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Subject: Electronic Filing for Docket No. 060362-EI -- FPL's Post-Hearing Brief

Attachments: 060362-FPL's Post-Hearing Brief.doc

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Electronic Filing

a. Person responsible for this electronic filing:

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b. Docket No. 060362-EI Petition to Recover Natural Gas Storage Project Costs through Fuel Cost Recovery clause.

c. Document is being filed on behalf of Florida Power & Light Company.

d. There is a total of 20 pages.

e. The document attached for electronic filing is Florida Power & Light Company's Post-Hearing Brief.

(See attached file: 060362-FPL's Post-Hearing Brief.doc)

Thank you,
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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition to Recover Natural Gas Storage) Docket No. 060362-EI
Project Costs Through Fuel Cost Recovery Clause)
By Florida Power & Light Company) Filed: November 17, 2006

POST-HEARING BRIEF OF FLORIDA POWER & LIGHT COMPANY

Florida Power & Light Company ("FPL"), pursuant to Order No. PSC-06-0921-PHO-EI, issued November 2, 2006 in the above-referenced docket, hereby submits its Post-Hearing Brief addressing the following points:

ISSUE 1B: Should the Commission approve cost recovery through the fuel clause by Florida Power & Light Company for the following natural gas storage project costs and charges at both the MoBay storage facility and the Bay Gas storage facility: *base gas charges?*

ISSUE 1C: Should the Commission approve cost recovery through the fuel clause by Florida Power & Light Company for the following natural gas storage project costs and charges at both the MoBay storage facility and the Bay Gas storage facility: *carrying costs on natural gas stored in inventory?*

ISSUE 1D: Should the Commission approve cost recovery through the fuel clause by Florida Power & Light Company for the following natural gas storage project costs and charges at both the MoBay storage facility and the Bay Gas storage facility: *carrying costs on unamortized amounts of base gas?*

Introduction and Basic Position

As explained in FPL's Petition to Recover Natural Gas Storage Project Costs Through the Fuel Adjustment Clause (the "Petition"), FPL proposes becoming an "anchor tenant" of the MoBay Gas Storage Hub in Mobile County, Alabama (the "Gas Storage Facility") that is to be built and operated by Falcon Gas Storage, Inc. ("MoBay" or the "Project"). FPL will be entitled to store up to six million dekatherms of natural gas in the Gas Storage Facility, which corresponds to approximately five days of FPL's typical natural gas consumption. This storage capacity will substantially improve FPL's ability to withstand disruptions to the Gulf of Mexico

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gas production facilities, such as occurred during the 2005 hurricane season, without having to reduce the output of its gas-fired generating facilities. This storage capacity will also enhance FPL's ability to manage day-to-day and intra-day changes in gas prices, thus helping FPL to avoid having to buy gas at times of extreme price spikes. As such, the Project will benefit customers by serving as a physical hedge against the risks of both price volatility and supply unavailability.

No party contests the prudence of FPL's proposed participation in the Project, or that the Project will substantially benefit customers. Rather, OPC has challenged whether FPL should be permitted to recover through the Fuel Cost Recovery ("FCR") Clause two necessary elements of the Company's hedging costs associated with participation in the Project. These are: (i) the cost of MoBay Project "Base Gas" that FPL proposes to purchase and have injected into the Gas Storage Facility in order to help maintain gas pressure in the Gas Storage Facility (the "Base Gas Cost"); and (ii) carrying costs associated with the substantial volume of working gas that FPL expects to maintain in storage in order to provide the hedging protection for which the Project is intended (the "Storage Carrying Costs") for the MoBay Project. OPC also challenges FCR Clause recovery of carrying costs already being incurred in connection with gas storage at the Bay Gas storage facility. "Working gas" is the amount of gas that can actually be removed from the Gas Storage Facility from time to time as part of FPL's physical hedging and in order to provide natural gas at times of supply disruption, for example due to storms.

