATE OF SERVICE
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I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by electronic delivery on the 29th day of August, 2006, to the following:

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