

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for approval of regulatory assets related to the retirements of Lauderdale Units 4 and 5 and Martin Units 1 and 2, by Florida Power & Light Company.

DOCKET NO. 20180155-EI
ORDER NO. PSC-2019-0045-PAA-EI
ISSUED: January 22, 2019

The following Commissioners participated in the disposition of this matter:

ART GRAHAM, Chairman
JULIE I. BROWN
DONALD J. POLMANN
GARY F. CLARK
ANDREW GILES FAY

NOTICE OF PROPOSED AGENCY ACTION
ORDER APPROVING FLORIDA POWER & LIGHT COMPANY'S PETITION FOR
REGULATORY ASSETS RELATED TO THE RETIREMENTS OF LAUDERDALE UNITS 4
AND 5 AND MARTIN UNITS 1 AND 2

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.).

I. Background

On March 1, 2018, we approved Florida Power & Light Company's (FPL or Company) petition for determination of need for the Dania Beach Clean Energy Center (DBEC) Unit 7. The DBEC petition proposed to modernize FPL's Lauderdale Plants, by retiring Units 4 and 5 in the fourth quarter of 2018 and replacing them in mid-2022 with DBEC Unit 7.¹ In April 2018, FPL included in its annual Ten-Year Site Plan its plan to retire Martin Units 1 and 2 in the fourth quarter of 2018.

On August 17, 2018, FPL filed the instant Petition seeking approval to create regulatory assets and defer recovery of the amounts related to the retirement of Lauderdale Units 4 and 5 and Martin Units 1 and 2. At the time of their expected retirements, FPL states that the total unrecovered costs for the Lauderdale Units 4 and 5 and Martin Units 1 and 2 are estimated to be

¹ Order No. PSC-2018-0150-FOF-EI, issued March 19, 2018, in Docket No. 20170225-EI, *In re: Petition for Determination of Need for Dania Beach Clean Energy Center Unit 7, by Florida Power & Light Company.*

\$287 million and \$372 million, respectively.² As proposed, the recovery of the regulatory assets would be deferred until base rates are next reset in a general base rate proceeding.

The Sierra Club is listed as an interested person. Although it has not officially intervened in this proceeding, the Office of Public Counsel (OPC) filed a letter dated November 8, 2018, identifying certain concerns it has with the Petition filed by FPL.

This Order addresses FPL's request for authority to create regulatory assets representing the remaining net book value of the Lauderdale Units 4 and 5 and Martin Units 1 and 2 at retirement and the Company's request for authority to defer recovery of the regulatory assets until FPL's base rates are next reset in a general base rate proceeding. We have jurisdiction over this matter pursuant to Sections 366.04 and 366.06, Florida Statutes (F.S.)

II. Decision

A. FPL's request to create regulatory assets related to the retirement of Lauderdale Units 4 and 5 and Martin Units 1 and 2

FPL has an ongoing program to modernize its fossil fuel generating units based on cost-effectiveness. By Order No. PSC-2018-0150-FOF-EI, we approved the need for the Dania Beach Clean Energy Center (DBEC).³ The DBEC is essentially a modernization or re-powering of FPL's existing Lauderdale Plant. Specifically, the Company is planning to retire Lauderdale Units 4 and 5 at the end of the fourth quarter of 2018 and bring into service DBEC Unit 7 in mid-2022. The DBEC Unit 7 modernization project, which includes the retirement of Lauderdale Units 4 and 5, is projected to save FPL customers an estimated \$300 million in cumulative present value of revenue requirements (CPVRR). The CPVRR savings are expected to begin accumulating in 2021.

The retirement of Martin Units 1 and 2 in the fourth quarter of 2018 was included in FPL's 2018 Ten-Year Site Plan filed in April 2018. Both units have been in operation for approximately 38 years and are inefficient as compared to the rest of FPL's generating fleet. For example, Martin Units 1 and 2 have average net heat rates of 11,943 and 11,488 British thermal units/kilowatt-hour (BTU/kWh), respectively; whereas, FPL's newest combined cycle (CC) unit has an average net heat rate of 6,699 BTU/kWh. FPL considered whether retiring the units early versus continuing to operate the units through their originally planned retirement date was more economic. The alternatives considered to replace Martin Units 1 and 2 were upgrading the combustion turbine (CT) components of some of FPL's existing CC units, or repowering Martin Units 1 and 2. FPL ultimately determined that upgrading the CT components of some of its existing CC units was the most cost-effective option.