MoBay Project Base Gas Cost and Storage Carrying Costs and Bay Gas storage facility Storage Carrying Costs should be permitted to be recovered through the FCR Clause, and OPC's opposition to recovery rejected, for several reasons. First, recovery of gas storage project costs through the FCR Clause is consistent with FPL's 2005 Rate Case Stipulation and the stipulation

approved by the Commission in Order No. PSC-05-1252-FOF-EI, Docket No. 050001-EI, dated December 23, 2005, which permitted FPL to recover hedging costs through the FCR Clause throughout the term of the 2005 Rate Case Stipulation. As prudently incurred costs necessary to provide a physical hedge for the benefit of customers, Base Gas Costs and Storage Carrying Costs should be found by the Commission to be recoverable through the FCR Clause pursuant to the Proposed Resolution of Issues (the "Hedging Resolution") approved by the Commission in Order No. PSC-02-1484-FOF-EI, dated October 30, 2002.

FPL wishes to emphasize that the Base Gas Costs and Storage Carrying Costs -- for which prudence is undisputed -- are not presently recovered by FPL, through base rates or anywhere else. The Project was developed after FPL's preparation of the 2006 MFRs that were the basis for its rate request in Docket No. 050045-EI. There are no costs either directly for the Project or analogous to the Project incorporated into those MFRs. Thus, in order for FPL to be made whole for the Base Gas Costs and Storage Carrying Costs, these costs must be charged as hedging costs through the FCR Clause, precisely as contemplated by the Hedging Resolution. Not providing for recovery would create a substantial disincentive for the Company to engage in a hedging activity that all agree would benefit customers.

In fact, the Hedging Resolution expressly recognizes that, if a utility establishes or expands its hedging program in between base rate proceedings -- as proposed by FPL with respect to the Project -- it would ordinarily have no mechanism to recognize and recover the incremental O&M expenses associated with managing that program until the next such proceeding occurred. This would create the sort of "disincentives ... to engage in hedging transactions" that the Hedging Resolution was intended to remove. Therefore, the Hedging Resolution permits a utility to recover through the FCR Clause hedging-related O&M expenses that are incremental to those

included in the prior base rate proceeding, *until they can be included in base rates at the time of the next base rate proceeding.*¹ Accordingly, consistent with the purpose of the Hedging Resolution, to encourage rather than discourage an innovative hedging activity that clearly benefits customers, the Commission should approve FCR Clause recovery of Base Gas Costs for and Storage Carrying Costs.

ISSUE 1B: **Should the Commission approve cost recovery through the fuel clause by Florida Power & Light Company for the following natural gas storage project costs and charges at both the MoBay storage facility and the Bay Gas storage facility: *base gas charges?***

FPL: *Yes. FPL should be authorized to charge the cost of base gas, a physical form of hedging, to the FCR Clause when the base gas is injected into the storage facility, with a credit to the FCR Clause at the end of the storage arrangement.*

As explained by FPL's witness Gerard J. Yupp, Director of Wholesale Operations in FPL's Energy Marketing and Trading Division, FPL's participation in the MoBay and Bay Gas natural gas storage facilities will substantially increase FPL's ability to hedge the physical supply of natural gas. Tr. 1018. This hedging activity will reduce the volatility of natural gas costs incurred to serve FPL's customers and improve system reliability. Tr. 1020 (Yupp). One of the necessary hedging costs to achieve these benefits is the cost of providing Base Gas. Tr. 1015-17 (Yupp). Base Gas is natural gas injected into the storage facility that provides pressurization which allows working gas to be extracted from the storage facility. Tr. 1014 (Yupp). The cost of providing Base Gas should be recoverable through the FCR Clause recovery for several reasons:

¹ The Hedging Resolution originally set a deadline of December 31, 2006 for this transition to base rate recovery to occur. However, as discussed above, the stipulations approved in Docket Nos. 050045-EI and 050001-EI specifically extended FPL's opportunity to recover hedging costs through the FCR Clause until the expiration of the 2005 Rate Case Stipulation no earlier than December 31, 2009.

