

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition to determine need for Florida
EnergySecure Pipeline by Florida Power &
Light Company.

DOCKET NO. 090172-EI
ORDER NO. PSC-09-0511-PHO-EI
ISSUED: July 21, 2009

Pursuant to Notice and in accordance with Rule 28-106.209, Florida Administrative Code (F.A.C.), a Prehearing Conference was held on Monday, July 6, 2009, in Tallahassee, Florida, before Commissioner Lisa Polak Edgar, as Prehearing Officer.

APPEARANCES:

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On behalf of Florida Gas Transmission

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On behalf of the Florida Public Service Commission (Staff)

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PREHEARING ORDER

DOCUMENT NUMBER-DATE

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FPSC-COMMISSION CLERK

I. CASE BACKGROUND

On April 7, 2009, Florida Power & Light Company (FPL) filed a petition to determine the need for an intrastate natural gas transmission pipeline pursuant to Florida's Natural Gas Transmission Pipeline Siting Act (Siting Act), Sections 403.9401 to 403.9425, Florida Statutes, (F.S.). Section 403.9422, F.S., provides that the Commission shall be the sole forum to determine the need for the proposed pipeline. Section 403.9422, F.S., also provides that the Commission's decision to approve the pipeline is a condition precedent to the siting of the pipeline, and it is binding on all participants in the siting proceeding. Section 403.9422, F.S., provides that the Commission shall hold an administrative hearing on the petition. Accordingly, a hearing has been scheduled in this Docket for July 27-28, 2009.

II. CONDUCT OF PROCEEDINGS

Pursuant to Rule 28-106.211, Florida Administrative Code (F.A.C.), this Prehearing Order is issued to prevent delay and to promote the just, speedy, and inexpensive determination of all aspects of this case.

III. JURISDICTION

This Commission is vested with jurisdiction over the subject matter by the provisions of Chapter 366, Florida Statutes (F.S.), Chapter 368, F.S., and Section 403.9422, F.S. This hearing will be governed by said Statutes and Chapters 25-6, 25-7, 25-12, 25-22 and 28-106, F.A.C., as well as any other applicable provisions of law.

IV. PROCEDURE FOR HANDLING CONFIDENTIAL INFORMATION

Information for which proprietary confidential business information status is requested pursuant to Sections 366.093 and 368.108, F.S., and Rule 25-22.006, F.A.C., shall be treated by the Commission as confidential. The information shall be exempt from Section 119.07(1), F.S., pending a formal ruling on such request by the Commission or pending return of the information to the person providing the information. If no determination of confidentiality has been made and the information has not been made a part of the evidentiary record in this proceeding, it shall be returned to the person providing the information. If a determination of confidentiality has been made and the information was not entered into the record of this proceeding, it shall be returned to the person providing the information within the time period set forth in Sections 366.093 and 368.108, F.S. The Commission may determine that continued possession of the information is necessary for the Commission to conduct its business.

It is the policy of this Commission that all Commission hearings be open to the public at all times. The Commission also recognizes its obligation pursuant to Sections 366.093 and 368.108, F.S., to protect proprietary confidential business information from disclosure outside

the proceeding. Therefore, any party wishing to use any proprietary confidential business information, as that term is defined in Sections 366.093 and 368.108, F.S., at the hearing shall adhere to the following:

- (1) When confidential information is used in the hearing, parties must have copies for the Commissioners, necessary staff, and the court reporter, in red envelopes clearly marked with the nature of the contents and with the confidential information highlighted. Any party wishing to examine the confidential material that is not subject to an order granting confidentiality shall be provided a copy in the same fashion as provided to the Commissioners, subject to execution of any appropriate protective agreement with the owner of the material.
- (2) Counsel and witnesses are cautioned to avoid verbalizing confidential information in such a way that would compromise confidentiality. Therefore, confidential information should be presented by written exhibit when reasonably possible.

At the conclusion of that portion of the hearing that involves confidential information, all copies of confidential exhibits shall be returned to the proffering party. If a confidential exhibit has been admitted into evidence, the copy provided to the court reporter shall be retained in the Office of Commission Clerk's confidential files. If such material is admitted into the evidentiary record at hearing and is not otherwise subject to a request for confidential classification filed with the Commission, the source of the information must file a request for confidential classification of the information within 21 days of the conclusion of the hearing, as set forth in Rule 25-22.006(8)(b), F.A.C., if continued confidentiality of the information is to be maintained.

V. PREFILED TESTIMONY AND EXHIBITS; WITNESSES

Testimony of all witnesses to be sponsored by the parties (and Staff) has been prefiled and will be inserted into the record as though read after the witness has taken the stand and affirmed the correctness of the testimony and associated exhibits. All testimony remains subject to timely and appropriate objections. Upon insertion of a witness' testimony, exhibits appended thereto may be marked for identification. Each witness will have the opportunity to orally summarize his or her testimony at the time he or she takes the stand. Summaries of testimony shall be limited to five minutes.

Witnesses are reminded that, on cross-examination, responses to questions calling for a simple yes or no answer shall be so answered first, after which the witness may explain his or her answer. After all parties and Staff have had the opportunity to cross-examine the witness, the exhibit may be moved into the record. All other exhibits may be similarly identified and entered into the record at the appropriate time during the hearing.

The Commission frequently administers the testimonial oath to more than one witness at a time. Therefore, when a witness takes the stand to testify, the attorney calling the witness is directed to ask the witness to affirm whether he or she has been sworn.

The parties shall avoid duplicative or repetitious cross-examination. Further, friendly cross-examination will not be allowed. Cross-examination shall be limited to witnesses whose testimony is adverse to the party desiring to cross-examine. Any party conducting what appears to be a friendly cross-examination of a witness should be prepared to indicate why that witness's direct testimony is adverse to its interests.

VI. ORDER OF WITNESSES

Each witness whose name is followed by a plus sign (+) will present direct and surrebuttal testimony at the same time. Each witness whose name is preceded by an asterisk (*) has been excused from this hearing if no Commissioner assigned to this case seeks to cross-examine the particular witness. Parties shall be notified by Thursday, July 23, as to whether any such witness shall be required to be present at the hearing. The testimony of excused witnesses will be inserted into the record as though read, and all exhibits submitted with those witnesses' testimony shall be identified as shown in Section X of this Prehearing Order and be admitted into the record.