The combined capacity of Martin Units 1 and 2 is 1,626 MW, and FPL expects 1,526 MW of additional capacity from the upgrades to other units. FPL's current resource plan, including the early retirement of Martin Units 1 and 2, upgrades to the CT components of

² Document No. 07145-2018, Commission staff's Fourth Data Request

³ Id.

existing CC units, and a short-term purchased power agreement in 2028, is expected to allow FPL to continue to maintain its twenty percent planning reserve margin criteria. FPL would still be capable of maintaining its reserve margin if it were to continue to operate Martin Units 1 and 2; however, FPL states its customers would not benefit from the economic savings associated with retiring the units. The retirement of Martin Units 1 and 2 is expected to result in approximately \$491 million in CPVRR savings to FPL's customers as compared to continuing to operate the units. The savings are expected to begin accumulating in 2019.

In its Petition, FPL estimated a retirement date for Lauderdale Units 4 and 5 of October 1, 2018, and a retirement date for Martin Units 1 and 2 of December 1, 2018. In response to Commission staff's third data request, FPL now estimates that the Lauderdale and Martin Units will be retired on or about December 31, 2018.⁴ According to Revised Attachment KF-1, in its response to Commission staff's fourth data request, FPL states that the unrecovered net book values for Lauderdale Units 4 and 5 and Martin Units 1 and 2 at the time of retirement are estimated to be approximately \$287 million and \$372 million, respectively.⁵ We note that, per the Company's most-recent depreciation study filed in 2016 in Docket No. 160062-EI (later consolidated with Docket No. 160021-EI), the expected retirement year for Lauderdale Units 4 and 5 is listed as 2033, and the expected retirement year for Martin Units 1 and 2 is listed as 2031.⁶

Table 1 below reflects the estimated plant in service, reserve, and remaining net book value amounts associated with the relevant Lauderdale and Martin Units at the specified dates.

Table 1
Net Book Values Associated with Lauderdale Units 4 and 5
and Martin Units 1 and 2

Plant	Plant in Service	Reserve	Net Book Value
Plant Lauderdale (as of 12/31/2018)	\$479,165,675	\$192,128,935	\$287,036,741
Plant Martin (as of 12/31/2018)	\$778,405,489	\$406,856,880	\$371,548,609
Total*	\$1,257,571,164	\$598,985,815	\$658,585,350

Source: In Response to Staff's Fourth Data Request.

FPL's Revised Attachment KF-1.

* Differences due to rounding

⁴ Document No. 07095-2018, Commission staff's Third Data Request

⁵ Document No. 07145-2018, Commission staff's Fourth Data Request

⁶ Order No. PSC-16-0560-AS-EI, issued December 15, 2016, in Docket No. 160021-EI, *In re: Petition for rate increase by Florida Power & Light Company*; Docket No. 160061-EI, *In re: Petition for approval of 2016-2018 storm hardening plan, by Florida Power & Light Company*; Docket No. 160062-EI, *In re: 2016 depreciation and dismantlement study by Florida Power & Light Company*; and Docket No. 160088-EI, *In re: Petition for limited proceeding to modify and continue incentive mechanism, by Florida Power & Light Company*.

Due to the early retirement of the Lauderdale Units 4 and 5 and Martin Units 1 and 2, certain entries must be made to FPL's books and records. Rule 25-6.0436(6), Florida Administrative Code (F.A.C.), requires the compilation of an annual depreciation status report showing changes to categories of depreciation that will require revision. In addition, Rule 25-6.0436(7)(a), F.A.C., provides:

Prior to the retirement of major installations, the Commission shall approve capital recovery schedules to correct associated calculated deficiencies where a utility demonstrates that (1) replacement of an installation or group of installations is prudent and (2) the associated investment will not be recovered by the time of retirement through the normal depreciation process.

FPL's current depreciation rates are authorized in Order No. PSC-2016-0560-AS-EI, issued December 15, 2016, in Docket Nos. 20160021-EI, *In re: Petition for rate increase by Florida Power & Light Company*, 20160061-EI, *In re: Petition for approval of 2016-2018 storm hardening plan, by Florida Power & Light Company*, 20160062-EI, *In re: 2016 depreciation and dismantlement study by Florida Power & Light Company*, and 20160088-EI, and *In re: Petition for limited proceeding to modify and continue incentive mechanism, by Florida Power & Light Company* (2016 Settlement Agreement) and are based on retirement years of 2033 for Lauderdale and 2031 for Martin. Therefore, the investment in the Lauderdale Units 4 and 5 and Martin Units 1 and 2 will not be fully recovered through the existing depreciation process due to the early retirement of the Units.

