

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for approval of Solar Energy  
Projects for Recovery through Environmental  
Cost Recovery Clause, by Florida Power &  
Light Company.

DOCKET NO. 080281-EI  
ORDER NO. PSC-08-0491-PAA-EI  
ISSUED: August 4, 2008

The following Commissioners participated in the disposition of this matter:

MATTHEW M. CARTER II, Chairman  
LISA POLAK EDGAR  
KATRINA J. McMURRIAN  
NANCY ARGENZIANO  
NATHAN A. SKOP

NOTICE OF PROPOSED AGENCY ACTION  
ORDER APPROVING ELIGIBILITY FOR COST RECOVERY  
THROUGH THE ENVIRONMENTAL COST RECOVERY CLAUSE

BY THE COMMISSION:

NOTICE is hereby given by the Florida Public Service Commission that the action discussed herein is preliminary in nature and will become final unless a person whose interests are substantially affected files a petition for a formal proceeding, pursuant to Rule 25-22.029, Florida Administrative Code (F.A.C.).

BACKGROUND

On May 16, 2008, Florida Power & Light Company (FPL) filed a petition for approval of the eligibility of three solar energy projects for recovery through the Environmental Cost Recovery Clause (ECRC). FPL petitioned under the authority of amendments to Section 366.92, Florida Statutes (F.S.), which became effective July 1, 2008. The relevant statutory amendments appearing in Section 366.92(4), F.S., are:

In order to demonstrate the feasibility and viability of clean energy systems, the commission shall provide for full cost recovery under the environmental cost-recovery clause of all reasonable and prudent costs incurred by a provider for renewable energy projects that are zero greenhouse gas emitting at the point of generation, up to a total of 110 megawatts statewide, and for which the provider has secured necessary land, zoning permits, and transmission rights within the state. Such costs shall be deemed reasonable and prudent for purposes of cost recovery so long as the provider has used reasonable and customary industry practices in the design, procurement, and construction of the project in a cost-effective manner appropriate to the location of the facility. The provider shall

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report to the commission as part of the cost-recovery proceedings the construction costs, in-service costs, operating and maintenance costs, hourly energy production of the renewable energy project, and any other information deemed relevant by the commission. Any provider constructing a clean energy facility pursuant to this section shall file for cost recovery no later than July 1, 2009.

FPL seeks approval of the eligibility of three proposed renewable energy projects for recovery through the ECRC pursuant to Section 366.92, F.S. (the Statute): the Martin Next Generation Solar Energy Center (Martin Solar), providing up to 75 megawatts (MW) of alternative steam generation at the existing Martin combined cycle units; the DeSoto Next Generation Solar Energy Center (DeSoto Solar), providing 25 MW of new photovoltaic generation at the existing DeSoto site; and the Space Coast Next Generation Solar Energy Center (Space Coast Solar), providing 10 MW of new photovoltaic generation at the NASA-Kennedy Space Center (NASA-KSC). FPL indicates that the net cost of the projects in cumulative present value of revenue requirements in 2008 dollars is \$558 million. If approved as eligible for cost recovery, the combination of the three units would match the total statewide allowance specified in the Statute (110 MW) for cost recovery through the ECRC. No other utility has filed a request for eligibility of recovery of costs for renewable energy projects under the Statute.

We have jurisdiction over the matter pursuant to Section 366.92(4), F.S.

### DECISION

#### Statutory Requirements

The Statute identifies the following three requirements for cost recovery eligibility: first, the project costs must be incurred by a provider of the renewable energy project as defined by the Statute; second, the project must be zero greenhouse gas emitting at the point of generation, up to a total of 110 megawatts statewide; and third, the provider of the renewable energy project must have secured the necessary land, zoning permits, and transmission rights within the state. The Statute also requires the provider of the project to file for cost recovery no later than July 1, 2009.

A general description of the three projects proposed by FPL appears in Table 1 below. FPL's construction and in-service timelines for the projects appear in Table 2 below.

<u>Name of Project</u>	<u>Type of Project</u>	<u>MWs</u>	<u>Type of Generation</u>	<u>MWHs/Year</u>	<u>Capacity Factor</u>
Martin Solar	Thermal	75	Fuel Substitution, Non-firm	155,000	23.6%
Desoto Solar	PV	25	Added MW, Non-firm (but may supply firm in practice)	42,000	19.4% (if stationary) >19.4% (if tracking)
Space Coast Solar	PV	10	Added MW, Non-firm (but may supply firm in practice)	16,000	18% (stationary)

<u>Project Name</u>	<u>Construction Begins</u>	<u>First Solar On Line</u>	<u>Construction Ends</u>
Martin Solar	End of 2008	End of 2009	End of 2010
DeSoto Solar	End of 2008	Mid 2009	2 <sup>nd</sup> Quarter of 2010
Space Coast Solar	End of 2008	Mid 2009	4 <sup>th</sup> Quarter of 2010

### Determination of Cost Recovery Eligibility

As stated above, to be eligible for recovery through the ECRC, FPL must first show that project costs will be incurred by a provider of renewable energy projects as defined by the Statute. Section 366.92, F.S., states that a provider means a utility as defined in Section 366.8255(1) (a):

any investor owned electric utility that owns, maintains, or operates an electric generation, transmission, or distribution system within the State of Florida and that is regulated under this chapter.

