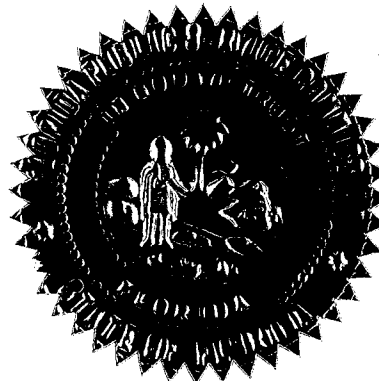


BEFORE THE  
FLORIDA PUBLIC SERVICE COMMISSION

DOCKET NO. 060362-EI

In the Matter of:

PETITION TO RECOVER NATURAL GAS  
STORAGE PROJECT COSTS THROUGH  
FUEL COST RECOVERY CLAUSE, BY  
FLORIDA POWER & LIGHT COMPANY.



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PROCEEDINGS: PREHEARING

BEFORE: MATTHEW M. CARTER, II  
Prehearing Officer

DATE: Monday, October 23, 2006

TIME: Commenced at 9:30 a.m.  
Concluded at 12:40 p.m.

PLACE: Betty Easley Conference Center  
Room 148  
4075 Esplanade Way  
Tallahassee, Florida

REPORTED BY: LINDA BOLES, CRR, RPR  
Official FPSC Reporter  
(850)413-6734

DOCUMENT NUMBER-DATE

FLORIDA PUBLIC SERVICE COMMISSION 09965 OCT 30 8

FPSC-COMMISSION CLERK

## 1 APPEARANCES:

2 JOHN BUTLER, ESQUIRE, and R. WADE LITCHFIELD,  
3 ESQUIRE, Florida Power & Light Company, 700 Universe Boulevard,  
4 Juno Beach, Florida 33408-0420, appearing on behalf of Florida  
5 Power & Light Company.

6 JACK SHREVE, ESQUIRE, Senior General Counsel, The  
7 Capitol - PL01, Tallahassee, Florida 32399-1050, appearing on  
8 behalf of the Office of the Attorney General.

9 CHARLES J. BECK, ESQUIRE; JOSEPH A. MCGLOTHLIN,  
10 ESQUIRE; and PATRICIA CHRISTENSEN, ESQUIRE, Office of Public  
11 Counsel, c/o The Florida Legislature, 111 W. Madison Street,  
12 Room 812, Tallahassee, Florida 32399-1400, appearing on behalf  
13 of the Citizens of the State of Florida.

14 ROBERT SCHEFFEL WRIGHT, ESQUIRE, and JOHN T. LAVIA,  
15 III, ESQUIRE, Young van Assenderp Law Firm, 225 South Adams  
16 Street, Suite 200, Tallahassee, 32301, appearing on behalf of  
17 Florida Retail Federation.

18 JOHN W. MCWHIRTER, JR., ESQUIRE, c/o McWhirter Reeves  
19 Law Firm, 400 North Tampa Street, Suite 2450, Tampa, Florida  
20 33602, appearing on behalf of Florida Industrial Power Users  
21 Group.

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1 APPEARANCES CONTINUED:

2 MICHAEL B. TWOMEY, ESQUIRE, Post Office Box 5256,  
3 Tallahassee, Florida 32314-5256, appearing on behalf of AARP.

4 LISA BENNETT, ESQUIRE, and COCHRAN KEATING, ESQUIRE,  
5 FPSC General Counsel's Office, 2540 Shumard Oak Boulevard,  
6 Tallahassee, Florida 32399-0850, appearing on behalf of the  
7 Commission Staff.

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## P R O C E E D I N G S

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COMMISSIONER CARTER: We are now ready to convene the fuel clause prehearing in Docket Number 060362-EI. Are there any preliminary matters?

MS. BENNETT: Yes, Commissioner Carter, there are. We have -- we need to give the parties the opportunity to move to intervene. I do note that the Attorney General's Office has actually filed a motion to intervene and would ask that you are -- or that you have the opportunity to render an order allowing them to intervene. Also I'm not sure that each party is recognized who wants to intervene in this docket, and we might want to give them an opportunity to move orally to intervene.

COMMISSIONER CARTER: Okay. Let's take it from the top.

MR. BECK: Commissioner, OPC orally moves to intervene.

MR. TWOMEY: Commissioner, AARP does the same.

MR. WRIGHT: Likewise, the Florida Retail Federation, Commissioner.

MR. TWOMEY: And I think I can speak for FIPUG. Where did he go? Wasn't he in it?