<u>Witness</u>	<u>Proffered By</u>	<u>Issues #</u>
<u>Direct</u>		
Sam Forrest	FPL	2, 3, 5, 10, 11, 12, 13, 14, 15, 16
*Robert G. Sharra	FPL	2, 3, 5, 6, 9, 10, 16
Rosemary Morley	FPL	1, 16
*Clinton M. Collins	FPL	4, 6, 7, 16
*Heather C. Stubblefield	FPL	8, 10, 16
Juan E. Enjamio	FPL	1, 5, 8, 10, 16
James K. Guest	FPL	11, 16
Jonathan D. Ogur	FPL	5, 16
*Timothy C. Sexton	FPL	2, 3, 5, 8, 9, 10, 16
+Michael T. Langston	FGT	All Issues
+Benjamin Schlesinger	FGT	5, 6, 8, 9, 10

Surrebuttal

<u>Witness</u>	<u>Proffered By</u>	<u>Issues #</u>
+Michael T. Langston	FGT	All Issues
+Benjamin Schlesinger	FGT	5, 6, 8, 9, 10

Rebuttal

Sam Forrest	FPL	3, 5, 9, 10, 11, 13, 15, 16
Robert Sharra	FPL	3, 4, 5, 6, 8, 9, 10, 16
Rosemary Morley	FPL	1, 16
Juan Enjamio	FPL	1, 5, 8, 10, 16
Jonathan D. Ogur	FPL	5, 16
Timothy C. Sexton	FPL	2, 3, 5, 8, 9, 10, 16

VII. BASIC POSITIONS

FPL: FPL is seeking an affirmative determination of need to develop, construct and operate the Florida EnergySecure Line, a new Florida intrastate natural gas pipeline, which will serve the needs of FPL's Cape Canaveral Next Generation Clean Energy Center and Riviera Beach Next Generation Clean Energy Center (respectively, CCEC and RBEC; collectively, the "Modernization Projects"), as well as other current and future gas transportation needs of FPL and the state of Florida.

The Florida EnergySecure Line will be located entirely within Florida, commencing in Bradford County and extending southeast to its terminus at FPL's Martin Plant site. The proposed pipeline is projected to be placed into full commercial operation in January 2014 and will consist of approximately 280 miles of 30-inch mainline pipe, approximately 23 miles of 20 to 24-inch lateral and branch lines, and 2 compressor stations. As initially constructed, the Florida EnergySecure Line will have a capacity of 600 million cubic feet of natural gas per day ("MMcf/d"), which can be increased as required up to 1.25 billion cubic feet per day ("Bcf/d"). Approximately two-thirds of the initial capacity of the EnergySecure Line will serve the natural gas transportation needs of the Commission-approved modernizations at FPL's Cape Canaveral and Riviera plants. The remaining 200 MMcf/d of capacity will be delivered to FPL's Martin Plant for reliability purposes, but will also be offered to other entities within Florida with all resulting revenues to be credited to FPL's electric utility customers through the Fuel Cost Recovery Clause. Over time, FPL will need the remaining 200 MMcf/d capacity as incremental natural gas firm transportation needs are projected to increase to over 1.6

billion cubic feet per day (“Bcf/d”) by 2030. The Florida EnergySecure Line will continue to serve FPL’s customers as additional gas-fired generation is added to meet customer demand over the useful life of the Project, which is estimated to be in excess of 40 years.

The proposed pipeline will be owned by FPL and connected to a newly-constructed interstate pipeline that will be contracted by FPL and built and separately permitted by a third party (the “Upstream Pipeline”). In conjunction with the Upstream Pipeline, the Florida EnergySecure Line will provide additional access to on-shore gas supplies which will increase natural gas supply diversity and reliability. Furthermore, FPL’s economic analyses demonstrate that the combined Upstream/Florida EnergySecure line proposal is the most cost-effective solution to meet FPL’s natural gas transmission needs. This is the case irrespective of whether FPL makes off-system sales of available capacity, which sales will only serve to improve the economics of the pipeline for FPL’s customers.

The Commission should grant FPL’s petition for a determination of need for the FPL Florida EnergySecure Line based on the statutory criteria set forth in Section 403.9422, Florida Statutes, including: the need for natural gas delivery, reliability, safety and integrity; the need for abundant, clean-burning natural gas to assure the economic well-being of the public; and the appropriate commencement and terminus of the line. In sum, the Florida EnergySecure Line will provide the following benefits to FPL, its customers, and Florida:

- Increased reliability of natural gas transmission within Florida;
- Increased deliverability of natural gas within Florida with the addition of 600 MMcf/d of new gas supply;
- Enhanced reliability and options in the event of any interruption on the existing Gulfstream or FGT pipelines;
- Additional diversification of the gas supplies available to Florida;
- The most cost-effective solution to meet the needs of the Modernization Projects, as well as other natural gas delivery needs of the State;
- Pipeline-to-pipeline and gas supply-to-gas supply competition; and
- Growth in state and local economies, new construction jobs, and substantial local purchase of materials and supplies.

Denial of the requested need determination would result in the loss of the Florida EnergySecure Line’s many benefits for years to come. The proposed pipeline, together with the Upstream Pipeline, captures a once-in-a-generation opportunity where there is sufficient natural gas transportation needs to economically justify construction of a new, geographically separate pipeline into Florida. There is no “do nothing” option: either the Florida EnergySecure Line will be approved and built, or FPL will need to make large, long-term commitments with one of the incumbent gas transportation providers. Once either path is taken, FPL expects that it will be a long time before future gas requirements will again require comparably substantial new gas transportation infrastructure. Thus, if the Commission does not grant the need for the Florida

EnergySecure Line, the opportunity to capture the benefits described in FPL's testimony will be lost for many years to come.

