

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Conservation Cost ) DOCKET NO. 950002-EG  
Recovery Clause ) ORDER NO. PSC-95-0579-FOF-EG  
\_\_\_\_\_ ) ISSUED: May 9, 1995

The following Commissioners participated in the disposition of this matter:

J. TERRY DEASON  
JULIA L. JOHNSON  
DIANE K. KIESLING

ORDER GRANTING MOTION FOR RECONSIDERATION

BY THE COMMISSION:

As part of the Commission's continuing energy conservation cost proceedings, a hearing was held on March 8 and 9, 1995, in this docket. By final Order No. PSC-95-0398-FOF-EG, issued March 23, 1995, the Commission authorized actual true-up amounts and cost recovery factors, subject to adjustments for company specific issues. On April 7, 1995, Florida Power & Light Company (FPL) timely filed a Motion for Reconsideration to Order No. PSC-95-0398-FOF-EG.

In its Motion for Reconsideration, FPL advised the Commission that the finding on page 3 of Order No. PSC-95-0398-FOF-EI that the "actual end-of-the-period true-up amount for the period of October 1, 1993, through September 30, 1994" of "\$ (3,795,705) Overrecovery" is in error. The correct true-up amount is \$ (4,113,134). FPL asserts that this error is comprised of two separate mistakes quantifying amounts that were disallowed by the Commission, which are discussed below.

Conservation Goals Expenses

The Commission disallowed recovery of Conservation Goals docket expenses through the Energy Conservation Cost Recovery Clause (ECCR). In Prehearing Order No. PSC-95-0308-PHO-EG, FPL's Conservation Goals docket expenses were shown as \$285,056 for the period ending September 30, 1994. However, at the hearing, during the course of oral argument on the issue, counsel for FPL used the amount of \$286,233 to reflect the total amount of conservation goals expenses charged to ECCR by FPL. Inadvertently, this amount was ruled upon rather than the actual \$285,056 attributable to the

DOCUMENT NUMBER-DATE

04535 MAY-95

FPSC-RECORDS/REPORTING

period ending September 30, 1994. This Commission has the power to correct final orders where a mistake has occurred, particularly where that mistake involves rates (including adjustments to fuel charges or energy charges). Therefore, we grant FPL's Motion for Reconsideration to adjust the Conservation Goals docket expenses and the annual true-up by the amount of \$1,177; the net result is Conservation Goals docket expenses of \$285,056 for the period ending September 30, 1994.

#### Real Time Pricing Expenses

By Order No. PSC-95-0398-FOF-EG the Commission disallowed FPL's Real Time Pricing Program (RTP) expenses. At the hearing, FPL had stipulated and the intervenors, the Office of the Public Counsel (OPC) and the Florida Industrial Power Users Group (FIPUG), agreed that "approximately \$310,000 of expenses associated with FPL's Commercial/Industrial RTP Research Project which FPL charged to its Conservation Research & Development (CRD) Program will not be recovered in the current ECCR factor." By error this amount was not included in the end-of-the-year actual true-up overrecovery of \$(3,795,705). In addition, FPL has advised that there is a scrivener's error in the ordering paragraph on page 13 of Order No. PSC-95-0398-FOF-EG which shows the unrecoverable amount to be approximately \$320,000 in lieu of the \$310,000 stipulated to.

Ordinarily, the Commission would correct the scrivener's error and would adjust the end-of-year actual true-up by the stipulated and approved RTP amount of approximately \$310,000. This would be in accord with the Commission's power to regulate utilities and to amend the final order to correct a mistake. Richter, 366 So. 2d at 800; Reedy Creek Utilities v. Florida Public Service Commission, 418 So. 2d 249, 253 (Fla.1982).

In this instance, however, FPL further requests that the "accurate value" which should be used for the RTP adjustment is \$312,679. This "accurate value" amount of \$312,679 is not part of the official record. FPL further informs us that the OPC and the FIPUG, the other parties to the approved stipulation, have authorized FPL "to represent that they are agreeable to the use of \$312,679 as the amount of RTP expenses to be reflected in the true-up calculation."