COMMISSIONER CARTER: Mr. Harris, would you see if you can find him out there?

MR. BECK: I think so. I think FIPUG has filed

1 positions.

2 COMMISSIONER CARTER: They have?

3 MR. TWOMEY: Yeah. Ms. Bennett, FIPUG would want to  
4 be in too; right?

5 MS. BENNETT: I believe that's my understanding, yes.  
6 And definitely the Attorney General's Office.

7 COMMISSIONER CARTER: Okay. Show it done. If  
8 Mr. McWhirter comes in and changes his mind, we'll take him  
9 out.

10 MR. TWOMEY: That didn't sound right.

11 COMMISSIONER CARTER: Yeah. Right. That doesn't  
12 sound right at all.

13 MR. TWOMEY: Just excuse him.

14 MR. McWHIRTER: Put me in.

15 COMMISSIONER CARTER: Good. We don't have to take  
16 him out. He's in.

17 (Laughter.)

18 Thank you so kindly.

19 Yes, ma'am. Ms. Bennett.

20 MS. BENNETT: I'm sorry. The second preliminary  
21 matter is there is a second draft. It is based upon Thursday's  
22 meeting. The first draft of the prehearing order has seven  
23 issues. They pretty much say the same thing in different words  
24 because they were prepared by different attorneys. I think  
25 that our second draft, which is -- I refer to the skeleton

1 draft, has the issues as we agreed on Thursday. But we would  
2 need to have all the parties affirm that they agree that the  
3 issues in the skeleton draft are indeed the issues that we will  
4 hear in the 362 docket.

5 COMMISSIONER CARTER: Why don't we just take a moment  
6 and make sure that everyone has a copy of what we're talking  
7 about. Let's just take, you know, a brief moment and let  
8 everyone kind of look through their notes and make sure we're  
9 all on the same page.

10 Mr. Beck, you're okay?

11 MR. BECK: Yes, we're okay. We're fine with either  
12 way doing the issues.

13 COMMISSIONER CARTER: Okay. Mr. Butler?

14 MR. BUTLER: Yes. We're fine with that approach.

15 COMMISSIONER CARTER: Mr. Wright?

16 MR. WRIGHT: Commissioner Carter, we're fine with  
17 either framing of the issues. I think in the, what's called  
18 the "Old Draft" Issue 7 is superfluous. But other than that,  
19 we're fine with either one.

20 COMMISSIONER CARTER: Mr. Twomey?

21 MR. TWOMEY: Commissioner, I'm fine with the issues,  
22 AARP is. I think I'm looking at the skeleton draft. We didn't  
23 get included in the draft, but I suggested to Ms. Bennett that  
24 we would -- in any -- I'll give her an email, but we adopt the  
25 Public Counsel, as in the fuel docket.

1           COMMISSIONER CARTER: Okay. Perfect timing,  
2 Mr. McWhirter. We're just wanting to make sure that everyone  
3 had the revised draft, that we're all singing from the same  
4 sheet of music here.

5           MR. McWHIRTER: You want to know whether we want to  
6 participate?

7           COMMISSIONER CARTER: No. No. No. We're just,  
8 we're talking about the layout, the outline of the issues.

9           MR. McWHIRTER: Okay.

10          (Pause.)

11          MR. McWHIRTER: FIPUG adopts the position of Florida  
12 Retail Federation.

13          COMMISSIONER CARTER: Excellent. Did you get that?  
14 All righty. We're ready to proceed. We're going to go on a  
15 section-by-section basis. I think that helps us all to be on  
16 the same page.

17                 Section I, case background.

18                 Section II, conduct of proceedings.

19                 Section III, jurisdiction.

20                 Section IV, procedure for handling confidential  
21 information.

22                 Section V, prefiled testimony and exhibits and  
23 witnesses.

24                 Section VI, order of witnesses.

25                 Staff, on order of witnesses.

1 MS. BENNETT: Yes, Commissioner. We're -- I'm sorry.  
2 I didn't understand your question.

3 COMMISSIONER CARTER: Any comment under Section VI,  
4 order of witnesses? For example, is anyone seeking an excuse  
5 or a witness to be put in a certain point or any of those  
6 matters?

7 MS. BENNETT: Not that I'm aware. This appears to be  
8 the order of witnesses that were submitted by the parties.

9 COMMISSIONER CARTER: Any parties, any of the  
10 parties, rather, have any additions, deletions, recommendations  
11 to this section dealing with the order of witnesses?