Conclusion

Given the above, we find that it is appropriate to create regulatory assets for the amounts representing the remaining net book value of the Lauderdale Units 4 and 5 and Martin Units 1 and 2 at retirement. In addition, we note that the approval to record the regulatory assets for accounting purposes does not limit our ability to review the amounts and recovery period for reasonableness in future proceedings in which the regulatory assets are included for recovery.

B. Deferment of recovery of the Lauderdale and Martin regulatory assets until FPL's base rates are next reset in a future rate proceeding

According to Revised Attachment KF-1, the estimated unrecovered net book value associated with the retirement of Lauderdale Units 4 and 5 is approximately \$287 million. For Martin, in addition to the retirement of Units 1 and 2, FPL is also proposing to retire certain associated transmission facilities. The estimated unrecovered net book value related to the Martin retirement is approximately \$372 million.

In its Petition, FPL states that, pursuant to Paragraph 14⁷ of the 2016 Settlement Agreement, it is prohibited from requesting an amortization rate during the term of the

⁷ Paragraph 14 of FPL's 2016 Settlement Agreement (Order No. PSC-2016-0560-AS-EI, pg. 26) states:

Agreement; thus, the early retirement of these units will require that future revisions be made to the depreciation rates, amortization, and capital recovery schedules. Moreover, because of the specific terms of 2016 Settlement Agreement related to continuing depreciation and amortization rates until base rates are next reset in a general base rate proceeding, FPL argues the creation of a regulatory asset in this instance does not involve deferral of costs that would otherwise be recovered, in part, during the term of the Agreement. Therefore, FPL concludes that creation of regulatory assets and deferral of cost recovery are appropriate in this instance.

FPL cites to Order No. PSC-2016-0361-PAA-EI⁸ in Docket No. 160039-EI (Gulf Deferment Case), which approved Gulf Power Company's (Gulf) request to create a regulatory asset associated with the early retirement of Smith Units 1 and 2 (Smith) and to defer costs and seek recovery through rates at a later time as support for its request. Gulf's request to defer amortization of the Smith regulatory asset related to the early retirement of the Smith Units was approved to begin on January 1, 2018, as part of a settlement agreement approved by Order No. PSC-17-0178-S-EI (Gulf 2013 Settlement Agreement).⁹

The FPL 2016 Settlement Agreement contains no language that specifically states that FPL must begin the amortization immediately following the retirement of the units that gave rise to the newly created regulatory assets. Furthermore, we find that the language in Paragraph 14 of the FPL 2016 Settlement Agreement and Paragraph 7¹⁰ of the Gulf 2013 Settlement Agreement are almost identical with respect to the discussion of depreciation and amortization accrual rates.¹¹

The Parties agree that the provisions of Rules 25-6.0436 and 25-6.04364, F.A.C., pursuant to which depreciation and dismantlement studies are generally filed at least every four years will not apply to FPL and until FPL files its next petition to change base rates. The depreciation rates and dismantlement accrual rates in effect as of the Implementation Date shall remain in effect until FPL's base rates are next reset in a general base rate proceeding.

⁸ Order No. PSC-16-0361-PAA-EI, issued August 29, 2016, in Docket No. 160039-EI, *In re: Petition for approval of regulatory asset related to the retirement of Plant Smith Units 1 and 2, by Gulf Power Company.*

⁹ Order No. PSC-17-0178-S-EI, issued May 16, 2017, in Docket No. 160186-EI, *In re: Petition for rate increase by Gulf Power Company*, and Docket No. 160170-EI, *In re: Petition for approval of 2016 depreciation and dismantlement studies, approval of proposed depreciation rates and annual dismantlement accruals and Plant Smith Units 1 and 2 regulatory asset amortization, by Gulf Power Company.*

¹⁰ Paragraph 7 of Gulf's 2013 Settlement Agreement states:

The depreciation and amortization accrual rates in effect as of the effective date of this Agreement shall remain in effect throughout the Term. The Parties agree that the provisions of Rules 25-6.0436 and 25-6.04364, F.A.C., pursuant to which depreciation and dismantlement studies are filed at least every four years will not apply to the Company during the Term and that the Commission's approval of this Agreement shall excuse the Company from compliance with the filing requirement of these rules during the Term.