While FGT questions many of FPL's assumptions and analyses, it offers no real alternative that would deliver comparable benefits to FPL's customers and the State of Florida. Contrary to FGT's assertions, FPL's load forecast, projections of natural gas requirements, and natural gas price forecasts are reasonable and consistent with prior filings. FPL also appropriately chose Transco Compressor Station 85 as the receipt point for the Upstream Pipeline because it will provide additional, reliable access to on-shore supply sources and thereby increase supply diversity and reliability. FPL's solicitation process allowed potential respondents, including FGT, ample opportunity to propose creative solutions to meet FPL's requirements. Although FGT itself submitted multiple, unsolicited proposals, FPL's economic analyses demonstrate that the combined Company E/ EnergySecure Line remains the most cost-effective alternative to meet FPL's natural gas transportation requirements. Finally, contrary to FGT's unsubstantiated assertions, introduction of a third major pipeline system into Florida will increase, rather than decrease, competition in Florida's highly concentrated natural gas transmission markets.

FGT: FPL's \$1.6 billion pipeline is not in the best interests of FPL's ratepayers or the State of Florida. FPL has failed to demonstrate the need for its proposed intrastate pipeline, and so it should be denied. FPL has failed to establish that there is sufficient demand to support the construction and expense of the proposed intrastate pipeline, and has similarly failed to demonstrate that the proposed intrastate pipeline, coupled with the highly costly upstream pipeline, is the best economic alternative and in the best interest of FPL's ratepayers. Alternatively, if the Commission were to find that this pipeline should be approved, then the PSC should deny FPL's request to include it in the electric ratebase and instead order that the pipeline be constructed, operated, and financed through a fully separated entity and regulated pursuant to Chapter 368.

Staff: 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.

VIII. ISSUES AND POSITIONS

ISSUE 1: Is FPL's forecast of future natural gas pipeline transmission capacity requirements reasonable for planning purposes?

POSITIONS

FPL: Yes. FPL's forecast of future natural gas pipeline transmission capacity was developed using a load forecast that is based on reasonable assumptions, consistent with historical experience, and relies on methods previously reviewed and accepted

by the Commission. FPL's forecast appropriately incorporates adjustments to population projections of the University of Florida, which has consistently under-forecasted the state's long-term population growth. FPL's projection of natural gas requirements also is consistent with prior filings, including FPL's ten year site plans. FPL's forecast demonstrates a need to add approximately 2.7 Bcf/d of gas transportation capacity between 2013 and 2040. (Morley, Enjamio)

FGT: No. FPL has not demonstrated a need for a \$1.6 billion pipeline capable of providing 600 million cubic feet of gas per day ("MMcf/d") of pipeline transportation. FPL's claim that it needs 600 MMcf/d is clearly inflated because the Riviera Beach and Cape Canaveral plants have a combined certified need of 400 MMcf/d. FPL admits that it inflated the University of Florida population projections by 3.7%, and that even under those inflated projections, FPL's own forecast is overstated because it would not need the full claimed capacity requirement until 2021. Further, FPL's Ten Year Site Plans do not indicate any need for additional natural gas, and beyond 2014 FPL reports *excess capacity* on an average day of as much as 520 MMcf/d. FPL's data is inconsistent and its adjustments to population demand data are overstated. (Langston)

STAFF: No position at this time.

ISSUE 2: Do existing transmission pipelines in Florida have sufficient excess capacity to fulfill the forecasted need for transmission capacity?

FPL: No. The existing infrastructure, as well as currently planned expansions of existing systems, are substantially subscribed on a long-term firm contractual basis. As such, absent the introduction of incremental pipeline capacity, the infrastructure cannot currently support incremental firm natural gas demand. (Forrest, Sharra, Sexton)

FGT: FGT would be able to serve the Riviera Plant after completion of currently planned expansions and some additional upgrades, utilizing the existing oil/gas pipeline lateral from the Martin Plant to the 45th Street Terminal that FPL plans to use in conjunction with the proposed FPL pipeline. To serve Cape Canaveral would require some additional pipeline construction that could be done in a timely and cost effective manner and at a total cost significantly less than FPL's multibillion dollar pipeline. (Langston)

STAFF: No position at this time.

ISSUE 3: Is the proposed Florida EnergySecure Line needed to improve or maintain natural gas delivery reliability and integrity within Florida?

FPL: Yes. FPL, as well as the rest of Florida, is highly dependent on Gulf Coast gas supplies transported primarily by two incumbent pipeline systems. The Florida EnergySecure Line will increase deliverability of natural gas within Florida with the addition of 600 MMcf/d of new supply. The Florida EnergySecure Line will

enhance reliability options in the event of any interruptions on either of the existing pipelines. The Florida EnergySecure Line also will diversify the gas supplies available to Florida by providing additional access to unconventional onshore gas supplies. This increase in supply diversity will mitigate the risk of supply disruptions associated with severe weather events in the Gulf Coast region. (Forrest, Sharra, Sexton)

FGT: No. Existing natural gas pipelines provide sufficient capacity to meet the reasonable projected demand for at least the next 8 to 10 years and possibly longer. To the extent there is additional incremental demand that requires additional pipeline capacity, it is cheaper and more cost effective for consumers to expand existing pipelines through minimal laterals, looping of existing pipelines, or additional compression, rather than burden FPL ratepayers with the full risk of a \$1.6 billion new pipeline plus the significant additional cost of the upstream pipeline. Tellingly, FPL has failed to utilize FGT and other pipeline providers' recent open seasons to identify and meet the projected future needs of these two power plants in the most efficient and cost-effective manner. The open season solicitation process helps to ensure that future pipeline growth is actually necessary and cost effective. (Langston)

STAFF: No position at this time.

ISSUE 4: Does the planned construction and operation of the proposed EnergySecure Line meet industry and government standards for safety?

