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b. Docket No. 120007 - EI
In RE: Environmental Cost Recovery Clause

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

d. There are a total of 13 pages

e. The document attached for electronic filing is Florida Power & Light Company's Prehearing Statement

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10/5/2012

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

IN RE: Environmental Cost)
Recovery Clause)

DOCKET NO. 120007-EI
FILED: OCTOBER 5, 2012

FLORIDA POWER & LIGHT COMPANY'S
PREHEARING STATEMENT

Pursuant to Order No. PSC-12-0060-PCO-EI, issued February 10, 2012, and Order No. PSC-12-0060A-PCO-EI, issued on February 14, 2012, establishing the prehearing procedure in this docket, Florida Power & Light Company, ("FPL") hereby submits it's Prehearing Statement.

A. APPEARANCES

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B. WITNESSES

<u>WITNESS</u>	<u>SUBJECT MATTER</u>	<u>ISSUES</u>
T.J. KEITH R.R. KENNEDY	ECRC Final True-up for January 2011 through December 2011	1
T.J. KEITH	ECRC Actual/Estimated True-up for January 2012 through December 2012	2
T.J. KEITH	ECRC Projections and Factors for January 2013 through December 2013	3 - 8

R.R. LABAUVE	Approval of St. Lucie Plant Cooling Water Discharge Monitoring Project	9A
R.R. LABAUVE	Approval of Thermal Discharge Standards Project	9B
T.J. KEITH	Allocation of Costs associated with the Thermal Discharge Standards Project	9C
R.R. LABAUVE	Approval of Gopher Tortoise Relocations Project	9D
T.J. KEITH	Allocation of Costs associated with Gopher Tortoise Relocations Project	9E
R.R. LABAUVE	Approval of Effluent Guidelines Revised Rule Project	9F
T.J. KEITH	Allocation of Costs associated with Effluent Guidelines Revised Rule Project	9G
R.R. LABAUVE	Approval of Numeric Nutrient Criteria Project	9H
T.J. KEITH	Allocation of Costs associated with Numeric Nutrient Criteria Project	9I
R.R. LABAUVE	Approval of NPDES Permit Renewal Requirements Project	9J
R.R. LABAUVE	Approval of CAMR Compliance Project	9K
R.R. LABAUVE	Approval of Supplemental Clean Air Interstate Rule (CAIR), Clean Air Mercury Rule (CAMR) and Clean Air Visibility Rule (CAVR)/ Best Available Retrofit Technology (BART) Filing	9L
R.R. LABAUVE	Approval of Port Everglades electrostatic Precipitators	9M

C. **EXHIBITS**

<u>EXHIBITS</u>	<u>WITNESS</u>	<u>DESCRIPTION</u>
(RRL-1)	R.R. LABAUVE	Port Everglades Manatee Heating System Conceptual Location of heated refuge, heater and pump systems
(RRL-2)	R.R. LABAUVE	Florida Department of Environmental Protection (“FDEP”) Industrial Wastewater Facility Permit Number FL0001538 for PPE
(RRL-3)	R.R. LABAUVE	PPE Manatee Protection Plan (“MPP”)
(RRL-4)	R.R. LABAUVE	U. S. Fish and Wildlife Service (“FWS”) letter to FPL regarding manatee protection at PPE
(TJK-1)	T.J. KEITH	Appendix I Environmental Cost Recovery Final True-up January 2011 - December 2011 Commission Forms 42-1A through 42- 9A
(RRL-5A)	R.R. LABAUVE	FPL Supplemental CAIR/CAMR/CAVR Filing
(TJK-2)	T.J. KEITH	Appendix I Environmental Cost Recovery Actual/Estimated Period January 2012 - December 2012 Commission Forms 42-1E through 42-9E
(RRL-5B)	R.R. LABAUVE	Relevant excerpt from the Cape Canaveral Plant (PCC) State IWW Permit
(RRL-6)	R.R. LABAUVE	Relevant excerpt from the Riviera Plant (PRV) NPDES Permit
(RRL-7)	R.R. LABAUVE	New Gopher Tortoise Guidelines
(RRL-8)	R.R. LABAUVE	Relevant excerpt from the St. Lucie Plant (PSL) NPDES Permit

