

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Environmental cost recovery clause.

DOCKET NO. 120007-EI

DATED: October 5, 2012

COMMISSION
CLERK

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COMMISSION STAFF'S PREHEARING STATEMENT

Pursuant to Order No. PSC-12-0060-PCO-EI issued on February 10, 2012, and Order No. PSC-12-0060A-PCO-EI issued on February 14, 2012, the Staff of the Florida Public Service Commission files its Prehearing Statement.

a. All Known Witnesses

There are no known witnesses at this time.

b. All Known Exhibits

There are no known exhibits at this time.

c. Staff's Statement of Basic Position

Staff's positions are preliminary and based on materials filed by the parties and on discovery. The preliminary positions are offered to assist the parties in preparing for the hearing. Staff's final positions will be based upon all the evidence in the record and may differ from the preliminary positions stated herein.

d. Staff's Position on the Issues

GENERIC ISSUES

ISSUE 1: What are the final environmental cost recovery true-up amounts for the period ending December 31, 2011?

Staff: No position at this time.

ISSUE 2: What are the actual/estimated environmental cost recovery true-up amounts for the period January 2012 through December 2012?

Staff: No position at this time.

ISSUE 3: What are the projected environmental cost recovery amounts for the period January 2013 through December 2013?

Staff: No position at this time.

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ISSUE 4: What are the environmental cost recovery amounts, including true-up amounts and revenue taxes for the period January 2013 through December 2013?

Staff: No position at this time.

ISSUE 5: What depreciation rates should be used to develop the depreciation expense included in the total environmental cost recovery amounts for the period January 2013 through December 2013?

Staff: No position at this time.

ISSUE 6: What are the appropriate jurisdictional separation factors for the projected period January 2013 through December 2013?

Staff: No position at this time.

ISSUE 7: What are the appropriate environmental cost recovery factors for the period January 2013 through December 2013 for each rate group?

Staff: No position at this time.

ISSUE 8: What should be the effective date of the new environmental cost recovery factors for billing purposes?

Staff: The new factors should be effective beginning with the specified environmental cost recovery cycle, and thereafter for the period January 2013 through December 2013. Billing cycles may start before January 1, 2013, and the last cycle may be read after December 31, 2013, so that each customer is billed for twelve months regardless of when the adjustment factor became effective. The new factors should continue in effect until modified by the Commission.

COMPANY-SPECIFIC ISSUES

Florida Power & Light (FPL)

Issue 9A: Should FPL be allowed to recover the costs associated with the Manatee Temporary Heating System (MTHS) Project at Port Everglades Plant (PPE)?

Position: Yes. FPL is undertaking a major modernization project at Port Everglades Plant (PPE).¹ This Commission has previously approved ECRC cost recovery for Manatee Temporary Heating System (MTHS) projects at plants Riviera and Cape Canaveral which were triggered, respectively, by a Commission-approved modernization project at each plant site.² On January 13, 2012, FPL filed a petition in which FPL proposes to install an electric heating system at PPE in 2012, in order to continue to provide warm water when necessary into the manatee warm water refuge, starting in January 2013, and continuing until the modernization project is completed in mid-2016. The purpose of the project is to help ensure that FPL can comply with PPE's Manatee Protection Plan (MPP), which is Specific Condition I.D. 10 to the Industrial Waste Water (IWW) Facility Permit Number FL0001538, issued by the Florida Department of Environmental Protection (FDEP) for PPE on February 27, 2010. Specific Condition I.D. 10 to the IWW Permit states that "the permittee shall continue compliance with the facility's Manatee Protection Plan approved by the Department in August 13, 1999 et seq." The manatee is protected by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361, et. seq.), and the Endangered Species Act of 1973 (16 U.S.C. 1531, et. seq.). The U.S. Fish and Wildlife Service (FWS) notified FPL that measures will be necessary to protect the manatees from cold water impacts during the transition period of the Port Everglades Modernization Project.³

The total estimated capital costs for the MTHS – PPE is \$3.25 million. FPL proposed to recover these costs through the ECRC starting January 2013 when the proposed system goes into service. Because the Company does not expect to need the MTHS once the modernized combined cycle unit goes into service, FPL plans to dismantle the system at that time. FPL proposes to amortize the cost of the system over its operating life at PPE (i.e., the 42 months from January 2013 through June 2016). FPL expects to begin incurring O&M expenses, projected to be \$250,000 in 2012, to monitor the manatees at PPE. Once installation and commissioning of the MTHS – PPE is completed in January 2013, FPL will incur O&M expenses associated with system maintenance. The total estimated O&M costs is \$1.25 million for the period 2012 through 2016.⁴

