

**BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION**

**DOCKET NO. 130007-EI
FLORIDA POWER & LIGHT COMPANY**

JUNE 28, 2013

ENVIRONMENTAL COST RECOVERY

TESTIMONY & EXHIBITS OF:

TERRY J. KEITH

**IN SUPPORT OF PETITION FOR APPROVAL OF
NO₂ COMPLIANCE PROJECT**

COM 5
AFD 1
APA 1
ECO 1
ENG 5
GCL 1
IDM _____
TEL _____
CLK 1-CTAP

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

FLORIDA POWER & LIGHT COMPANY

TESTIMONY OF TERRY J. KEITH

DOCKET NO. 130007-EI

JUNE 28, 2013

Q. Please state your name and address.

A. My name is Terry J. Keith, and my business address is 9250 West Flagler Street, Miami, Florida, 33174.

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

A. I am employed by Florida Power & Light Company (“FPL”) as Director, Cost Recovery Clauses in the Regulatory & State Governmental Affairs Department.

Q. Have you previously testified in this or predecessor dockets?

A. Yes, I have.

Q. What is the purpose of your testimony?

A. The purpose of my testimony is to support FPL’s request for recovery of costs through the Environmental Cost Recovery Clause (“ECRC”) associated with its proposed NO₂ Compliance Project.

Q. What is the purpose of FPL’s proposed NO₂ Compliance Project?

A. The purpose of this proposed project is to address the Environmental Protection Agency’s (“EPA”) new environmental air emissions requirement (*i.e.*, a 1-hour NO₂ ambient air quality standard) that will impact FPL’s Lauderdale (“PFL”), Port Everglades (“PPE”), and Ft. Myers (“PFM”) plants, as discussed in the testimony of FPL witness LaBauve.

1 **Q. What is the statutory test set forth in Section 366.8255 of the Florida Statutes for**
2 **determining whether a project is eligible for cost recovery through the ECRC?**

3 A. Section 366.8255(1)(d) defines “environmental compliance costs” as:

4 "costs or expenses incurred by an electric utility in complying with
5 environmental laws or regulations, including but not limited to:

- 6 1. *In-service capital investments...* and
- 7 2. Operation and maintenance expenses... "

8 *(Emphasis added)*

9
10 “Environmental laws or regulations” are defined in Section 366.8255(1)(c) as "all
11 federal, state, or local statutes, administrative regulations, orders, ordinances,
12 resolutions, or other requirements that apply to electric utilities and are designed to
13 protect the environment."

14 **Q. Has the Commission previously approved recovery through the ECRC of**
15 **environmental compliance projects that require large capital investments?**

16 A. Yes. For example, the 2013 ECRC projections filings in Docket No. 120007-EI
17 show that the capital investment in Duke Energy Florida’s Clean Air Interstate Rule
18 (“CAIR”)/Clean Air Mercury Rule (“CAMR”) compliance project at its Crystal River
19 plant is approximately \$1.3 billion; Gulf Power Company’s CAIR/CAMR/Clean Air
20 Visibility Rule (“CAVR”) compliance project has capital investments of \$0.8 billion;
21 and FPL has capital investments of \$0.5 billion in its CAIR compliance project.

22
23 The more typical form of ECRC capital projects has been add-on emission controls,
24 because retrofitting is generally the most cost-effective compliance alternative. Here,
25 however, FPL evaluated a retrofit alternative and concluded that (1) it is only

1 partially feasible (*i.e.*, there are no retrofits available that would allow the gas
2 turbines (“GTs”) at PFL and PPE to meet the new 1-hour NO₂ standard); and (2) a
3 technically feasible hybrid alternative would be substantially more expensive for
4 customers than the preferred alternative of changing out the plants’ GT combustion
5 technology in favor of new combustion turbines (“CTs”) that are highly efficient and
6 have low emissions. As explained in the testimony of FPL witnesses DeBock,
7 Domenech and Enjamio, FPL’s proposed NO₂ Compliance Project is the most cost-
8 effective, feasible option for meeting the new 1-hour NO₂ standard. It would send
9 entirely the wrong signals to FPL and other utilities to permit ECRC recovery for a
10 retrofit alternative but deny it for a substantially less expensive change-out
11 alternative, such as the one recommended by FPL witness Enjamio.