(TJK-3)	T.J. KEITH	Appendix I Environmental Cost Recovery Projections January 2013 - December 2013 Commission Forms 42-1P through 42-8P
(RRL-9)	R.R. LABAUVE	Chapter 62-302, Florida Administrative Code, Surface Water Quality Standards (FDEP Proposed)
(RRL-10)	R.R. LABAUVE	Title 40 Code of Federal Regulations Part 131, Water Quality Standards for the State of Florida's Lakes and Flowing Waters (EPA)

D. STATEMENT OF BASIC POSITION

None necessary.

E. STATEMENT OF ISSUES AND POSITIONS

GENERIC ENVIRONMENTAL COST RECOVERY ISSUES

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

FPL: \$976,912 over-recovery. (Keith/Kennedy)

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

FPL: \$7,620 over-recovery. (Keith)

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

FPL: \$215,032,494. (Keith)

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

FPL: The total environmental cost recovery amount, including true-up amounts and adjusted for revenue taxes, is \$214,202,076. (Keith)

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?

FPL: The depreciation rates used to calculate the depreciation expense should be the rates that are in effect during the period the allowed capital investment is in service. (Keith)

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

FPL: Retail Energy Jurisdictional Factor 98.03238%
 Retail CP Demand Jurisdictional Factor 97.97032%
 Retail GCP Demand Jurisdictional Factor 100.00000% (Keith)

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

FPL:

RATE CLASS	Environmental Cost Recovery Factor (\$/KWH)
RS1/RST1	0.00229
GS1/GST1/WES1	0.00195
GSD1/GSDT1/HLFT1	0.00191
OS2	0.00203
GSLD1/GSLDT1/CS1/CST1/HLFT2	0.00186
GSLD2/GSLDT2/CS2/CST2/HLFT3	0.00166
GSLD3/GSLDT3/CS3/CST3	0.00150
SST1T	0.00180
SST1D1/SST1D2/SST1D3	0.00205
CILC D/CILC G	0.00166
CILC T	0.00158
MET	0.00183
OL1/SL1/PL1	0.00089
SL2, GSCU1	0.00160

Total 0.00208
 (Keith)

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

FPL: The 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. These charges should continue in effect until modified by subsequent order of this Commission. (Keith)

COMPANY-SPECIFIC ISSUES

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

FPL: Yes. This Commission has approved the MTHS Project to permit ECRC recovery of costs incurred to meet permit requirements for providing warm water refuges for manatees at FPL's Cape Canaveral and Riviera Plants while those plants were shut down for modernization projects. Modification of the MTHS Project to include the PPE MTHS is being undertaken in order to comply with similar permit requirements to those which required warm water refuges at the Cape Canaveral and Riviera Plants. The purpose of the PPE MTHS is to provide a warm water habitat for endangered manatees at PPE and thus help FPL remain in compliance with FPL's PPE Manatee Protection Plan ("MPP"), which is Specific Condition I.D.10 to the Industrial Wastewater Facility ("IWWF") Permit Number FL0001538 issued by the Florida Department of Environmental Protection ("FDEP") for PPE on February 27, 2010. The effect of the MPP will be triggered by the removal of the existing conventional steam units at PPE from active service, which requires active measures to comply with the MPP that have not previously been required. These activities will implement the requirements of the PPE MPP to maintain a minimum water temperature in the discharge canal to provide a safe habitat for manatees during the construction period for the Modernization Project. (LaBauve)

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

FPL: Yes. The Thermal Discharge Standards Project is required pursuant to Section 316(a) of the Federal Clean Water Act, which requires thermal effluent limitations that will assure protection and propagation of balanced, indigenous population of shellfish, fish, and wildlife. Under Section 316(a), thermal dischargers can be granted less stringent alternate thermal limits than those imposed by a state program if the discharger can demonstrate that the current effluent limitations, based on water quality standards, are more stringent than necessary to protect the aquatic organisms in the receiving water body. This rule is implemented through the National Pollutant Discharge Elimination System ("NPDES") program, which is conducted in Florida by the FDEP. Additionally, power plants with once-through water cooling water systems built before July 1, 1972 must meet a narrative thermal standard found in Rule 62-302.520(1) (a)-(c) F.A.C. 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.