There are specific environmental laws and regulations that require FPL to comply with the MPP at PPE, and thus warrant the implementation of the MTHS at PPE. FPL should be permitted to install the MTHS at PPE, and consolidate the MTHS-

¹ See Order No. PSC-12-0187-FOF-EI, issued April 9, 2012, in Docket No. 110309-EI, In re: Petition to determine need for modernization of Port Everglades Plant, by Florida Power & Light Company

² See Order No. PSC-09-0759-FOF-EI, issued November 18, 2009, in Docket No. 090007-EI, In re: Environmental cost recovery clause, at pages 8 – 10, and Order No. PSC-11-0553-FOF-EI, issued December 7, 2011, in Docket No. 110007-EI, In re: Environmental cost recovery clause, at pages 9 – 10.

³ In FWS's letter to FPL dated December 16, 2011.

⁴ These projected O&M costs do not include the electricity costs to operate the heating system, for which FPL is not seeking recovery through the ECRC.

PPE with the existing MTHS projects in the ECRC for the purpose of ECRC filing and cost recovery. The proposed MTHS-PPE project meets the requirements of Section 366.8255, F.S., for recovery through the ECRC. The Company is not presently recovering the costs of the proposed project through base rates or any other recovery mechanism, nor has it included the costs in FPL's 2013 test year Minimum Filing requirements in its pending base rate case.

To be consistent with the existing MTHS – Riviera project and MTHS – Cape Canaveral project approved by the Commission previously in Order No. PSC-09-0759-FOF-EI, the capital costs of the MTHS – PPE Project should be allocated to the rate classes on an average 12 CP demand basis and 1/13th energy basis. Operating and Maintenance (O&M) costs should be allocated to the rate classes on an energy basis.

Issue 9B: **Should FPL be allowed to recover the costs associated with its proposed Thermal Discharge Standards Project?**

Position: Yes. FPL power plants with once-through cooling water systems that were built before July 1, 1972, must meet a "narrative" thermal standard found in Rule 62-302.520(1) (a)-(c) F.A.C. This standard is implemented through the National Pollutant Discharge Elimination System (NPDES) program.⁵ Subject to the U.S. Environmental Protection Agency's (EPA) approval, the FDEP implements the NPDES permitting program in Florida. Affected facilities are required to apply for renewal of 5-year-duration NPDES permits before the permits expire. Facilities that cannot meet the FDEP narrative standard for thermal discharges may apply for a "variance" (i.e., less stringent standards) under Section 316(a) of the Federal Clean Water Act (CWA). In 2008, the EPA issued additional guidance which makes the variance application process more stringent, resulting in the requirement to submit expanded biological and thermal modeling/monitoring studies to justify the variances. In addition, many plants that have once-through cooling water systems that discharge heated effluent and were originally deemed compliant with the standard have been under scrutiny by the FDEP. Oversight of these facilities is also implemented via the NPDES permitting process. During recent permit renewals the FDEP has also taken a more stringent approach to the required demonstration that substantial damage to aquatic organisms is not occurring in the receiving water bodies.

The Cape Canaveral plant (PCC) has been impacted by the EPA's more stringent CWA 316(a) variance guidance. The renewed NPDES Permit for the PCC site, issued February 11, 2011, contains the requirement that a Plan of Study (POS) to justify a CWA 316(a) variance be developed. FPL anticipates, based on the new EPA guidance and conversations with officials with EPA Region 4 and the FDEP,

⁵ See 33 U.S.C. Section 1342.

that the scope of the POS may need to be significantly expanded; this would result in substantial increases in compliance costs. FPL submitted a proposed POS to the FDEP in August 2011 and is currently awaiting comments from the EPA and FDEP. The POS proposes baseline (pre-operational) and operational near-field seagrass and benthic sampling, augmented by ongoing seagrass monitoring conducted by the St. Johns River Water Management District, as well as ongoing fisheries monitoring surveys conducted by the Florida Fish and Wildlife Conservation Commission (FFWCC). FPL has begun baseline sampling which is essential in order to stay on track for implementation of the proposal once approved. FPL intends to continue this baseline sampling until the Canaveral Clean Energy Center (CCEC) is operational in 2013. After CCEC is operational, FPL plans to conduct operational sampling in accordance with its proposal, in order to assess impacts of the plant's operation.