We find that FPL is a provider as referenced in the Statute.

To meet the second eligibility requirement for cost recovery through the ECRC, FPL must show that its proposed renewable energy projects are all designed to be zero greenhouse gas emitting at the point of generation, and the combined capacity of the projects does not exceed 110 MWs statewide.

FPL's largest proposed project, Martin Solar, is designed to be a 75 MW solar thermal steam generating facility at the existing Martin Power Plant Site in Martin County, Florida. Martin Solar involves the installation of solar thermal technology integrated into the existing steam cycle for the currently operating Martin Power Plant Unit 8 (Unit 8), a natural gas fired combined cycle plant. The supplemental steam to be supplied by Martin Solar for the Unit 8 heat recovery steam generators will be generated from the concentration of solar radiation via parabolic trough solar collectors. The collectors will concentrate the sun's energy on heat collection elements containing a heat transfer fluid which is circulated to heat exchangers that produce the steam. The steam is routed to the Unit 8 heat recovery steam generators, thus providing the mechanical power to turn the generator and produce electricity. No greenhouse gases are emitted using this technology.

DeSoto Solar, is designed to be a 25 MW solar photovoltaic greenfield project in DeSoto County, Florida. FPL proposes to construct either a fixed array or a tracking array of solar photovoltaic panels. At the time of FPL's petition, the design parameters of the project had not been finalized. DeSoto Solar is designed to convert energy from sunlight directly into electricity, thus emitting no greenhouse gases.

FPL's third proposed project, Space Coast Solar, is designed to be a 10 MW solar photovoltaic project at NASA's Kennedy Space Center. As with the proposed DeSoto Solar project, Space Coast Solar will be designed to turn energy from sunlight directly into electricity, thus emitting no greenhouse gases.

Based on the description of the projects presented by FPL in its petition and testimony, we find that each of FPL's three projects will be zero greenhouse gas emitting at the point of generation, thus meeting the second eligibility requirement for cost recovery through the ECRC.

To meet the third eligibility requirement for cost recovery through the ECRC, FPL must show that it has secured the necessary land, zoning permits, and transmission rights. With regard to Martin Solar we find that:

- *Land:* FPL intends to build its proposed Martin Solar Project at its Martin Power Plant site in Martin County. The project will be constructed on a 600-acre site fully contained within FPL's existing 11,300-acre Martin Plant site on property acquired by FPL by January 12, 1979.
- *Zoning Permits:* Martin Solar's proposed location has been zoned for power generation facilities since August 1989, and FPL received a Planned Unit Development (PUD) Amendment on June 3, 2008, for Martin Solar and filed it with the Martin County Clerk of Court on June 17, 2008.
- *Transmission Rights:* Since Martin Solar involves no incremental increase in electrical output of Martin Unit 8, the existing transmission rights are sufficient for the project.

With regard to DeSoto Solar, we find that:

- *Land:* FPL intends to build its proposed DeSoto Solar Project on a 1,525-acre property in DeSoto County that it fully acquired by December 18, 1998.
- *Zoning Permits:* FPL's property proposed for the 180-acre DeSoto Solar Project is zoned "Agricultural Ten" by the DeSoto County Development Department. According to the county, FPL's property does not require rezoning. On May 8, 2008, the DeSoto County Board of County Commissioners unanimously approved a Final Order granting a Special Exception for Photovoltaic Power Generation Facility to FPL for the property in question. Certain conditions and requirements for approval of the Special Exception include, among other things, adherence to buffers and setbacks as set forth in the Final Order. The Special Exception expires one year from the date granted (May 8, 2008) if the use for which the special exception was granted has not commenced or one year following the discontinuance of the use for which the special exception was granted. The Final Order provides that FPL must submit a complete improvement plan by November 8, 2008, receive a notice to proceed from DeSoto County staff by May 8, 2009, and must have Phase 1, or a portion of the facility operational by November 8, 2009, or the Special Exception becomes null and void. Extensions to the operational timeline may be administratively extended up to 12 months, based on permitting by other agencies.
- *Transmission Rights:* FPL has followed Federal Energy Regulatory Commission (FERC) procedures in reserving transmission rights within the state for the 25 MW DeSoto Solar Project. Transmission rights for DeSoto Solar are reserved through October 1, 2039, as indicated by the FRCC transmission reservation details published on its OASIS website.