FPL’s Plant Cape Canaveral (“PCC”) and Plant Riviera (“PRV”) have been impacted by the EPA’s recent more stringent guidance on Section 316(a) variances. The renewed NPDES Permit for PCC contains the requirement that a Plan of Study (“POS”) to justify a Section 316(a) variance be developed. FPL anticipates, based on the new EPA guidance and conversations with EPA Region 4 and FDEP, that the scope of the POS may need to be significantly expanded; this would result in substantial increases in compliance costs. Additionally, the most recent version of the PRV State Industrial Waste Water (“IWW”) Permit contains language that could result in a substantially higher level of effort to demonstrate compliance with 62-302.520(1) F.A.C. (LaBauve)

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

FPL: Capital and O&M costs for FPL’s proposed Thermal Discharge Standards Project should be allocated to the rate classes on an average 12 CP demand basis. (Keith)

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

FPL: Yes. The Gopher Tortoise Relocation Project is required by Rule 68A-27.003(1)(d)3, F.A.C. -- Designation of Endangered Species; Prohibitions, which states that: “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.” In 2008, the Florida Fish and Wildlife Conservation Commission provided new gopher tortoise guidelines that have changed the permitting process for relocations (i.e., a gopher tortoise agent is now required and all tortoises now must be sent to a recipient site). 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 these embankments. Filling burrows means that affected gopher tortoises must be relocated. In March 2012, surveys were conducted that found gopher tortoise burrows at PMT. This project includes the relocation of gopher tortoises found in burrows that could comprise the integrity of embankments at FPL’s plants. (LaBauve)

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

FPL: Capital and O&M costs for FPL's proposed Gopher Tortoise Relocations Project should be allocated to the rate classes on an average 12 CP demand basis. (Keith)

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

FPL: Yes. The Steam Electric Effluent Guidelines Revised Rule Project is required by Title 40 of the Code of Federal Regulations, Part 423, which was promulgated under the authority of the Federal Clean Water Act. This regulation 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 United States Environmental Protection Agency ("EPA") has initiated revisions to Title 40 CFR 423 - Steam Electric Effluent Guidelines, which set minimum standards for treatment of wastewater from steam electric power plants. The EPA is revising the rule because, current regulations, which were issued in 1982, have not kept pace with changes that have occurred in the electric power industry over the last three decades. The 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 oil ash contact water will likely be impacted by the revisions to the guidelines and may require either dry handling of all ash, or require oil ash contact water to be segregated from other waste streams and not discharged to waters of the State.

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. (LaBauve)

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

FPL: Capital and O&M costs for FPL's proposed Effluent Guidelines Revised Rule Project should be allocated to the rate classes on an average 12 CP demand basis. (Keith)

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

FPL: Yes. The Numeric Nutrient Criteria Water Quality Standards Project is required by Chapter 62-302, Florida Administrative Code, Surface Water Quality Standards (“FDEP”) or Title 40 Code of Federal Regulations Part 131, Water Quality Standards for the State of Florida’s Lakes and Flowing Waters (“EPA”). The EPA is under a federal court order to implement numeric nutrient criteria (“NNC”) through NPDES permit renewals for the reduction of total nitrogen and total phosphorus discharges and load in Florida freshwaters to comply with the Federal Clean Water Act. 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. The EPA 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 Industrial Waste Water permit renewals for the reduction of total nitrogen and total phosphorus discharges and loading in Florida freshwaters.