For the Riviera plant (PRV), the most recent version of the site's State IWW Permit Number FL0001546, issued August 28, 2010, contains language that could result in a substantially higher level of effort to demonstrate compliance with Rule 62-302.520(1), F.A.C. It requires a POS that may include baseline biological sampling of the modernized plant and address monitoring of aquatic species, as necessary, as well as incorporating relevant existing data. FPL intends to negotiate a POS with FDEP in 2012 that will take a similar approach to the POS that has been proposed for the PCC site.

FPL's preliminary estimate of O&M costs for this project is \$175,000 for 2012 and \$175,000 for 2013, which reflects activities needed to implement the POS approach that FPL is proposing for the PCC and the PRV. The actual compliance costs incurred will depend on the scope of the final POS that is approved for the PCC and PRV. O&M activities are related to baseline biological studies, other data collection and modeling for both facilities, and are expected to begin after August 1, 2012. At this time, FPL does not expect to incur capital costs. However, if studies determine that substantial environmental impacts are occurring, particularly at PCC, substantial capital expenditures could be required.

The proposed Thermal Discharge Standards project meets the criteria for ECRC cost recovery established by Order No. PSC-94-0044-FOF-EI.⁶ FPL should be allowed to recover its costs associated with the project.

Issue 9C: How should the costs associated with the Thermal Discharge Standards Project be allocated to the rate classes?

⁶ Order No. PSC-94-0044-FOF-EI, issued January 12, 1994, in Docket No. 930613-EI, In re: Petition to establish an environmental cost recovery clause pursuant to Section 366.0825, F.S., by Gulf Power Company.

Position: O&M costs for the project should be allocated to the rate classes on a demand basis.

Issue 9D: **Should FPL be allowed to recover the costs associated with its proposed Gopher Tortoise Relocations Project?**

Position: Yes. The Gopher tortoise (*Gopherus polyphemus*) is a state-designated threatened species. Rule 68A-27.003(2)(d)3, F.A.C., Designation of Endangered Species; Prohibitions states:

No person shall take, attempt to take, pursue, hunt, harass, capture, possess, sell or transport any gopher tortoise or parts thereof or their eggs, or molest, damage, or destroy gopher tortoise burrows, except as authorized by Commission permit or when complying with Commission approved guidelines for specific actions which may impact gopher tortoises and their burrows.

Gopher tortoises have been creating burrows in the cooling pond embankments at FPL's Martin (PMR), Manatee (PMT) and Sanford (PSN) power plants over time, as well as in the oil tank farm embankments at PMR and PMT. Gopher tortoise burrows must be inspected and then filled as necessary to ensure the integrity of the embankments.

In 2008, the FFWCC issued new gopher tortoise guidelines that have changed the permitting process for relocations of tortoises; an authorized gopher tortoise agent is now required to conduct surveys and perform relocations and all tortoises now must be sent to a recipient site. The embankments at PMT, PMR and PSN were surveyed from 2008-2011 by plant personnel and no burrows were found that appeared to be compromising the integrity of the embankments. In March 2012, however, surveys were conducted that found gopher tortoise burrows at PMT that could compromise the embankment integrity. In order to fill the burrows at PMT, the gopher tortoises need to be relocated by an authorized gopher tortoise agent in order to comply with Rule 68A-27.003, F.A.C..

As part of normal plant maintenance, FPL conducts periodic surveys at all three sites to ensure that the integrity of the embankments is maintained. This project is, however, limited only to recovery of costs associated with relocations that are required as a result of those surveys. Thus, when FPL plant personnel identify a gopher tortoise burrow requiring filling, an authorized gopher tortoise agent will be contracted to start the relocation process.

FPL's preliminary estimate of 2012 O&M costs of this project is \$37,500 for an estimated 15 tortoise relocations. At this time, a conservative estimate of the cost per tortoise needing relocation is \$2,500, which can include confirmation surveying, permitting, bucket trapping, relocation, and recipient site costs. FPL

cannot predict the costs that it will incur for this project beyond 2012, because the level of activity depends on how many, if any, gopher tortoises require relocation in the future. However, at this time FPL estimates that \$37,500 of O&M will be spent for the three plant sites in 2013.

