

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Fuel and purchased power cost recovery clause with generating performance incentive factor.      DOCKET NO. 100001-EI  
ORDER NO. PSC-10-0051-FOF-EI  
ISSUED: January 20, 2010

The following Commissioners participated in the disposition of this matter:

MATTHEW M. CARTER II, Chairman  
LISA POLAK EDGAR  
NANCY ARGENZIANO  
NATHAN A. SKOP  
DAVID E. KLEMENT

ORDER CLARIFYING ORDER NO. PSC-09-0795-FOF-EI,  
PROVIDING FOR METHOD OF REPAYMENT OF FLORIDA POWER & LIGHT  
COMPANY'S OVERRECOVERY

BY THE COMMISSION:

As part of the continuing fuel and purchased power cost recovery and generating performance incentive factor proceedings, a hearing was held on November 2, 2009, in Docket No. 090001-EI. On December 2, 2009, we issued Order No. PSC-09-0795-FOF-EI, which set forth many of the decisions for the 2009 fuel proceeding, including the decision to order Florida Power & Light Company (FPL) to refund its customers the over-recovery of \$364,843,209 as a one-time credit on January 2010 bills.<sup>1</sup> The \$364,843,209 amount is comprised of the \$79,321,012 under-recovery for 2008 and actual/estimated \$444,164,222 over-recovery for 2009. Thus, the over-recovery occurred in 2009.

On November 4, 2009, FPL filed with the Division of the Commission Clerk and Administrative Services a letter with revised fuel cost recovery schedules reflecting our decision to refund the net-true up over-recovery in January 2010. The traditional true-up process includes any over- or under-recovery in the calculation of the 12-month fuel factor. The November 4, 2009, filing also included a calculation for the refund factor and stated that the refund factor "will apply to customer bills for consumption in January 2010." FPL calculated the refund factor of 4.446 cents per kilowatt-hour (kWh) based on projected jurisdictional sales in January 2010.

On December 2, 2009, we issued Order No. PSC-09-0795-FOF-EI, which states on page 6 the following regarding the refund of the true-up:

<sup>1</sup> Order No. PSC-09-0795-FOF-EI, issued December 2, 2009, in Docket No. 090001-EI, In re: Fuel and purchased power cost recovery clause with generating performance incentive factor.

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FPSC-COMMISSION CLERK

FPL shall refund the over-recovery of \$364,843,209 to its customers as a one-time credit in January 2010. We directed FPL to file new fuel factors for 2010, consistent with our Order directing the over-recovery to be refunded in January 2010. Our staff reviewed the new fuel factors, and found them to be consistent with our vote and accordingly, the new factors are included in this Order, provided further, however, that the amount of purchased power subject to our review regarding FPL's February 26, 2008, power outage shall be held subject to refund.

On December 7, 2009, an FPL representative e-mailed our staff counsel stating that the order did not provide any specific guidance as to how the refund is to be made to FPL's customers in January 2010. FPL further stated in its email that it plans to implement the refund consistent with the method specified by our Order No. PSC-09-0024-FOF-EI,<sup>2</sup> with respect to the March 2006 drilled hole incident. That order directed FPL to refund \$6,667,227 of replacement power costs for the Turkey Point Unit 3 (drilled hole incident) outage as a one-time credit on customers' bills. That order states "...only retail customers of record shall receive a refund and that refund shall be applied as a cent per kilowatt-hour credit to customer bills in the month the refund is made."

On December 10, 2009, our staff counsel asked all parties to this docket for input on the question of how FPL should implement the refund. On December 11, 2009, FPL and FIPUG filed a brief in response to our staff counsel's email. Gulf Power Company, Tampa Electric Company, Progress Energy Florida, Inc., Office of Public Counsel, Attorney General, Florida Public Utilities Company, and Florida Retail Federation (FRF) informed our staff counsel that they would not be filing briefs. Although not filing a brief, an FRF representative stated that it supports the method planned by FPL.

In its brief, FPL stated that it intends to refund the \$364,843,209 over-recovery using the same mechanism that we approved and FPL employed in March 2009 to refund replacement power costs associated with the drilled hole incident. FPL further stated that because of the substantial amount of additional programming and other preparation that would be required to make a one-time refund on a different basis, a change in course at this time would inject increased costs, confusion, and delay for customers. Moreover, the refund factor that FPL filed on November 4, 2009, has been widely communicated to customers. Finally, FPL stated in its brief that on November 4, 2009, FPL filed revised schedules reflecting the calculation of the refund factor that is to be applied to bills in January 2010. FPL stated that it received no objections to the calculation of the refund factor filed on November 4, 2009.

FIPUG contends in its brief that FPL's refund should be made as proposed, in accordance with Order No. PSC-09-0024-FOF-EI. An FRF representative communicated that FRF supports FPL's proposed refund methodology, although FRF did not file a brief.

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<sup>2</sup> Order No. PSC-09-0024-FOF-EI, issued January 7, 2009, in Docket No. 080001-EI, In re: Fuel and purchased power cost recovery clause with generating performance incentive factor.

This Order is issued to clarify the consumption upon which the refund should be based. We have jurisdiction over this subject matter pursuant to the provisions of Chapter 366, Florida Statutes, including Sections 366.04, 366.05, and 366.06, Florida Statutes.

In determining the methodology for refunding customers, we considered two options: 1) a refund based on twelve months of consumption; or 2) a refund based on January consumption. We note that a customer's consumption for a specific month will vary from the consumption for the same customer for the past twelve months. Using twelve months of consumption could be considered a more accurate method of refunding the over-recovery since it probably more accurately matches the consumption that created the over-recovery. Any method short of complete bill recalculations, however, will not be completely exact since there is no way to match each customer's refund to their exact contribution to the over-recovery.

Our discussions at the November 2 hearing, as well as the responses from FPL and parties on the refund matter, show that administrative efficiency and minimizing costs are important considerations. In specifying a credit on bills, as opposed to issuing checks to customers, we recognized the need to minimize the administrative cost of the refund. A refund based on January 2010 bills would be the least-cost option and consistent with FPL's November 4, 2009, calculations.

In its brief, FPL stated that it does not believe it is feasible at this time to base the refunds on consumption over a time period other than January 2010 and then make those refunds in January 2010. FPL stated the refunds need to start being made in less than three weeks.

Based on the foregoing, we approve a refund based on January 2010 bills as FPL proposed. That method is supported by FIPUG and FRF. FPL's proposed method is based on the precedent established by Order No. PSC-09-0024-FOF-EI, and is consistent with FPL's filing of revised schedules on November 4, 2009, which provided parties with notice regarding FPL's intended refund methodology. Accordingly, the refund shall be made on each customer's January 2010 bill based upon that bill's consumption. Only customers of record in January 2010 shall receive a refund.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that Order No. PSC-09-0024-FOF-EI is clarified to show that the refund by FPL shall be made on January 2010 bills based upon that bill's consumption. It is further

ORDERED that only customers of record in January 2010 shall receive a refund. It is further

ORDERED that this is an on-going docket and shall remain open.

By ORDER of the Florida Public Service Commission this 20th day of January, 2010.



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ANN COLE  
Commission Clerk

( S E A L )

LCB

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.

Any party adversely affected by the Commission's final action in this matter may request: 1) reconsideration of the decision by filing a motion for reconsideration with the Office of Commission Clerk, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, within fifteen (15) days of the issuance of this order in the form prescribed by Rule 25-22.060, 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 and/or wastewater utility by filing a notice of appeal with the Office of Commission Clerk, 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.