FPL: Yes. FPL focuses on safety in all aspects of its business. The proposed pipeline will comply with all applicable engineering, construction, and operation standards, including those for safety. FPL brings established project management skills, a highly qualified staff, and the necessary ancillary support to undertake a project of this magnitude. (Collins, Sharra)

FGT: No. FPL makes only broad statements or general assertions of design, operation, and maintenance procedures that do not demonstrate FPL's ability to prudently and reasonably build and operate the pipeline. FPL provides no information as to any previous experience with the safe and efficient operation of long haul, multicounty, high pressure natural gas transmission pipelines. To the extent that FPL intends to hire third party operators, under FPL's proposal those additional costs would also be rolled into its ratebase, further unnecessarily burdening the Florida ratepayers. (Langston)

STAFF: No position at this time.

ISSUE 5: Will the proposed Florida EnergySecure Line improve the economics of natural gas transmission within Florida to assure the economic well-being of the public?

- FPL:** Yes. The Florida EnergySecure Line will promote competition in Florida's concentrated gas markets by facilitating introduction of a third major natural gas pipeline into the state. The Project will promote economic efficiency in the gas transmission market because it is the most cost-effective solution for meeting FPL's future gas requirements. The Project will promote economic efficiency in delivered gas markets by increasing fuel reliability and operational flexibility through diversification of natural gas supply. The Project also will provide a significant boost to Florida's economy, as well as significant tax benefits to state and local governments. (Forrest, Sharra, Enjamio, Ogur, Sexton)
- FGT:** No. FPL's proposal will be significantly more expensive than available alternatives and will not assure the economic well-being of the public. To the contrary, existing pipeline operations with relatively modest pipeline expansion would be able to reliably serve existing and projected needs, and FPL's proposed pipeline does not improve the economics of natural gas transmission. Moreover, FPL's proposed pipeline would be a stand alone, independent system lacking in redundancy, looping, and interconnection, therefore further lacking in economic efficiencies. (Langston, Schlesinger)
- STAFF:** No position at this time.
- ISSUE 6:** Are the commencement and terminus of FPL's proposed facilities and laterals appropriate to serve the need identified in Issue 1?
- FPL:** Yes. Commencement of the Florida EnergySecure Line at FGT Station 16 will create a northern Florida receipt hub or interconnection point for the proposed Upstream Pipeline, the existing FGT pipeline, the Florida EnergySecure Line and, potentially, the Cypress Pipeline. This new north Florida hub will enhance the reliability of natural gas supplies and increase pipeline-to-pipeline supply competition. The terminus of mainline at the FPL's Martin Plant will enable FPL to utilize an existing FPL oil-gas pipeline to deliver gas to the lateral that will serve the RBCEC. By employing the existing oil/gas pipeline, FPL will avoid having to construct approximately 36-miles of new pipeline through environmentally sensitive areas in western Palm Beach County. Subject to FERC approval, delivery to the Martin Plant also will enable FPL to interconnect with the existing Gulfstream and FGT pipelines to create a southern Florida natural gas pipeline hub. This interconnectivity would allow for an increased collective reliability of the flow of natural gas fuel for energy facilities and customers in south Florida. The proposed lateral lines are appropriately located to provide natural gas to the CCEC and RBCEC. (Sharra, Collins)
- FGT:** No. The northern commencement point for the pipeline is proposed for the sole purpose of tying into a new interstate pipeline for supposed natural gas supply diversity. In reality, that commencement point does not offer new, unique, or significant supply diversity to Florida. FGT's existing pipelines already provide

maximum diversity of supply, including on-shore shale supply sources, from FGT's existing connections to the Perryville and Transco Station 85 supply hubs. Moreover, FPL's proposed pipeline is not needed to access "east coast LNG" because FGT already has an existing interconnection with the Cypress pipeline that can deliver east coast LNG supply from Elba Island directly into Florida. (Langston, Schlesinger)

STAFF: No position at this time.

ISSUE 7: Are FPL's construction cost estimates reasonable for planning purposes?

FPL: Yes. FPL's construction cost estimates are based on an estimate prepared by a pipeline engineering consultant, modified by FPL to reflect the final project scope, FPL's experience, and current and future market conditions. (Collins)

FGT: No. All costs must be considered, but FPL's proposal does not consider all upstream pipeline costs which are necessary before the Commission can effectively consider, let alone approve, a \$1.6 billion intrastate pipeline. Given the excessive and unnecessary capacity of FPL's proposed pipeline, the gross cost information provided by FPL is lacking in sufficient detail to demonstrate whether its estimates are reasonable and just. Moreover, FPL's proposed pipeline relies on simplistic and internally inconsistent gas price forecasts that inappropriately skew the economics to make its proposal look more favorable. FPL's bare cost and gas price estimates are unreasonable and do not provide a justification for this Commission to grant the application. (Langston)

STAFF: No position at this time.

ISSUE 8: Are FPL's economic assumptions reasonable for planning purposes?

FPL: Yes. The assumptions utilized in FPL's economic analyses are consistent with assumptions utilized by FPL and accepted by the Commission in the need determination proceedings for the Modernization Projects as well as the solicitation for gas proposals. (Enjamio, Stubblefield, Sexton)

FGT: No. FPL makes general and broad assertions of intent, but FPL has failed to provide the necessary detailed data that would support it building its intrastate pipeline that would then connect to a new interstate pipeline. This is particularly true given the economic efficiencies of utilizing the existing pipeline infrastructure that provides real supply diversity. FPL's data is inconsistent and its adjustments to population demand data are overstated. FPL has not provided this Commission with sufficient economic assumptions to justify the need for a new \$1.6 billion intrastate pipeline. (Langston)

STAFF: No position at this time.

ISSUE 9: Are the fuel supply and transport costs used by FPL reasonable for planning purposes?

FPL: Yes. The fuel supply and transport cost forecasts used in FPL's economic analyses are consistent with forecasts utilized by FPL and accepted by the Commission in prior proceedings. FPL's forecast methodology used third party projections and rates of escalation from highly reputable and well-known sources. Moreover, if, as FGT suggests, FPL's forecast underestimates future natural gas prices, that underestimation would only have favored FGT's proposal in FPL's economic analyses. (Forrest, Sexton, Sharra)

FGT: No. Because FPL's demand analysis is wrong, all of the resulting assumptions are unreliable. FPL's conclusions about supply and transportation costs do not take into account any of the risks of supply or the lack of redundancy of its own proposed pipeline. FPL's proposal rests on assumptions that are nothing more than simple, linear representations that fail to portray for the Commission the full range of gas supply and pricing risks. There is an insufficient basis for including such unreliable and speculative cost estimates in the electric ratebase. (Langston, Schlesinger)

STAFF: No position at this time.