The proposed Gopher Tortoises Relocations project meets the criteria for ECRC cost recovery established by Order No. PSC-94-0044-FOF-EI. FPL should be allowed to recover its incurred costs associated with the project.

Issue 9E: **How should the costs associated with the Gopher Tortoise Relocations Project be allocated to the rate classes?**

Position: O&M costs for the project should be allocated to the rate classes on a demand basis.

Issue 9F: **Should FPL be allowed to recover the costs associated with its proposed Effluent Guidelines Revised Rule Project?**

Position: Yes. Title 40 Code of Federal Regulations Part 423, which was promulgated under the authority of the CWA, limits the discharge of pollutants into navigable waters and into publicly owned treatment works by existing and new sources of steam electric power plants. The EPA has been undertaking a process to revise the current rule since September 2009. In early April 2012, EPA announced that a draft rule will be signed in November 2012, with a final rule expected by April 28, 2014.

The revised Guidelines would set minimum standards for treatment of wastewater from steam electric power plants. These revisions are directed primarily at waste streams such as ash sluice water and scrubber wastewater from coal-burning facilities, but there could be impacts to nuclear as well as oil and gas-burning facilities. Based on recent information obtained from the EPA, it appears that the EPA has decided that water containing oil ash will likely be impacted by the rule revisions to the guidelines and may require either dry handling of all ash, or require water oil containing ash to be segregated from other waste streams and not discharged to waters of the state.

Starting in the latter part of 2012, FPL will be conducting extensive chemical analyses of oil ash handling effluent streams. Results from these analyses will be presented to the EPA to demonstrate the difference between these types of waste streams and waste streams from flue gas scrubbers and other coal ash related processes, which are significantly more complex and difficult to treat prior to a discharge. FPL's goal is to convince the EPA that oil ash handling effluent does not need to be regulated under the same strict requirements that apply to coal ash handling effluent.

In 2012, FPL expects to spend approximately \$5,000 for the aforementioned analyses. In 2013, FPL projects to spend \$45,000 in contractor fees to assist with developing and submitting comments on the draft rule. O&M costs beyond 2013 will be associated with the operation of any oil ash or coal ash related treatment and/or handling systems that are required by the rule.⁷ In addition, there could be requirements for other power plant waste streams that may be impacted by the new rule.⁸ It is very likely that these O&M costs, which will begin to be incurred in the 2018-2020 time frame, will be significant. FPL anticipates that the capital costs will also be significant, and may also occur in the 2018-2020 timeframe. FPL will not know what those costs might be until the rule is final.

The proposed Effluent Guidelines Revised Rule project meets the criteria for ECRC cost recovery established by Order No. PSC-94-0044-FOF-EI. FPL should be allowed to recover its incurred costs associated with the project.

Issue 9G: **How should the costs associated with the Effluent Guidelines Revised Rule Project be allocated to the rate classes?**

Position: O&M costs for the project should be allocated to the rate classes on a demand basis.

Issue 9H: **Should FPL be allowed to recover the costs associated with its proposed Numeric Nutrient Criteria Project?**

Position: Yes. The EPA is under a federal court order to implement numeric nutrient criteria (NNC) to comply with the Federal CWA. The FDEP has drafted its own NNC rule and has strongly communicated to the EPA that it prefers to implement the state rule. The EPA supports the FDEP in that effort; it has until the January 6, 2013, implementation date to review and approve the FDEP's proposed NNC rule. Either the EPA or FDEP numeric nutrient criteria rule will be implemented through NPDES IWW permit renewals for the reduction of total nitrogen and total phosphorus discharges in Florida freshwaters.

FPL's Ft. Myers, Manatee, Martin, Putnam, and Sanford plants will be affected by the new flowing streams (freshwater) numeric nutrient criteria. The NPDES IWW permits for these facilities will expire and require subsequent renewals beginning in 2012 proceeding through 2017. Compliance requirements under the new rules will begin prior to permit renewal and continue for the life of each facility.

⁷ Examples of potential expenses are flue gas scrubber and other wastewater treatment and disposal, ash contact water treatment and disposal.

⁸ Potential examples are dechlorination systems at facilities that currently chlorinate once-through cooling water and disposal of combustion turbine off-line washes.