With regard to Space Coast Solar, we find that:

- *Land:* FPL intends to build its proposed Space Coast Solar Project on federal land owned by NASA-KSC at the Kennedy Space Center. On June 25, 2008, FPL entered into an Enhanced Use Lease (lease) with NASA-KSC for the land FPL proposes for Space Coast Solar. The lease includes two phases. Phase 1 encompasses 60 acres, sufficient for the purposes of the 10 MW facility FPL proposes, commencing August 1, 2008, for a period of 30 years. The lease includes both monetary and non-monetary considerations, including the development and construction of a NASA PV Facility. The second phase is a lease option extended to FPL by NASA-KSC, effective on a date to be mutually agreed to, but not later than August 20, 2020. Phase 2 encompasses 48 additional acres, and is

contingent upon FPL proposing, and NASA-KSC accepting, a proposed expansion of the NASA PV Facility.

- *Zoning Permits:* Space Coast Solar requires no local zoning permits since it will be located on federal land.
- *Transmission Rights:* Transmission rights for Space Coast Solar are reserved through September 1, 2029, as transmission reservation details confirmed by the FRCC indicate.

Based on FPL's descriptions of its land acquisitions, zoning permits and transmission rights, we find that each of the three projects has met the third eligibility requirement for cost recovery through the ECRC.

#### Status of Other Permitting

In addition to the statutory eligibility requirements, we reviewed the status of other local, state, and federal permitting requirements for the proposed renewable energy projects.

FPL filed a site certification modification with the Florida Department of Environmental Protection (FDEP) with respect to the construction of Martin Solar at its existing Martin Plant site. FPL filed its application with the FDEP and other applicable agencies on May 1, 2008, and the application was deemed to be complete on June 2, 2008. FDEP issued its notice of intent to grant the site certification modification on July 7, 2008, and FPL expects FDEP to issue its final modification order in September 2008.

FPL also filed a letter requesting an Army Corp of Engineers (ACOE) Fill Permit Modification to include renewable energy facilities within an area currently permitted for the filling of jurisdictional wetlands. FPL expects the issuance of the ACOE issuance of modification during September 2008.

FPL is not required to file for a site certification modification with FDEP for DeSoto Solar under the Power Plant Siting Act. However, local environmental permitting is required. FPL filed its application with the FDEP for an Environmental Resource Permit for DeSoto Solar on June 18, 2008. FPL expects to receive a permit for this project in early November 2008.

FPL is not required to file for a site certification modification with the FDEP for Space Coast Solar under the Power Plant Siting Act. However, local environmental permitting is required. FPL filed its application with the FDEP for an Environmental Resource Permit for Space Coast Solar on July 31, 2008, and expects to receive its permit by December 1, 2008.

#### Conclusion

We believe that FPL's three proposed renewable energy projects are eligible for cost recovery through the ECRC pursuant to the requirements of Section 366.92(4), F.S. FPL has secured the necessary land, zoning permits, and transmission rights for each of the proposed

projects. Therefore, we approve FPL's petition for eligibility of the Martin Next Generation Solar Energy Center, the DeSoto Next Generation Solar Energy Center, and the Space Coast Next Generation Solar Energy Center for recovery through the ECRC pursuant to section 366.92(4), F.S. The prudence of the costs of the projects and project performance reporting requirements will be the subject of separate cost recovery filings in the ECRC docket, Docket No. 080007-EI.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that for the reasons outlined herein, the petition of Florida Power & Light Company for approval of eligibility of the Martin Next Generation Solar Energy Center, the DeSoto Next Generation Solar Energy Center, and the Space Coast Next Generation Solar Energy Center for recovery through the Environmental Cost Recovery Clause pursuant to Section 366.92(4), F.S., is hereby granted. It is further

ORDERED that this docket shall be closed upon issuance of a Consummating Order unless a person whose substantial interests are affected by the Commission's decision files a protest within 21 days of the issuance of the proposed agency action.

By ORDER of the Florida Public Service Commission this 4th day of August, 2008.



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ANN COLE  
Commission Clerk

( S E A L )

MCB

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), Florida Statutes, to notify parties of any administrative hearing that is available under Section 120.57, 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 will be granted or result in the relief sought.

Mediation may be available on a case-by-case basis. If mediation is conducted, it does not affect a substantially interested person's right to a hearing.

The action proposed herein is preliminary in nature. Any person whose substantial interests are affected by the action proposed by this order may file a petition for a formal proceeding, in the form provided by Rule 28-106.201, Florida Administrative Code. This petition must be received by the Office of Commission Clerk, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on August 25, 2008.

In the absence of such a petition, this order shall become final and effective upon the issuance of a Consummating Order.

Any objection or protest filed in this/these docket(s) before the issuance date of this order is considered abandoned unless it satisfies the foregoing conditions and is renewed within the specified protest period.