12 MR. McWHIRTER: None from FIPUG, sir.

13 MR. TWOMEY: No, sir.

14 MR. WRIGHT: Commissioner Carter, just a logistical,  
15 minor logistical issue. It appears that each -- all of the  
16 witnesses address all of the issues, so it might be -- and  
17 since we've got a different numbering scheme in this version of  
18 the prehearing order, which I think we're all in agreement  
19 with, it would be just each witness should probably just be  
20 shown as addressing all issues.

21 COMMISSIONER CARTER: Staff?

22 MS. BENNETT: That would be appropriate.

23 COMMISSIONER CARTER: Okay. Make it so.

24 Section VII, basic positions.

25 Section VIII, issues and positions.



1           Okay, boys and girls.

2           MS. BENNETT: Commissioner Carter, if I might.

3           COMMISSIONER CARTER: Yes, ma'am.

4           MS. BENNETT: There are no positions for any of the  
5 parties listed because there were changes, substantial changes  
6 to the issues. We could go through each issue and determine if  
7 they've reached a position. If not, we could have positions  
8 submitted to me by a time certain so that I could include them  
9 in the prehearing draft.

10           COMMISSIONER CARTER: Let's go down the issues. And  
11 then if we need to do that, we'll submit that. Is that all  
12 right with everybody? Let's do that. I mean, we've got a good  
13 flow going here by going down each one of the issues. Let's do  
14 that so then we know specifically what it is.

15           Issue 1.

16           MR. BUTLER: I think we need to do it by 1A, 1B, et  
17 cetera.

18           COMMISSIONER CARTER: Okay. Issue 1A.

19           MR. BUTLER: FPL has a position that was stated in  
20 Issue 2 of the earlier version. Well, let me, let me try to  
21 group something here and see if this helps.

22           1A, 1B and 1C, I believe, are issues that are not in  
23 dispute as to the recovery of those. I had a brief opportunity  
24 to talk to Mr. Beck, and I'm not sure if the other parties have  
25 a different view, but basically, you know, the FPL version of

1 this -- and other wording, I think, if somebody had a reason to  
2 word it differently we could use. But the second paragraph of  
3 our position on Issue 2 in the old draft kind of covers the  
4 position for all three of these, that the monthly storage  
5 reservation charge, injection withdrawal charges and insurance  
6 charges are conventional gas transportation costs that in  
7 addition to being recoverable hedging related costs are  
8 recoverable through the FCR clause pursuant to Commission Order  
9 Number 14546, Docket Number 850001-EIB, dated July 8,  
10 1985, (Lists transportation costs among the types of fuel  
11 related costs that may be recovered through the FCR clause).  
12 That would be our position, and I guess probably we would just  
13 state it three separate times, if we need to do that, for these  
14 three issues. But the main thing I'm hoping for is see if we  
15 can reach agreement on wording, that wording or something like  
16 it that would just stipulate to those first three.

17 COMMISSIONER CARTER: Mr. Beck?

18 MR. BECK: Commissioner, I think that's likely. The  
19 first three subparts A, B, C are not really in dispute and I  
20 bet we can reach an agreement.

21 On D, E and F, I think we'd like to have a chance  
22 after here to provide staff our positions. But it'll simply be  
23 cut and paste from the previous one.

24 COMMISSIONER CARTER: Okay. Well, let me, let me  
25 move to the other parties on A, B and C.

1 MR. TWOMEY: Same as Public Counsel.

2 COMMISSIONER CARTER: Okay.

3 MR. WRIGHT: Commissioner Carter?

4 COMMISSIONER CARTER: Yes, sir, Mr. Wright.

5 MR. WRIGHT: On A, B and C we don't have any  
6 objection to the substantive result. We would prefer a briefer  
7 statement of the stipulation that just says each of these, the  
8 reservation charges, et cetera, are appropriately recoverable  
9 through the fuel cost recovery clause, period.

10 COMMISSIONER CARTER: Staff?

11 MS. BENNETT: Staff can also stipulate to recovery of  
12 monthly storage reservation charges, injection withdrawal  
13 charges and monthly insurance charges.

14 COMMISSIONER CARTER: Mr. Butler?

15 MR. BUTLER: And FPL would have no objection to the  
16 simplified statement of the position on that --

17 COMMISSIONER CARTER: Okay.

18 MR. BUTLER: -- on those issues.

19 MR. WRIGHT: And just in case there was any doubt, I  
20 meant my statement to apply to all three of those charge  
21 components as reflected in 1A, 1B and 1C.