The rule changes will require sampling, monitoring, reporting, and possible biological health assessments both prior to application for permit renewal and ongoing thereafter. Based on nutrient data, facilities may have to alter water treatment processes to comply with the new standards. FPL's plan to comply with the new requirements includes: (i) total phosphorus and total nitrogen sampling, monitoring, and reporting; (ii) biological health assessments; and (3) modifications to the Martin plant water treatment system.

FPL expects to incur O&M costs concerning aforementioned plans (1) and (2). The total O&M costs are estimated to be \$1.6 million for the period 2013 through 2017. Costs associated with the new regulation will continue for the life of each facility. FPL also expects to incur capital costs concerning aforementioned plan (3). The total capital costs are estimated to be \$1.2 million for the period 2015 through 2017. For 2012, FPL does not anticipate incurring any costs for the project. For 2013, FPL projects to spend \$0.442 million for O&M activities, including monthly water sampling (intake and discharge structures) and reporting, biological assessments (stream condition index assessment upstream and downstream of the discharges) and reporting, and changes to water chemistry. No capital costs are projected for 2012 and 2013.

The proposed Numeric Nutrient Criteria project meets the criteria for ECRC cost recovery established by Order No. PSC-94-0044-FOF-EI. FPL should be allowed to recover its incurred costs associated with the project.

Issue 9I: **How should the costs associated with the Numeric Nutrient Criteria Project be allocated to the rate classes?**

Position: O&M and capital costs for the project should be allocated to the rate classes on a demand basis.

Issue 9J: **Should FPL be allowed to recover the costs associated with the additional activities of the existing NPDES Permit Renewal Requirements Project?**

Position: Yes. The renewed NPDES permit for the plant St. Lucie (PSL), which became effective September 29, 2011, contains a requirement that PSL prepare, submit and conduct a Total Residual Oxidants (TRO) Plan of Study (TROPOS). Because the renewed NPDES permit was not issued until late September last year, FPL did not have an opportunity to reflect the projected costs of complying with the TROPOS requirement in its 2012 ECRC projection filed in August 2011.

The purpose of the TROPOS is to demonstrate that discharges from the PSL cooling water system meet the State's Class III water quality standard of 0.01 mg/l for total residual oxidants. In the previous permit, PSL had to meet a limit of 0.1 mg/l at the Point of Discharge (POD), which is at the end of the plant's discharge canal before the effluent is discharged to the Atlantic Ocean via

diffusers. With the TROPOS, PSL will demonstrate that meeting the previous 0.1 mg/l TRO limit at the POD is equivalent to meeting the 0.01 mg/l Class III water quality standard at the actual discharge point in the Atlantic Ocean.

FPL retained a consultant to prepare and submit the TROPOS to the FDEP for approval. Following FDEP approval, which is expected in September 2012, another consultant will be selected via the bidding process to conduct the TROPOS, which includes a dye study, TRO decay study, a plant-level verification study and a final report, over a 25-month period.

FPL expects to incur total O&M costs of approximately \$140,000 to complete the TROPOS. The Company projects spending \$20,000 in 2012 and \$50,000 in 2013 for O&M costs associated with a dye study, a TROPOS decay study, and a plant-level verification study. There will be no capital costs incurred for 2012 and 2013.

FPL's proposed additional activities of the existing NPDES Permit Renewal Requirements project meets the criteria for ECRC cost recovery established by Order No. PSC-94-0044-FOF-EI. FPL should be allowed to recover its incurred costs associated with these activities.

Issue 9K: Should the Commission approve FPL's proposal to expand the existing CAMR Compliance Project as reasonable?

Position: Yes. On December 16, 2011, the EPA finalized its Mercury and Air Toxics Standards (MATS) rule as a replacement for CAMR under 40 CFR Parts 60 and 63 to meet its obligation under Section 112 for the control of Hazardous Air Pollutants (HAP) emissions. The MATS rule establishes performance standards for HAPs emissions from coal and oil-fired steam electric generating units, including a mercury emission standard that applies only to coal-fired units. In response to the final MATS rule, FPL, and its ownership partner JEA, have identified the need for additional information regarding emissions of HAPs from the St. John River Power Plant (SJRPP) units. An engineering and economic study for MATS compliance at SJRPP is now being initiated to develop a lowest cost alternative compliance plan. The engineering study will evaluate cost and performance options of emission controls available to meet the MATS specifications while maintaining or improving fuel diversity options.