ISSUE 10: Will the proposed Florida EnergySecure Line, including its connection with the upstream pipeline, provide the most cost-effective and reliable source of natural gas supply, transport, and delivery?

FPL: Yes. FPL's economic analyses demonstrate that the EnergySecure Line/Upstream Line provides the lowest life-cycle cost to customers even without consideration of the potential revenues associated with capacity releases and third parties sales. By introducing a new pipeline in to Florida and increasing access to on-shore gas supplies, the Florida EnergySecure Line represents the most reliable source of natural gas, transport and delivery of the available alternatives. Substantial investment in pipeline construction to Transco Station 85, the receipt point for the Upstream Pipeline, clearly indicates that producers have expressed a strong interest for making unconventional supplies available at Transco Station 85. (Forrest, Sharra, Stubblefield, Enjamio, Sexton).

FGT: No. It is wrong to burden the FPL ratepayers with a new \$1.6 billion pipeline without any risk to FPL, which when combined with the very high cost of the upstream pipeline, imposes an unnecessary and excessive multi-billion dollar burden on Florida electric ratepayers without any real benefits. FPL has attempted to create an end-to-end pipeline system that does not offer new, unique, or significant supply diversity, because that diversity already exists through the existing FGT pipeline, including shale gas that is already available to Florida customers. To the extent additional transportation needs exist, FPL ratepayers

will be better served by incremental additions to existing pipeline systems which can be done at significantly less cost. (Langston, Schlesinger)

STAFF: No position at this time.

ISSUE 11: Is it appropriate for Florida Power & Light Company to recover the costs associated with its proposed EnergySecure Natural Gas Transmission Pipeline through its electric utility ratebase?

FPL: Yes. The primary function of the Florida EnergySecure Line is to serve the immediate and future natural gas transportation needs of FPL's electric generating units. Therefore, all prudently incurred costs for the Florida EnergySecure Line should be included in FPL's electric utility rate base. (Forrest, Guest)

FGT: No, and the entire pipeline if approved should be regulated as a separate entity under Chapter 368. There is no legal, policy, or economic basis for including a new 300 mile, multicounty natural gas transmission pipeline in the electric rate base where the entire cost will be borne by the electric ratepayers of Florida. Independent transmission companies such as FGT are required to provide transportation at competitive rates with their own shareholders at risk for any unsubscribed capacity, not their customers, or their customers' ratepayers. If this pipeline is approved by the Commission, there will be no financial risk to FPL or its shareholders, only FPL's customers – its ratepayers, because the cost recovery for building the pipeline, whatever its utilization, becomes embedded in electric rates – even if the system never moves *any* gas. With the proposed FPL pipeline insulated from risk in the ratebase, FPL would have an unfair competitive advantage on the overall natural gas transmission market. This is an even greater problem now that FPL is admitting it has excess capacity that it will have to sell. Regardless of the merits of the pipeline itself, adding a \$1.6 billion gas transportation pipeline to FPL's electric rate base would establish a new policy precedent that is not in the best interests of Florida consumers. Finally, approval of the pipeline would give credence to an unnecessary upstream interstate pipeline, the costs of which would also flow directly through to FPL's ratepayers. (Langston)

STAFF: No position at this time.

PROPOSED STIPULATION

ISSUE 12: Should FPL be required to file a post-construction report that details the final cost of the EnergySecure Line within 90 days of completion?

POSITION: Yes.

ISSUE 13: Should a separate entity be established to own and operate the pipeline?

FPL: No. The Florida EnergySecure Line was not developed as a strategic investment asset for FPL Group, Inc. Rather, it was developed to meet FPL's obligation to serve for the benefit of FPL's customers by providing the most cost-effective and reliable source of natural gas supply. The establishment of a separate entity is not necessary or appropriate to achieve these benefits. Furthermore, establishing a separate entity could unnecessarily trigger affiliate transaction rules and generate legal, administrative, and on-going expenses that ultimately would be passed on to FPL's customers. (Forrest)

FGT: Yes. FPL has not demonstrated why this pipeline should be treated differently than every other gas transmission pipeline, nor has it quantified any adverse costs or consequences associated with being in a separate entity. There is no regulatory or public policy basis for classifying a 300 mile, multicounty, high pressure, \$1.6 billion gas transportation pipeline as electric ratebase. With rate base treatment, FPL will not suffer any risk of under-recovery of costs or any failure to earn a full equity return on its pipeline investment, regardless of whether the system ever transports any gas, let alone the inflated 600MMcf/d claimed by FPL. This is not the case with independent pipeline investments. FERC regulated pipelines set rates based on their cost of service, including an equity return, based on an assumed 100% load factor on the system. If these systems do not contract for the full capacity, they will not recover the equity return that would be allowed, thereby burdening their shareholders with this risk – not their ratepayers. In FPL's proposal, there is no incentive to achieve a highly utilized system, especially given their highly inflated and unreliable demand assumptions. As a result, FPL's ratepayers bear the entire burden of the costs of the pipeline and FPL bears no risk. Even if FPL does sell some of the admitted excess capacity, such sales would first require the construction of additional laterals and interconnects the expense of which FPL would further impose on its ratepayers. It is not right or fair for ratepayers to pay for one costly mistake by piling on more unnecessary costs. Assuming that FPL could otherwise establish that the pipeline is appropriate, the only proper ratepayer treatment is for the entire cost and operation of this asset to be placed in a separate entity and regulated under Chapter 368. (Langston)

STAFF: No position at this time.

ISSUE 14: If FPL owns and operates the Florida EnergySecure Line as proposed, will it be subject to the Commission's jurisdiction as an intrastate pipeline company pursuant to Chapter 368, Florida Statutes?