- Including the Base Gas Cost in FCR Clause recovery is consistent with the Commission's hedging cost recovery order and the Commission's policy of encouraging appropriate hedging;
- More than twenty years' of Commission approval and practice of FCR Clause recovery of the costs of oil "tank bottoms" required to permit extraction of oil from storage tanks supports FCR Clause recovery for Base Gas Cost similarly required to permit extraction of natural gas from storage;
- Including Base Gas Cost in FCR Clause recovery avoids introducing strong disincentives to FPL's innovative effort to decrease customers' fuel costs, fuel cost volatility and improve certainty of supply;
- Recovery through the FCR clause is consistent with the FPL rate settlement agreement entered into and approved by the Commission during 2005; and
- OPC's proposal to capitalize and amortize base gas costs, without allowance of carrying costs through the fuel clause, would improperly deny FPL recovery through the FCR Clause of physical hedging costs, and is based on an incorrect analogizing of Base Gas, which is recoverable and burnable and part of FPL's hedging program, to non-recoverable coal forming the bottom of coal piles.

A. Including Base Gas Cost in FCR Clause Recovery is Consistent with the Commission's Hedging Cost Recovery Order And Commission Policy Encouraging Appropriate Hedging.

Base Gas Cost, like other proposed hedging costs associated with the Mobay and Bay Gas facilities, falls within the scope of hedging costs approved for FCR Clause recovery pursuant to the Proposed Resolution of Issues (the "Hedging Resolution") that the Commission approved in Order No. PSC-02-1484-FOF-EI, dated October 30, 2002 (the "Hedging Order"), and should therefore be recovered through the fuel clause.

The purpose of the Hedging Resolution is to permit FCR Clause recovery for and to "remove disincentives that may currently exist for IOUs to engage in hedging transactions by providing a cost recovery mechanism for prudently incurred hedging transaction costs, gains and

losses, and incremental operating and maintenance expenses associated with new and expanded hedging programs.” Hedging Order, at page 2.

FPL witness Yupp participated extensively in the hedging docket. In this proceeding he explained that the program’s Base Gas Costs and Storage Carrying Costs clearly fall within the broad scope of physical and financial hedging costs provided for in the Hedging Resolution and should be recovered through the fuel clause. Mr. Yupp stated:

- The Hedging Resolution and Hedging Order clearly allow for the recovery of hedging related costs, both physical and financial. The list of examples was not meant to be all encompassing, but rather gives examples of costs related to types of hedging instruments that were known at that time. Tr. 1021.
- At the time the Hedging Resolution was negotiated and the Hedging Order issued, expanded hedging programs were new to all the parties and there was no possible way the Hedging Order could cover all of the types of hedging costs and hedging instruments that would be allowed. Id.

As explained by Mr. Yupp, the Commission should include recovery in the fuel clause of the Base Gas Cost because it is an essential cost of FPL’s hedging program, which program is intended to help reduce natural gas price volatility and help ensure physical supply, in a manner fully consistent with the Hedging Order. Tr. 1014 (Yupp).

B. Base Gas Cost, Like “Tank Bottoms” Cost, Should Be Recovered Through The FCR Clause.

FPL proposes to pay for a quantity of Base Gas that will be injected into the Project’s natural gas storage reservoir to help maintain pressure in the reservoir and hence facilitate injection and removal of the working volume of gas. Tr. 1015-16 (Yupp). This Base Gas remains in the reservoir until the end of the storage agreement term, at which time it is either physically removed or sold to a subsequent tenant. Tr. 1015 (Yupp). FPL’s customers receive the benefit of the Base Gas during the course of the physical hedging provided by the Project,

since it permits removal of working gas, and customers also receive the benefit of burning the gas or sale of the gas at the end of the hedging period. Tr. 1014-15 (Yupp).

As explained by FPL's witness Korel M. Dubin, Manager of Regulatory Issues, FPL proposes to expense the Base Gas through the fuel clause in the same manner that "tank bottoms" (the non-recoverable oil that sits at the bottom of oil storage tanks) are expensed through the fuel clause. Tr. 1034. This non-recoverable oil is needed to keep the oil level in a tank high enough for the working volume to be removed by the suction piping in the tank. Id. Non-recoverable oil remains in the tank until it is periodically cleaned, at which time the oil is removed and burned as fuel. Pursuant to Order No. 12645, Docket No. 8300001-EI, dated November 3, 1983, FPL and other utilities have been authorized to charge the cost of non-recoverable oil to the Fuel Clause when the oil is loaded into the tanks, with a credit to the Fuel Clause when it is ultimately removed and burned. This is precisely the treatment that FPL seeks with respect to Base Gas Cost. Id.