FPL currently recovers through the ECRC its share of costs associated with the operation and maintenance of the baghouse/sorbent injection system on Scherer Unit 4, and the Continuous Mercury Emission Monitors on Scherer Unit 4 and SJRPP Units 1 & 2. Considering that the MATS rule has replaced CAMR, FPL believes that it is appropriate to rename the CAMR Project (Project 33) to now be referred to as the MATS Project.

FPL intends to include only those costs for the environmental compliance engineering study for SJRPP at this time. FPL has adjusted its 2012 MATS O&M projections to include the estimated \$28,000 cost for its ownership share of the engineering study. However, in the future FPL intends to present under the MATS project for the Commission's review and approval, those costs which FPL determines to be necessary for compliance at SJRPP and Scherer with the MATS rule.

It is appropriate for FPL to rename the existing CAMR project as the MATS project to reflect the current environmental rule in effect. FPL's proposed new activities of the MATS project meet the criteria for ECRC cost recovery established by Order No. PSC-94-0044-FOF-EI. FPL should be allowed to recover the costs associated with these new activities under the MATS project.

Issue 9L: **Should the Commission approve FPL's Supplemental Clean Air Interstate Rule (CAIR), Clean Air Mercury Rule (CAMR) and Clean Air Visibility Rule (CAVR)/Best Available Retrofit Technology (BART) Filing as reasonable?**

Position: Yes. Completion of the compliance activities discussed in FPL's Supplemental CAIR/CAMR/CAVR Filing of April 2, 2012, is required by existing federal and state environmental rules and regulatory requirements for air quality control and monitoring, and the associated project costs appear reasonable. FPL should continue to file, as part of its annual ECRC final true-up testimony, a review of the efficacy of its CAIR/CAMR/CAVR compliance plans, and the cost-effectiveness of its retrofit options for each generating unit in relation to expected changes in environmental regulations and ongoing state and federal CAIR legal challenges. The reasonableness and prudence of individual expenditures, and FPL's decisions on the future compliance plans made in light of subsequent environmental rule developments, will continue to be subject to the Commission's review in future ECRC proceedings on these matters.

Issue 9M: **Should the Commission approve FPL's proposed capital cost recovery schedule for the Port Everglades electrostatic precipitators (ESPs)?**

Position: Yes. FPL is currently recovering the costs associated with the Electrostatic Precipitators (ESPs) on the existing Units 1 through 4 at the Port Everglades Plant (PPE) through the ECRC. The Commission granted FPL an affirmative determination of need to modernize the PPE into a high-efficiency combined cycle natural gas energy center.⁹ Assuming final approval of site certification for this modernization plan, all of the existing PPE units will be retired effective

⁹ Order No. PSC-12-0187-FOF-EI, in Docket No. 110309-EI, issued April 9, 2012, In re: Petition to determine need for modernization of Port Everglades Plant, by Florida Power & Light Company.

January 2013. FPL proposed to complete recovery of the PPE ESPs project in the ECRC through a capital recovery schedule.

The four ESPs at the PPE were placed in-service during the period April 2005 through May 2007. The original capital investment associated with the project is \$81,901,169. As the year progressed, these capital expenditures have been recovered through the ECRC, leaving a net book value of \$65,372,158, or 80% of the original investments, to be recovered as of March 31, 2012. The ESPs at PPE cannot be removed, modified, and reinstalled to serve other units, such as the 800 MW units at PMR and PMT for which new ESPs will be installed.¹⁰ Therefore, FPL is requesting to include in its 2013 ECRC factors the recovery of the unrecovered net investment balance of the PPE ESPs at the time of the planned retirement.

FPL proposed a 4-year capital cost recovery schedule for the PPE ESPs beginning January 1, 2013. Given that the PPE ESPs were included in the overall plant-in-service and reserve balances used in establishing the depreciation rates currently approved at the generating unit and plant account level for the PPE,¹¹ and that the overall unrecovered plant investments at the PPE will be recovered in a 4-year schedule,¹² FPL's proposed 4-year capital cost recovery schedule in the ECRC for the PPE ESPs is appropriate.

Progress Energy Florida (PEF)

Issue 10A: Should the Commission approve PEF's Review of Integrated Clean Air Compliance Plan as reasonable?