FPL: No. FPL's proposed use of the pipeline is to serve FPL's native load and not to engage in the transmission or delivery for sale of natural gas for compensation. However, approximately 200,000 Mcf/day of the proposed pipeline capacity would not be required to serve FPL's customers at the time the pipeline is projected to commence service. Therefore, FPL has proposed to make the

approximate 200,000 Mcf/day of transportation capacity available for sale to third parties to defray the cost of service to FPL's customers. While FPL would not be a "natural gas transmission company" as defined by Section 368.103(4), Florida Statutes, FPL is willing to voluntarily adhere to Sections 368.105-.108, Florida Statutes, until such time as the proposed pipeline capacity is fully utilized to provide service to FPL's customers. FPL will file tariffs specifying the general terms, conditions and rules under which FPL would provide service and FPL will maintain accounting records for the Commission's review. (Forrest).

FGT: Yes. Whether FPL sells excess capacity or not, the entire pipeline is subject to regulation under Chapter 368 and should be placed in a separate entity. Since FPL has now acknowledged that its proposed pipeline would have excess capacity that FPL would attempt to sell, then FPL axiomatically would be "owning or operating for compensation facilities located wholly within this state for the transmission or delivery for sale of natural gas" Failure to regulate this pipeline under Chapter 368 would be improper. It would create significant regulatory and policy problems and make it more complicated – if not impossible – to ensure that Florida electric ratepayers would be protected from the multibillion dollar risk FPL wants to impose on consumers. The EnergySecure Line may also be subject to Federal Energy Regulatory Commission regulation under Section 311 authority. (Langston)

STAFF: Yes.

ISSUE 15: If FPL owns and operates the Florida EnergySecure Line as proposed, will it “. . . provide transmission access, subject to available capacity, on a basis that is not unreasonably preferential, prejudicial, or unduly discriminatory. . .”, as section 368.105(6) requires?

FPL: Yes. As discussed in Issue 14, FPL will not be subject to regulation under Chapter 368, Florida Statutes, but agrees to voluntarily adhere to Sections 368.105-.108 until such time as the proposed pipeline capacity is fully utilized to provide service to FPL's customers. FPL will follow FERC's capacity release requirements to release any excess transportation capacity on either the FGT or Gulfstream pipelines. To the extent opportunities arise for FPL to sell excess capacity directly off of the Florida EnergySecure Line to third parties, FPL would make the capacity available in an open, transparent and non-discriminatory manner. FPL will post its available capacity from the Florida EnergySecure Line on an electronic bulletin board and will include such detail as the available volume of capacity, the available term, and any reserve price. FPL will award capacity in a non-discriminatory manner to the party(ies) offering the highest net present value bid(s) consistent with the posted criteria. (Forrest)

FGT: No. If the pipeline is included in the rate base, then ratepayers would be forced to cover excessive and unnecessary expenses for capacity that is not needed or

utilized, which is certainly prejudicial. Moreover, since FPL has admitted that its pipeline is oversized and that it will sell the excess capacity, inclusion of the pipeline in ratebase and not regulating it under Chapter 368 would be improper. Allowing FPL to operate the pipeline as part of its electric generation ratebase would be unreasonably preferential, prejudicial, and unduly discriminatory for customers, other pipeline companies, and other forms of energy, such as solar. The Commission needs to ensure there is full, open, and transparent information as to how such transportation services would be provided, and allow third parties priorities equal to FPL's electric operations in utilization of the pipeline just like any other transportation provider. The only way to ensure these policy objectives is to require the pipeline to be placed in a separate gas transmission entity, subject to strong open access and transparent operating rules mandated by the Commission under Chapter 368. (Langston)

STAFF: No position at this time.

ISSUE 16: Based on the resolution of the previous issues, should FPL's petition for determination of need for the EnergySecure Line, a natural gas transmission pipeline as defined in Section 403.9403(16), Florida Statutes be approved?

FPL: Yes. The Commission should grant FPL's petition for a determination of need for the Florida EnergySecure Line based on the statutory criteria set forth in Section 403.9422, Florida Statutes, including: the need for natural gas delivery, reliability, safety and integrity; the need for abundant, clean-burning natural gas to assure the economic well-being of the public; and the appropriate commencement and terminus of the line. The Florida EnergySecure Line meets these statutory criteria because it will: (i) increase reliability of natural gas transmission within Florida; (ii) increase deliverability of natural gas within Florida with the addition of 600 MMcf/d of new gas supply; (iii) enhance reliability and options in the event of any interruption on the existing Gulfstream or FGT pipelines; (iv) increase diversification of the gas supplies available to Florida; (v) provide the most cost-effective solution to meet the needs of the Modernization Projects, as well as other natural gas delivery needs of the State; (vi) promote pipeline-to-pipeline and gas supply-to-gas supply competition; and (vii) generate growth in state and local economies, new construction jobs, and substantial local purchase of materials and supplies. Failing to approve the Project would deprive the state and FPL's customers of these significant benefits for many years to come. (All witnesses)

FGT: No. FPL's proposed pipeline is not in the best interests of FPL's ratepayers or the State of Florida. FPL has failed to demonstrate the need for its proposed intrastate pipeline, and so it should be denied. FPL has failed to establish that there is sufficient demand to support the construction and expense of the proposed intrastate pipeline, and has similarly failed to demonstrate that the proposed \$1.6 billion intrastate pipeline, coupled with the highly costly upstream pipeline, is the best economic alternative and in the best interest of FPL's

ratepayers. Alternatively, if the Commission were to find that this pipeline should be approved, then the Commission should deny FPL's request to include it in the electric ratebase and instead order that the pipeline be constructed, operated, and financed through a fully separated entity and regulated through Chapter 368. (Langston)

STAFF: No position at this time.