¹¹ Order No. PSC-16-0560-AS-EI, issued December 15, 2016, in Docket No. 160021-EI, *In re: Petition for rate increase by Florida Power & Light Company*; Docket No. 160061-EI, *In re: Petition for approval of 2016-2018 storm hardening plan, by Florida Power & Light Company*; Docket No. 160062-EI, *In re: 2016 depreciation and dismantlement study by Florida Power & Light Company*; and Docket No. 160088-EI, *In re: Petition for limited proceeding to modify and continue incentive mechanism, by Florida Power & Light Company*, p. 20, and Order No. PSC-13-0670-S-EI, issued December 19, 2013, in Docket No. 130140-EI, *In re: Petition for rate increase by Gulf Power Company*, p. 12.

In this matter, we have the discretion to defer recovery of the regulatory assets as requested by FPL or to order the amortization of the regulatory assets to begin following retirement as proposed by OPC. Rule 25-6.0436(7)(a), F.A.C.,¹² specifies that prior to the retirement of major installations, such as power plants, we shall approve capital recovery schedules to correct associated deficiencies if the retirement of the unit is prudent and the investment will not be recovered through the normal depreciation process. We find that FPL's decision to retire Lauderdale Units 4 and 5 and Martin Units 1 and 2 is prudent and that the investment in those units will not be recovered through the normal depreciation process.

Prior to retirement, the net book value of Lauderdale Units 4 and 5 and Martin Units 1 and 2 is approximately \$659 million. This \$659 million is recorded in rate base in the form of net plant, and the associated annual depreciation expense of approximately \$53.4 million (based on the 2017 annual amount of depreciation) is recorded on the income statement. Under FPL's proposal, following the retirement of the Units, this approximately \$659 million net book value of the Lauderdale Units 4 and 5 and Martin Units 1 and 2 will continue to be recorded in rate base in the form of regulatory assets but the annual depreciation expense associated with these assets will cease to be recorded on the income statement.

Conclusion

As stated above, the relevant language in the FPL 2016 Settlement Agreement and the Gulf 2013 Settlement Agreement is nearly identical with respect to the discussion of depreciation and amortization accrual rates. Furthermore, FPL's request to defer costs and seek recovery through rates at a later time is substantially similar to Gulf's request in the Gulf Deferral Case. Accordingly, and based on our discretion to allow for the deferral of cost recovery of the regulatory asset in cases such as this and our finding that the retirement of the units is prudent as stated above, we approve FPL's request to defer cost recovery of the amounts related to the retirement of Lauderdale Units 4 and 5 and Martin Units 1 and 2 until FPL's base rates are next reset in a general base rate proceeding.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that FPL's request to create regulatory assets related to the retirement of Lauderdale Units 4 and 5 and Martin Units 1 and 2 is approved. It is further

ORDERED that FPL's request to defer recovery of the amounts related to the retirement of Lauderdale Units 4 and 5 and Martin Units 1 and 2 until FPL's base rates are next reset in a general base rate proceeding is approved. It is further

¹² Rule 25-6.0436(7)(a), F.A.C., states:

Prior to the retirement of major installations, the Commission shall approve capital recovery schedules to correct associated calculated deficiencies where a utility demonstrates that (1) replacement of an installation or group of installations is prudent and (2) the associated investment will not be recovered by the time of retirement through the normal depreciation process.

ORDERED that the provisions of this Order, issued as proposed agency action, shall become final and effective upon the issuance of a Consummating Order unless an appropriate petition, in the form provided by Rule 28-106.201, Florida Administrative Code, is received by the Commission Clerk, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on the date set forth in the "Notice of Further Proceedings" attached hereto. It is further

ORDERED that is no person whose substantial interests are affected by the proposed agency action files a protest within 21 days of the issuance of this order, this docket shall be closed upon the issuance of a consummating order.

By ORDER of the Florida Public Service Commission this 22nd day of January, 2019.



ADAM J. TEITZMAN
Commission Clerk
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399
(850) 413-6770
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Copies furnished: A copy of this document is provided to the parties of record at the time of issuance and, if applicable, interested persons.

KMS

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

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petition must be received by the Office of Commission Clerk, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on February 12, 2019.

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.