Position: Yes. PEF's Integrated Clean Air Compliance Plan is for achieving timely compliance with the applicable environmental regulations in a cost-effective manner. All of the major components of the Crystal River Units 4 and 5 emission control projects included in PEF's Integrated Clean Air Compliance Plan have been completed. PEF is continuing to evaluate future compliance options concerning the EPA's recently remanded Cross-State Air Pollution Rule (CSAPR), finalized Mercury & Air Toxics Standards (MATS), and other environmental regulatory developments affecting fossil fuel-fired generating

¹⁰ This is due to their specific design and size for the 200 and 400 MW units at the PPE, which are significantly different from what would be required for the 800 MW units at PMR and PMT. The ESPs at PMR and PMT are retrofits into existing plants and are custom designed to fit in the limited and specific space between the boilers and stacks. Each ESP is sized for the specific exhaust gas volumes and flows of the specific unit.

¹¹ The depreciation rates FPL utilizes to depreciate the ESPs at PPE were approved in Order No. PSC-10-0153-FOF-EI, in Docket Nos. 080677-EI and 090130-EI (consolidated), issued March 17, 2010, In re: Petition for increase in rates by Florida Power & Light Company and In re: 2009 depreciation and dismantlement study by Florida Power & Light Company, at page 42.

¹² Addressed in Issue No. 23, stipulated, in Docket No. 120015-EI, In re: Petition for increase in rates by Florida Power & Light Company, which is currently before the Commission.

units. PEF should continue to file, as part of its annual ECRC final true-up testimony, an update of its Integrated Clean Air Compliance Plan to review the cost-effectiveness of PEF's retrofit options for each generating unit in relation to expected changes in environmental regulations. The reasonableness and prudence of individual expenditures, and PEF's decisions on the future compliance plans made in light of subsequent environmental rule developments, will continue to be subject to the Commission's review in future ECRC proceedings on these matters.

Gulf Power Company (Gulf)

Issue 11A: Should the Commission approve Gulf's Environmental Compliance Program Update as reasonable?

Position: Yes. On April 2, 2012, Gulf filed an Environmental Compliance Program Update for Clean Air Interstate Rule, Cross State Air Pollution Rule, National Ambient Air Quality Standards, Mercury and Air Toxics Standards, and Clean Air Visibility Rule.¹³ In the Compliance Program Update Gulf outlines its ongoing compliance projects and the reasons Gulf plans to continue these projects, and presents the compliance components that are in the planning stage for possible future implementation.

Gulf is currently evaluating potential options to comply with the MATS. Gulf indicated that compliance with this rule is likely to require substantial capital expenditures and compliance costs at the Company's facilities. These costs may arise from generating unit retirements, installation of additional emission controls, changing fuel sources for certain existing units, and the addition of new generating resources. Once Gulf determines the most cost-effective compliance options, the Company will submit revisions to the Compliance Program for Commission review.

Gulf should continue to file, as part of its annual ECRC final true-up testimony, an update of its Environmental Compliance Program to review the cost-effectiveness of Gulf's retrofit options for each generating unit in relation to expected changes in environmental regulations. The reasonableness and prudence of individual expenditures, and Gulf's decisions on the future compliance plans made in light of subsequent environmental rule developments, will continue to be subject to the Commission's review in future ECRC proceedings on these matters.

¹³ Gulf's original CAIR/CAMR/CAVR Compliance Plan set forth in the stipulation between OPC, FIPUG and Gulf, was approved by the Commission in Order No. PSC-07-0721-S-EI, issued September 5, 2007, in Docket No. 070007-EI, In re: Environmental cost recovery clause.

Tampa Electric Company (TECO)

None

e. Stipulated Issues

None at this time.

f. Pending Motions

None at this time

g. Pending Confidentiality Claims or Requests

There are several pending.


h. Objections to Witness Qualifications as an Expert

None at this time.

i. Compliance with Order No. PSC-12-0060-PCO-EI and PSC-12-0060-PCO-EI.

Staff has complied with all requirements of the Order Establishing Procedure entered in this docket.

Respectfully submitted this 5th day of October, 2012.



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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Environmental cost recovery clause.

DOCKET NO. 120007-EI

DATED: October 5, 2012

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that the original of STAFF'S PREHEARING STATEMENT has been filed with Office of Commission Clerk and one copy has been furnished to the following by electronic and U.S. Mail, on this 5th day of October, 2012:

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