IX. EXHIBIT LIST

<u>Witness</u>	<u>Proffered By</u>		<u>Description</u>
			<u>Direct</u>
Sam Forrest	FPL	SF-1	Florida EnergySecure Line Fact Sheet and Map
Robert G. Sharra	FPL	RGS-1	Map of Florida EnergySecure Line Proposed Corridor
Robert G. Sharra	FPL	RGS-2	Illustrative Map of the "Company E" Upstream Pipeline Project to be interconnected with the Florida EnergySecure Line
Robert G. Sharra	FPL	RGS-3	"Company E" Fact Sheet
Robert G. Sharra	FPL	RGS-4	Report entitled "The Economic & Tax Benefits of FPL's Proposed Natural Gas Pipeline"
Clinton M. Collins	FPL	CMC-1	Map of Florida EnergySecure Line and Related Facilities
Clinton M. Collins	FPL	CMC-2	FPL Right-of-Way Cross Section
Clinton M. Collins	FPL	CMC-3	Summary of Projected Costs
Rosemary Morley	FPL	RM-1	Actual and Forecasted Summer Peak
Rosemary Morley	FPL	RM-2	Summer Peak Forecasting Error

<u>Witness</u>	<u>Proffered By</u>		<u>Description</u>
Rosemary Morley	FPL	RM-3	Annual Percentage Change in Florida's Population
Rosemary Morley	FPL	RM-4	Historical Population Growth
Rosemary Morley	FPL	RM-5	Annual Change in Population, Long Term Moving Averages
Rosemary Morley	FPL	RM-6	University of Florida's Population Forecast Variance
Rosemary Morley	FPL	RM-7	Total Average Customers
Rosemary Morley	FPL	RM-8	Real Household Disposable Income
Rosemary Morley	FPL	RM-9	Real Price of Electricity
Rosemary Morley	FPL	RM-10	Impact of Appliance Efficiency Standards
Rosemary Morley	FPL	RM-11	New Wholesale Contracts
Rosemary Morley	FPL	RM-12	Summer Peak Load Per Customer (kw)
Rosemary Morley	FPL	RM-13	Summer Peak Load (MW)
Rosemary Morley	FPL	RM-14	Long-Term Growth in Summer Peak (MW)
Rosemary Morley	FPL	RM-15	Changes in Forecasted Summer Peak since 2008 Ten-Year Site Plan
Rosemary Morley	FPL	RM-16	Winter Peak Load (MW)
Rosemary Morley	FPL	RM-17	Long-Term Growth in Winter Peak (MW)
Rosemary Morley	FPL	RM-18	Net Energy for Load per Customer (kwh)
Rosemary Morley	FPL	RM-19	Net Energy for Load (GWh)
Rosemary Morley	FPL	RM-20	Long Term Growth in Net Energy for Load (GWh)

<u>Witness</u>	<u>Proffered By</u>		<u>Description</u>
Rosemary Morley	FPL	RM-21	Changes in Forecasted Net Energy for Load since 2008 Ten-Year Site Plan
Heather C. Stubblefield	FPL	HCS-1	Solicitation Letter
Heather C. Stubblefield	FPL	HCS-2	Summary of Company E, Company B and Florida EnergySecure Line Transportation Rates (Confidential)
Heather C. Stubblefield	FPL	HCS-3	Letter of Intent
Juan E. Enjamio	FPL	JEE-1	Projection of FPL's 2009-2030 Resource Needs
Juan E. Enjamio	FPL	JEE-2	Resource Plans Utilized in the Analyses
Juan E. Enjamio	FPL	JEE-3	Renewable Resource Assumptions
Juan E. Enjamio	FPL	JEE-4	RPS Scenario Renewable Resources Added
Juan E. Enjamio	FPL	JEE-5	Projected FPL Energy Fuel Mix by Fuel Type
Juan E. Enjamio	FPL	JEE-6	Projection of FPL System Incremental Gas Use
Juan E. Enjamio	FPL	JEE-7	Economic Evaluation Results for Different Gas Transportation Alternatives
Juan E. Enjamino	FPL	JEE-8	Projection of Approximate Bill Impacts for Different Gas Transportation Alternatives
Juan E. Enjamio	FPL	JEE-9	Cost of Capital
James K. Guest	FPL	JKG-1	Letter from Portland General Electric Co. to FERC dated March 12, 1993

<u>Witness</u>	<u>Proffered By</u>		<u>Description</u>
James K. Guest	FPL	JKG-2	Letter from FERC to Portland General Electric Co. dated April 4, 1993 re Docket No. AC93-8600
James K. Guest	FPL	JKG-3	Letter from Portland General Electric Co to FERC dated December 3, 2003
James K. Guest	FPL	JKG-4	Letter from FERC to Portland General Electric Co. dated March 4, 2004 re: Docket No. AC04-7-000
Jonathan D. Ogur	FPL	JDO-1	Vita of Jonathan D. Ogur
Jonathan D. Ogur	FPL	JDO-2	Market Shares and Concentration in Gas Transmission Markets
Timothy C. Sexton	FPL	TCS-1	Resume of Timothy C. Sexton
Timothy C. Sexton	FPL	TCS-2	Florida Pipeline Capacity Load Factor Calculation
Timothy C. Sexton	FPL	TCS-3	Schematic Illustration entitled Capacity to Southeast Markets
Timothy C. Sexton	FPL	TCS-4	State by State Comparison of Natural Gas for Electric Generation in the United States
Timothy C. Sexton	FPL	TCS-5	2007 Fuel Use for Generation by State
Timothy C. Sexton	FPL	TCS-6	Approximate Cost of Service to Transport Natural Gas from Transco CS 85 to Company B Project
Timothy C. Sexton	FPL	TCS-7	Gas Cost Savings Analysis
Michael T. Langston	FGT	MTL-1	Map of FGT pipeline system