Although FPL does not specifically state so, it appears from FPL's Motion for Reconsideration that FPL regards the stipulation's use of the word "approximately" before the \$310,000 amount to contemplate the substitution of the actual value or \$312,679. There is a difference of \$2,679 between the two amounts and this difference does not affect the ECCR factors. The purpose of a

motion for reconsideration is to point out some matter of law or fact which the Commission failed to consider or overlooked in its prior decision. Diamond Cab Co. of Miami v. King, 146 So. 2d 889 (Fla. 1962); Pinegree v. Quaintance, 394 So. 2d 161 (Fla. Dist. Ct. App. 181). While the approved stipulation provides no specific language which allows for an adjustment, it is unclear whether this Commission intended the actual value (accurate value) to be substituted for the approximate amount. This ambiguity in the language of the stipulation ruled upon by the Commission could be considered an oversight and, as such, would fall within the framework of the purpose of a motion for reconsideration. See Diamond, 146 So. 2d 880 (Fla. 1962). In addition, the use of the actual value amount would negate the need for further minor adjustments during the next true-up period and would render the scrivener's error noted above moot. Therefore, since the parties and intervenors are in accord, the adjustment would have no affect upon the ECCR factors, and there is ambiguity as to the terms of the approved stipulation, we grant FPL's Motion for Reconsideration as to RTP adjustments.

Based upon the adjustments made above, the true-up amount is \$(4,113,134) overrecovery. Attached hereto and made a part hereof is Attachment A, which is a schedule that reconciles the adjustments to the true-up shown in Order No. PSC-95-0398-FOF-EI. The calculation for the additional interest amount of \$5,926 included in the true-up amount was done by FPL and the amount appears to be accurate.

Based on the foregoing, it is, therefore,

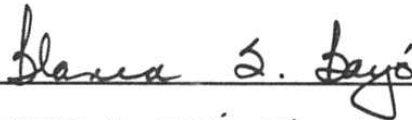
ORDERED by the Florida Public Service Commission that Florida Power & Light Company's Motion for Reconsideration of Order No. PSC-95-0398-FOF-EG in this docket is hereby granted. It is further

ORDERED that adjustments shall be made to certain conservation goals expenses as discussed in the body of this Order.

ORDERED that the annual true-up amount for Florida Power & Light Company is \$(4,113,134) overrecovery.

ORDER NO. PSC-95-0579-FOF-EG  
DOCKET NO. 950002-EG  
PAGE 4

By ORDER of the Florida Public Service Commission, this 9th  
day of May, 1995.



BLANCA S. BAYÓ, Director  
Division of Records and Reporting

( S E A L )

SLE

NOTICE OF JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.59(4), Florida Statutes, to notify parties of any administrative hearing or judicial review of Commission orders that is available under Sections 120.57 or 120.68, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing or judicial review will be granted or result in the relief sought.

Any party adversely affected by the Commission's final action in this matter may request judicial review by the Florida Supreme Court in the case of an electric, gas or telephone utility or the First District Court of Appeal in the case of a water or wastewater utility by filing a notice of appeal with the Director, Division of Records and Reporting, 101 East Gaines Street, Tallahassee, Florida 32399-0870, and filing a copy of the notice of appeal and the filing fee with the appropriate court. This filing must be completed within thirty (30) days after the issuance of this order, pursuant to Rule 9.110, Florida Rules of Appellate Procedure. The notice of appeal must be in the form specified in Rule 9.900(a), Florida Rules of Appellate Procedure.

ATTACHMENT A

Florida Power & Light Company  
Energy Conservation Cost Recovery Clause  
Reconciliation of Filed True-up to True-up per FPSC Order

True-up Per Filing (CT-3 page 5 of 6, line 11, "Total" column)	\$3,509,472
Disallowance of Goals Docket costs (Order No. PSC-95-0398-FOF-EI, Pages 6 & 9)	286,233
True-up per Order No. PSC-95-0398-FOF-EI, Page 3	<u>3,795,705</u>
Actual disallowed RTP costs (Stipulated to be \$310,000. See Order No. PSE-95-0398-FOF-EI)	312,679
Adjustment to disallowed Goals Docket costs	(1,177)
Increase in interest provision related to disallowances	5,926
True-up after giving effect to the disallowances and interest provision change	<u><u>\$4,113,134</u></u>