22 COMMISSIONER CARTER: Thank you, Mr. Wright.  
23 Mr. Twomey and McWhirter, that's okay with you?

24 MR. TWOMEY: Yes, sir, that's good.

25 COMMISSIONER CARTER: Okay. Good.

1 MR. BECK: Commissioner Carter, for us, we would  
2 agree with staff's wording as well.

3 COMMISSIONER CARTER: Thank you. Thank you.  
4 Issue -- well, I tell you what, staff, let's -- we'll have to  
5 renumber these to where that will just be, instead of 1A, B and  
6 C, that will just be 1. Maybe we can just, maybe it will just  
7 be 1A. Okay? Let all three of those components be there. And  
8 currently what's D and E would be, and F would be 1B, 1C and  
9 1D. Do you guys follow me on that? Okay.

10 Are we ready?

11 MR. BUTLER: I'm sorry, Commissioner Carter. I'm not  
12 sure I did. You're proposing that 1A, B and C will be removed  
13 from the numbering system?

14 COMMISSIONER CARTER: No. I'm saying it'll be just,  
15 it'll just be 1A. A, B and C will be 1A.

16 MR. BUTLER: Oh, okay.

17 COMMISSIONER CARTER: And then what we have currently  
18 listed as D, which is base gas charges, E is carrying costs on  
19 natural gas and stored in inventory, and F is carrying costs on  
20 unamortized amount of base gas would be 1B, C and D.

21 MR. BUTLER: Okay. Yes. Thank you.

22 COMMISSIONER CARTER: You guys follow me on that?  
23 Staff, did you get that?

24 MR. KEATING: Yes. And it sounds like from the  
25 discussion we just had that for Issue 1A, perhaps we can show

1 that in the prehearing order as a stipulated issue.

2 COMMISSIONER CARTER: A stipulation. Yes.

3 MR. KEATING: And maybe we can do this after the  
4 prehearing to get the precise language worked out.

5 COMMISSIONER CARTER: Is that, is that okay with  
6 everyone?

7 MR. TWOMEY: Yes, sir.

8 MR. BECK: That's good with us.

9 COMMISSIONER CARTER: All righty. So now we're on  
10 1B, which is base gas charges.

11 Mr. Butler?

12 MR. BUTLER: I won't burden you by reading it, but  
13 the position that we would have is the third paragraph of our  
14 stated position on Issue 2 in the old draft that begins, "Base  
15 gas is provided by FPL to help maintain pressure," et cetera.

16 COMMISSIONER CARTER: Mr. Butler, was that a pregnant  
17 pause or --

18 MR. BUTLER: No. I'm sorry. I meant to be finished.  
19 I was just saying that would be FPL's position on the Issue 1B,  
20 as in boy.

21 COMMISSIONER CARTER: Okay.

22 MR. BECK: Commissioner Carter?

23 COMMISSIONER CARTER: Mr. Beck.

24 MR. BECK: On B and also C and D, what we would like  
25 to do, if we could, is email it to Ms. Bennett by the end of

1 today. It would be simply taking our old positions and moving  
2 them.

3 COMMISSIONER CARTER: Gentlemen?

4 MR. TWOMEY: What we're going to do is adopt what  
5 Public Counsel does.

6 COMMISSIONER CARTER: Okay. So you're going to do  
7 that on B, C and D then?

8 MR. BECK: Yes, please.

9 COMMISSIONER CARTER: Okay. Well --

10 MR. BUTLER: That's fine.

11 COMMISSIONER CARTER: No objection from Mr. Butler.  
12 Show it done.

13 Okay.

14 MS. BENNETT: Commissioner Carter?

15 COMMISSIONER CARTER: Yes, ma'am.

16 MS. BENNETT: I spoke with Mr. Shreve prior to his,  
17 prior to the 01 docket, and he did state he was going to adopt  
18 the position, I believe, of the OPC.

19 COMMISSIONER CARTER: OPC. And let the record  
20 reflect that the Attorney General's Office has, the Attorney  
21 General's Office has adopted the position of OPC. I spoke with  
22 Mr. Shreve as well, so that will work. He was here and put in  
23 an appearance on behalf the Attorney General. So let the  
24 record reflect that.

25 Where are we now? I've got -- oh, let's see here.

1 So --

2 MS. BENNETT: We're on Number IX, exhibit list, I  
3 believe.

4 COMMISSIONER CARTER: Okay. Here we are. Number IX,  
5 exhibit list.

6 MS. BENNETT: And, Commissioner Carter --

7 COMMISSIONER CARTER: Yes, ma'am.

8 MS. BENNETT: -- staff will prepare a comprehensive  
9 stipulated exhibit list consisting of all the prefiled exhibits  
10 to enter into the record at hearing.