C. Including Base Gas Cost in FCR Clause Recovery Encourages Innovative Contracting Approaches that Help to Manage Fuel Costs for Customers.

Base Gas is a cost of providing storage service. Storage facilities therefore need to include or account for this cost in their pricing of gas storage services. Tr. 1015 (Yupp) With its existing Bay Gas storage contract, for example, the cost of base gas is a non-itemized cost contained within the contract's monthly demand charge. Tr. 1015-16 (Yupp). This monthly demand charge along with the other Bay Gas storage contract costs are recovered through the FCR Clause. Tr. 1016 (Yupp).

FPL's efforts with respect to the MoBay contract reflect real innovation directed at saving customers money. FPL negotiated the MoBay contract so that base gas cost is broken out

separately, and so that FPL has the right to either lease the base gas from MoBay or provide its own base gas. Tr. 1016-17 (Yupp).

Leasing the base gas from MoBay, rather than buying the gas as proposed by FPL, would be equivalent to the arrangement that FPL has with Bay Gas and would therefore not have raised any issue about recoverability. At the Bay Gas facility, all base gas is provided by Bay Gas. FPL compensates Bay Gas for FPL's share of the base gas as part of the monthly storage reservation charge. The parties to this docket have stipulated that monthly storage reservation charges are properly recoverable through the FCR Clause. However, with respect to Mobay, FPL wanted the flexibility to self-provide base gas so that it could do so if analysis showed that this alternative would save customers money. Id.

FPL submits that it is good policy to approve recovery of the Base Gas Cost for Mobay through the FCR Clause because it fosters innovation and good management directed at saving customers money. In contrast, it would be bad policy and would discourage such innovation to make a distinction as to the FCR Clause recoverability of base gas depending on whether the cost is built into the charges paid to a storage facility or is provided separately by the utility. Tr. 1016 (Yupp).

Indeed, allowing higher base gas costs rolled into storage facility charges to be recovered through the FCR Clause while denying FPL's proposed FCR clause recovery of overall lower Base Gas Cost through FPL's own procurement of Base Gas "would be unfair and would discourage utilities from seeking innovative arrangements to reduce costs to customers." Id.

D. Recovery of Base Gas Cost through the FCR clause is Consistent with the FPL Rate Stipulation and Settlement Agreement.

OPC and all the other parties to the 2005 Rate Case Stipulation agreed, as detailed below, that FPL would be entitled to continue to use the FCR Clause to recover hedging costs until the

expiration of the 2005 Rate Case Stipulation. Accordingly, the Commission should reject OPC's claims that Base Gas Cost, which is a hedging cost, should be excluded from the FCR Clause.

The 2005 Rate Case Stipulation itself does not speak to the recovery of hedging costs. This was an oversight, which the parties² confirmed to the Commission at the August 24, 2005 hearing on the stipulation that they wished to correct as follows:

Pursuant to a stipulation approved in Order No. PSC-02-1484-FOF-EI, issued October 30, 2002, in Docket No. 011605-EI, FPL currently recovers incremental hedging costs through the Fuel Cost Recovery Clause (Fuel Clause). In its petition for a rate increase, FPL proposed to recover these costs through base rates instead. The [2005 Rate Case Stipulation] is silent on how incremental hedging costs will be recovered. The parties clarified that they intended for recovery of these costs to continue through the [FCR] Clause during the term of the [2005 Rate Case Stipulation]. Because the Stipulation is silent in this regard, the parties indicated that they would take action to memorialize their intent in this year's [FCR] Clause proceedings.