FPL plants that will be subject to the flowing streams (freshwater) numeric nutrient criteria are Martin, Manatee, Sanford, Putnam, and Ft. Myers. The EPA and FDEP are also drafting technical numeric nutrient criteria for marine and coastal waters, with a final rule anticipated in late 2013. FPL will evaluate the impact on its plants of the criteria for marine and coastal waters as that rule is being developed. (LaBauve)

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

FPL: Capital and O&M costs for FPL’s proposed Numeric Nutrient Criteria Project should be allocated to the rate classes on an average 12 CP demand basis. (Keith)

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

FPL: Yes. The renewed NPDES permit for the St. Lucie plant (“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 filing.

The purpose of the TROPOS is to demonstrate that discharges from the PSL cooling water system meet the States’ 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. (LaBauve)

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

FPL: Yes. In FPL's August 4, 2006 projections filing for its CAMR project, FPL identified that the co-benefits option for mercury control at SJRPP would have been the lowest cost alternative for compliance with CAMR at that time. The installation of Selective Catalytic Reduction ("SCR") that was planned at that time for the SJRPP units for compliance with CAIR would allow the existing scrubbers on these units to increase the capture of mercury as a co-benefit to the primary focus of reducing NOx and SO2 emissions. FPL and co-owner JEA believed that emission reduction from co-benefits would have allowed SJRPP to meet the Phase I of CAMR emission limits. At that time we also recognized that FPL would have to evaluate the need for additional controls to meet the more stringent 2018 Phase II compliance limits of CAMR at a later date. On February 8, 2008, the D.C. Circuit Court vacated EPA's CAMR, instructing the agency to propose a new rule that conforms to the court's opinion. With the vacatur of CAMR, FPL and JEA concluded that a further review of SJRPP's Hazardous Air Pollutants ("HAPs") would have to wait until EPA proposed a CAMR replacement rule.

On December 16, 2011, 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 HAP emissions. The MATS rule establishes performance standards for HAPs emissions from coal and oil-fired electric steam generating units including a mercury emission standard that applies only to coal-fired units. In response to the final MATS rule, FPL, and our ownership partner JEA, have identified the need for additional information regarding emission of HAPs from the 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. (LaBauve)

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?

FPL: 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 and prudent. FPL will 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 developments, will continue to be subject to the Commission's review in future ECRC proceedings on these matters. (LaBauve)

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

FPL: Yes. FPL is currently recovering the costs associated with the ESPs on the existing units at the Port Everglades Plant ("PPE") through the ECRC and proposes to complete recovery of those ESPs in the ECRC through a capital recovery schedule. The Commission entered Order PSC-12-0187-FOF-EI in Docket No. 110309-EI granting FPL an affirmative determination of need to modernize the 1960's Port Everglades Plant into a high-efficiency combined cycle natural gas energy center. Assuming final approval of site certification for this modernization plan, all of the existing PPE units will be retired effective January 2013. 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 on a four year capital recovery schedule beginning January 1, 2013. (LaBauve)

F. STATEMENT OF POLICY ISSUES AND POSITIONS

FPL: None at this time.

G. STIPULATED ISSUES

FPL: None at this time.

H. PENDING MOTIONS

FPL has no pending motions at this time.

I. PENDING REQUEST FOR CONFIDENTIALITY

To date, FPL has the following requests for confidentiality pending:

- Florida Power & Light Company's request for confidential classification of Audit No. 12-019-4-1, DN 3667-12, dated June 5, 2012.
- Florida Power & Light Company's request for confidential classification of Staff's Third Set of Interrogatories Nos. 30 and 34, DN 3446-12, dated May 30, 2012.

J. OBJECTIONS TO A WITNESS' QUALIFICATION AS AN EXPERT

FPL: None at this time.

I. STATEMENT OF COMPLIANCE WITH ORDER ESTABLISHING PROCEDURE

There are no requirements of the Order Establishing Procedure with which FPL cannot comply.

Respectfully submitted,

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s/ John T. Butler
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CERTIFICATE OF SERVICE

Docket No. 120007-EI

I HEREBY CERTIFY that a true and correct copy of Florida Power & Light Company's Prehearing Statement has been furnished by electronic delivery on October 5th, 2012 to the following:

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