12 **Q. What are the Commission’s criteria for recovery through the ECRC as set forth**
13 **in Order No. PSC-94-0044-FOF-EI?**

14 A. Pursuant to Order No. PSC-94-0044-FOF-EI, these criteria are:

15 (a) all expenditures will be prudently incurred after April 13, 1993;

16 (b) the activities are legally required to comply with a governmentally imposed
17 environmental regulation that was created, became effective, or whose effect was
18 triggered after the company’s last test year upon which rates are based; and

19 (c) none of the expenditures are being recovered through some other cost recovery
20 mechanism or through base rates.

21 **Q. How does the NO₂ Compliance Project meet the first criterion set forth in Order**
22 **No. PSC-94-0044-FOF-EI?**

23 A. The first criterion is that the costs must be prudently incurred after April 13, 1993.

24 Clearly, the costs associated with the NO₂ Compliance Project meet this criterion,

1 because FPL has not yet begun to incur costs associated with this project in mid-
2 2013.

3 **Q. How does the NO₂ Compliance Project meet the second criterion set forth in**
4 **Order No. PSC-94-0044-FOF-EI?**

5 A. The second criterion is that the activity must be legally required to comply with a
6 governmentally imposed environmental regulation that was enacted, became
7 effective, or whose effect was triggered after FPL's last test year upon which rates
8 were set. As discussed in the testimony of FPL witness LaBauve, the NO₂
9 Compliance Project is legally required to meet the new 1-hour NO₂ standard. The
10 projections for the test year in FPL's last rate case (Docket No. 120015-EI) were
11 prepared in late 2011 and early 2012. FPL witness LaBauve testifies that the Florida
12 Department of Environmental Protection confirmed to EPA in January 2013 that it
13 has the necessary authority to implement the new 1-hour NO₂ standard in Florida and
14 FPL completed an analysis in early 2013 that indicated the existing GTs at PFL, PPE
15 and PFM would cause or contribute to exceeding that standard. Thus, the test year
16 projections were made well before the effect of the new 1-hour NO₂ standard was
17 triggered for the GTs.

18 **Q. How does the NO₂ Compliance Project meet the third criterion set forth in**
19 **Order No. PSC-94-0044-FOF-EI?**

20 A. The third criterion is that the costs associated with the activity are not being
21 recovered through another cost recovery mechanism or through base rates. None of
22 the NO₂ Compliance Project costs are recovered through any other cost recovery
23 mechanism or base rates. As I note above, the effect of the new 1-hour NO₂ standard
24 was not triggered for the GTs at PFL, PPE and PFM until well after the test year for
25 FPL's last rate case was prepared.

1 **Q. What are the projected costs associated with the proposed NO₂ Compliance**
2 **Project?**

3 A. As discussed in the testimony of FPL witness DeBock, FPL estimates that total
4 capital costs will be \$518 million for PFL and \$304 million for PFM. Actual capital
5 costs will be reported to the Commission each year as part of the normal ECRC true-
6 up process.

7 **Q What is FPL's cost estimate for 2013 and 2014?**

8 A. FPL estimates that it will incur \$22 million and \$146 million of costs in 2013 and
9 2014, respectively.

10 **Q. What are FPL's estimates of the 2013 and 2014 ECRC recoverable amounts for**
11 **the proposed NO₂ Compliance Project?**

12 A. FPL estimates its ECRC recoverable amounts will be \$0.4 million and \$6.8 million in
13 2013 and 2014, respectively.

14 **Q. Does this conclude your testimony?**

15 A. Yes, it does.