Order No. PSC-05-0902-S-EI, Docket No. 050045-EI, dated September 14, 2005, at page 6 (emphasis added). Consistent with this clarification, all of the parties to the 2005 Rate Case Stipulation that were parties to Docket No. 050001-EI (the 2005 FCR Clause proceeding)³ entered into a stipulation on October 17, 2005 that provided in relevant part as follows:

ISSUE: Should FPL be allowed to continue recovering incremental hedging costs through the [FCR] Clause during the term of the [2005 Rate Case Stipulation] that was approved in Order No. PSC-05-0902-S-EI, Docket No. 050045-EI, dated September 14, 2005, on the same basis as FPL has been recovering such costs pursuant to the Proposed Resolution of Issues that was approved in Order No. PSC-02-1484-FOF-EI, Docket No. 011605-EI, dated October 30, 2002?

² The parties to the 2005 Rate Case Stipulation were FPL, the Office of the Attorney General, OPC, FIPUG, the South Florida Hospital & Healthcare Association, The Commercial Group, the AARP, the Florida Retail Federation, and the Federal Executive Agencies.

³ The parties to this stipulation were FPL, OPC, FIPUG, the Florida Retail Federation, the AARP, and the Federal Executive Agencies. The Office of the Attorney General, the South Florida Hospital & Healthcare Association and The Commercial Group were not signatories to this stipulation because they were not parties to Docket No. 050001-EI, and all parties concurred that it was appropriate for the stipulation to be specifically among the parties to the docket in which it was being implemented.

POSITION: Yes. FPL's continued recovery of incremental hedging costs through the [FCR] Clause during the term of the [2005 Rate Case Stipulation] is reasonable and consistent with the intention of the parties to the [2005 Rate Case Stipulation].

This stipulation was approved by the Commission as reasonable in Order No. PSC-05-1252-FOF-EI, Docket No. 050001-EI, dated December 23, 2005, at page 6.

Thus, there is clear, indisputable confirmation that the parties to the 2005 Rate Case Stipulation specifically intended and agreed that FPL would be permitted to recover hedging costs through the FCR Clause throughout the term of the 2005 Rate Case Stipulation, which will continue until at least December 31, 2009. OPC cannot plausibly argue in the face of this that they understood the 2005 Rate Case Stipulation not to permit recovery of hedging-related costs in that manner.

The assertion by OPC that recovery of Base Gas Cost through the FCR Clause would be inconsistent with⁴ the 2005 Rate Case Stipulation hinges on the following statement in Paragraph 3 thereof:

During the term of this [2005 Rate Case Stipulation], except as otherwise provided for in this [2005 Rate Case Stipulation], or except for unforeseen extraordinary costs imposed by government agencies relating to safety or matters of national security, FPL will not petition for any new surcharges, on an interim or permanent basis, to recover costs that are of a type that traditionally and historically would be, or are

⁴ Some of OPC's references to its position on this issue suggested that OPC was claiming that FPL's recovery of natural gas storage costs through the FCR as hedging costs would "violate" the 2005 Rate Case Stipulation. However, the Public Counsel offered his personal clarification to the Commissioners at the hearing that this was not his intent: "It is not the principal thesis of our case that Florida Power and Light has violated an agreement, and we've all come up here to get you to remedy it. That's not what this is about. This is about a genuine difference of opinion in an accounting treatment for some financial data that if resolved one way would be inconsistent with the agreement, and if resolved otherwise would be consistent with the agreement. I think the focus on whether there has been a violation is misplaced. I think the matter for you folks to resolve is the accounting theory behind this particular financial arrangement, and whether it's consistent with the agreement. I mean, it is the kernel of the agreement. The kernel of the disagreement in this particular issue is how do you deal with the accounting." Tr. 1007. FPL appreciates the Public Counsel's taking time to provide this clarification of his office's position.

presently, recovered through base rates. OPC claims that Base Gas Cost is “of a type that traditionally and historically would be, or are presently, recovered through base rates” and hence that recovery through the FCR Clause as FPL requests would be inconsistent with the 2005 Rate Case Stipulation.

This argument is superficially appealing, but it completely ignores the express agreement by the Attorney General, OPC and all the other parties to the 2005 Rate Case Stipulation that FPL would be entitled to continue to use the FCR Clause to recover hedging costs until the expiration of the 2005 Rate Case Stipulation. Gas storage is needed to provide the physical hedge against the risks of natural gas supply unavailability and price volatility. Because the parties to the 2005 Rate Case Stipulation agreed that hedging costs should continue to be recovered through the FCR Clause during the term of that stipulation, OPC cannot legitimately object to FPL’s request to recover such costs through the FCR Clause.