<u>Witness</u>	<u>Proffered By</u>		<u>Description</u>
Michael T. Langston	FGT	MTL-2	Map of FGT system w/Phase VIII expansion
Michael T. Langston	FGT	MTL-3	FGT Expansion in Florida
Michael T. Langston	FGT	MTL-4	FPL Ten Year Site Plan Filings
Michael T. Langston	FGT	MTL-5	FPL Response to FGT Interrogatory No. 53
Michael T. Langston	FGT	MTL-6	FPL Response to Staff Interrogatory No. 23-1
Michael T. Langston	FGT	MTL-7	May 7, 2009, FERC Order on Transco Mobile Bay South Expansion Project
Michael T. Langston	FGT	MTL-8	July 25, 2008, FERC Order on Mid Continent Express Expansions
Michael T. Langston	FGT	MTL-9	September 28, 2007, FERC Order On Gulf South Southeast Expansion Project
Michael T. Langston	FGT	MTL-10	December 3, 2008, Tariff Filing for Gulf South Southeast Expansion
Michael T. Langston	FGT	MTL-11	Map Of Expansion Capacity In The Perryville Area
Michael T. Langston	FGT	MTL-12	EIA Report, Natural Gas Market Centers: A 2008 Update, April 2009
Michael T. Langston	FGT	MTL-13	March 18, 2009, FGT Proposal
Michael T. Langston	FGT	MTL-14	Basis Prices Chart June 11, 2009
Michael T. Langston (Surrebuttal)	FGT	MTL-15	FGT and FES System Map
Michael T. Langston (Surrebuttal)	FGT	MTL-16	FGT's responses to FPL's Interrogatories #16 and 17

<u>Witness</u>	<u>Proffered By</u>		<u>Description</u>
Benjamin Schlesinger	FGT	BSA-1	C.V. of Benjamin Schlesinger
Benjamin Schlesinger	FGT	BSA-2 (Confidential)	FPL's Natural Gas Price and Basis Forecast
Benjamin Schlesinger	FGT	BSA-3	Daily Flows through FGT Station 11, August 1 through November 30, 2005
Benjamin Schlesinger	FGT	BSA-4	Transco January 22, 2009, Open Season Announcement for Mobile Bay South II Expansion
Benjamin Schlesinger	FGT	BSA-5 (Confidential)	Combined Company E/FES Proposal versus Company B Proposal, extended to Station 85
Benjamin Schlesinger (Surrebuttal)	FGT	BSA-6	Daily Southeast Gas Prices through the 2005 Hurricane Season
<u>Rebuttal</u>			
Sam Forrest	FPL	SF-2	FPL's supplemental response to Staff's Fourth Set of Interrogatories, Question Number 85
Sam Forrest	FPL	SF-3	FPL's 2005 Storm-Related Incremental Fuel Expenses (Originally filed as "Late Filed Exhibit No. 4" to G. Yupp's Deposition in Docket No. 050001-EI)
Rosemary Morley	FPL	RM-22	The University of Florida's Population Under-Forecast
Rosemary Morley	FPL	RM-23	The University of Florida's Projection Bands

<u>Witness</u>	<u>Proffered By</u>		<u>Description</u>
Juan E. Enjamio	FPL	JEE-10	Economic Evaluation Results of Different Gas Transportation Alternatives Using Updated Assumptions
Juan E. Enjamio	FPL	JEE-11	Economic Analysis Results: Projection of Approximate Bill Impacts for Different Gas Transportation Alternatives - Updated Assumptions
Juan E. Enjamio	FPL	JEE-12	Cost of Capital - Updated
Jonathan D. Ogur	FPL	JDO-3	Schlesinger Prepared Rebuttal Testimony, <i>Pacific Gas Transmission Company</i> , Docket No. RP94-149-000 <i>et al.</i>
Timothy C. Sexton	FPL	TCS-8 confidential	Updated Gas Cost Savings Analysis
Timothy C. Sexton	FPL	TCS-9	Illustrative Map of Pipeline Facilities
Timothy C. Sexton	FPL	TCS-10	Capacity Holders on Pipelines Upstream of Transco Station
Timothy C. Sexton	FPL	TCS-11	Marginal Cost to Transport to Transco Station 85
Timothy C. Sexton	FPL	TCS-12	Capacity Holders on Southeast Supply Header
Timothy C. Sexton	FPL	TCS-13	Total Cost to Transport from Perryville to FGT Mobile Bay Area

Parties and Staff reserve the right to identify additional exhibits for the purpose of cross-examination.

X. STIPULATIONS

The parties propose the stipulation of Issue 12.

XI. PENDING MOTIONS

There are no pending motions at this time.

XII. PENDING CONFIDENTIALITY MATTERS

FGT filed a Notice of Intent to Request Confidential Classification dated June 22, 2009.

FGT filed a Notice of Intent to Request Confidential Classification dated July 1, 2009.

FPL filed a Request for Confidential Classification dated July 13, 2009.

XIII. POST-HEARING PROCEDURES

If no bench decision is made, each party shall file a post-hearing statement of issues and positions. A summary of each position of no more than 50 words, set off with asterisks, shall be included in that statement. If a party's position has not changed since the issuance of this Prehearing Order, the post-hearing statement may simply restate the prehearing position; however, if the prehearing position is longer than 50 words, it must be reduced to no more than 50 words. If a party fails to file a post-hearing statement, that party shall have waived all issues and may be dismissed from the proceeding.

Pursuant to Rule 28-106.215, F.A.C., a party's proposed findings of fact and conclusions of law, if any, statement of issues and positions, and brief, shall together total no more than 55 pages and shall be filed at the same time.

XIV. RULINGS

Opening statements, if any, shall not exceed ten minutes per party.

It is therefore,

ORDERED by Commissioner Lisa Polak Edgar, as Prehearing Officer, that this Prehearing Order shall govern the conduct of these proceedings as set forth above unless modified by the Commission.

By ORDER of Commissioner Lisa Polak Edgar, as Prehearing Officer, this 21st day of July, 2009.



LISA POLAK EDGAR
Commissioner and Prehearing Officer

(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 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.

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.

Any party adversely affected by this order, which is preliminary, procedural or intermediate in nature, may request: (1) reconsideration within 10 days pursuant to Rule 25-22.0376, Florida Administrative Code; or (2) 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. A motion for reconsideration shall be filed with the Office of Commission Clerk, in the form prescribed by Rule 25-22.0376, Florida Administrative Code. Judicial review of a preliminary, procedural or intermediate ruling or order is available if review of the final action will not provide an adequate remedy. Such review may be requested from the appropriate court, as described above, pursuant to Rule 9.100, Florida Rules of Appellate Procedure.