11 COMMISSIONER CARTER: Are there -- do any parties  
12 have any additions to the exhibit list? I mean, based upon  
13 your email this afternoon, do you think you're going to have  
14 some additional -- if so, we'll just add that into the list.

15 MS. BENNETT: Yes, Commissioner.

16 COMMISSIONER CARTER: We won't need another act of  
17 Congress to do that. Let's just put it in there.

18 MR. BECK: Thank you.

19 COMMISSIONER CARTER: Okay. Mr. Butler, any  
20 additional exhibits to the exhibit list?

21 MR. BUTLER: No, there are not. Thank you.

22 COMMISSIONER CARTER: Okay. Ms. Bennett, are we on  
23 proposed stipulations now? Is that where we are?

24 MS. BENNETT: Yes, Commissioner. We're on proposed  
25 stipulations, Number X. We do have proposed stipulations now,

1 stipulation 1A, which was 1A, B and C before, and that will be  
2 reflected in the prehearing order that will be presented for  
3 your signature.

4 COMMISSIONER CARTER: Okay. And all parties were in  
5 agreement with that.

6 MR. TWOMEY: Yes.

7 COMMISSIONER CARTER: Show it done.

8 Ms. Bennett, where are we? We have -- do we have any  
9 additional issues?

10 MS. BENNETT: We have pending motions. There are two  
11 pending motions for temporary protective order. They will be  
12 prepared and signed prior to the hearing.

13 COMMISSIONER CARTER: Okay. Okay. Pending  
14 confidentiality matters.

15 MS. BENNETT: There is one pending confidentiality  
16 matter. We will prepare the order prior to the hearing on  
17 November 6th.

18 COMMISSIONER CARTER: Okay. Posthearing procedures.

19 MR. BUTLER: I'm sorry. Commissioner Carter?

20 COMMISSIONER CARTER: Yes, sir, Mr. Butler.

21 MR. BUTLER: I would just note for the record here is  
22 that on Friday we filed a supplemental motion for temporary  
23 protective order, so I guess it would have been dated or filed  
24 October 20th, 2006, I think needs to be added to this list.

25 COMMISSIONER CARTER: Staff, would you make the



1 addition?

2 MS. BENNETT: Yes, Commissioner Carter.

3 COMMISSIONER CARTER: Have you -- Mr. Beck, have you  
4 had an opportunity to see that information?

5 MR. BECK: Yes. Yes.

6 COMMISSIONER CARTER: Okay. Mr. Twomey?

7 MR. TWOMEY: Yes.

8 COMMISSIONER CARTER: Okay. Okay. So we are now on  
9 Section XIV, rulings.

10 MS. BENNETT: We suggest that opening statements not  
11 exceed five minutes.

12 COMMISSIONER CARTER: Mr. Beck?

13 MR. BECK: I thought it said ten in the draft.  
14 You're lowering the boom on us down to five?

15 MS. BENNETT: Oh, I see. I've got it as ten minutes.  
16 I'm sorry.

17 MR. BECK: I don't think I'll take all ten, but it'd  
18 be awfully close.

19 MR. BUTLER: I'd prefer the ten as well.

20 MR. BECK: Yeah.

21 COMMISSIONER CARTER: Ten it is.

22 MR. BUTLER: Mr. Beck and I can agree on that.

23 COMMISSIONER CARTER: Both of you guys kind of perked  
24 up at the same time, but I saw Mr. Beck jumping up faster.

25 Any other matters?

1 MS. BENNETT: I don't believe so, Commissioner, not  
2 by staff.

3 COMMISSIONER CARTER: Hearing none, Docket Number  
4 060362-EI, this prehearing is concluded.

5 (Prehearing conference adjourned at 12:40 p.m.)  
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1 STATE OF FLORIDA        )  
                                  :  
2 COUNTY OF LEON         )                    CERTIFICATE OF REPORTER

3

4                    I, LINDA BOLES, CRR, RPR, Official Commission  
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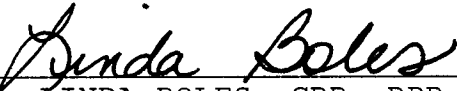
6                    IT IS FURTHER CERTIFIED that I stenographically  
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connected with the action, nor am I financially interested in  
11 the action.

12                    DATED THIS 30TH DAY OF OCTOBER, 2006.

13

14

  
\_\_\_\_\_  
LINDA BOLES, CRR, RPR  
FPSC Official Commission Reporter  
(850) 413-6734

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