E. Base Gas is not Analogous to Base Coal.

Finally, OPC claims that Base Gas should be analogized to coal at the bottom of coal piles, the costs of which are capitalized and amortized rather than being charged through the fuel clause. However, Base Gas is not analogous to base coal. Order No. 12645 in Docket No. 830002-EU discusses the recovery of base coal and states that:

Base Coal (Issues 4 and 5)

Each coal pile maintained by a utility contains a certain amount of “base coal” used to support the pile. This coal is normally low grade coal and is not expected to be burned as part of normal utility operations. Except for TECO, this coal is maintained in inventory in spite of the fact that it is not expected to be burned. All parties (except FPL, which uses no coal) have agreed that base coal should be capitalized in Account 312 and depreciated over the life of the plant.... Normally, plant items such as base coal would be depreciated over the life of the plant to which it relates. However, we find that a shorter period of five years is more appropriate for the depreciation of base coal.

The distinctions between the characteristics of base coal, detailed in the Commission's Order quoted above, and Base Gas are as follows:

- Base coal is “used to support the coal pile.” In contrast, Base Gas is not used to physically support anything (and hence, is not analogous to an improvement to real estate for accounting purposes).
- Base coal is “low grade coal.” In contrast, Base Gas is not low grade; it is the same as the other gas in the facility;
- Base coal is “not expected to be burned.” In contrast, Base Gas will be burned (or sold) for the benefit of customers once the storage arrangement is terminated.
- Base coal is capitalized and depreciated. In contrast, Base Gas does not meet any criteria for capitalization in an electric plant account.

Tr. 1035-36 (Dubin).

In contrast, as previously discussed, Base Gas is exactly like non-recoverable oil in another important respect: it is burned and hence up-front recovery is really pre-payment by customers for a usable fuel in the case of both base gas and non-recoverable oil. Tr. 1036 (Dubin). Since the base coal is not usable, and is not part of a hedging cost subject to recovery pursuant to the Hedging Resolution, and is solely part of required on-site fuel storage which is not required for natural gas at natural gas plants, OPC's effort to analogize Base Gas costs to the Base Coal supporting coal piles should be rejected by the Commission. Base Gas should be permitted to be expensed through the fuel clause as a hedging cost, and consistent with Commission precedent with respect to the much more analogous “tank bottoms” oil that is combustible and recoverable.

ISSUE 1C: **Should the Commission approve cost recovery through the fuel clause by Florida Power & Light Company for the following natural gas storage project costs and charges at both the MoBay storage facility and the Bay Gas storage facility: *carrying costs on natural gas stored in inventory?***

FPL: *Yes. FPL should be permitted to recover carrying costs incurred on the quantity of gas that it stores in the Bay Gas and MoBay gas storage facilities. Because the

purpose of storing gas is to effect a physical hedge, the stored gas carrying costs are appropriately considered hedging costs and recoverable through the FCR Clause.*

Natural gas storage is commonly regarded within the energy industry as physical hedging. Tr. 1036 (Dubin). 47 of 54 American Gas Association member companies recently surveyed by the United States Department of Energy reported using natural gas storage as a primary hedging tool. Tr. 1036-37 (Dubin) Several companies noted that storage, as a physical hedge, is the only hedge they employ, choosing not to use financial instruments at all. Tr. 1037 (Dubin) In the case of storing gas as a physical hedge, the “hedging transaction” is the placement and retention of gas in storage for later use when needed. Id. There are necessarily carrying costs associated with retaining gas in storage, and those costs are therefore part of the transaction costs. Id.

Because gas storage is a form of hedging and its costs are recoverable through the FCR Clause for the reasons described with respect to issue 1B, there should be no doubt that FPL’s Storage Carrying Costs should be recovered through the FCR Clause.

OPC asserts that Storage Carrying Costs should not be recovered through the FCR clause because, it claims, stored gas should be considered inventory for which carrying costs are included in base rates. OPC’s assertions are wrong on two counts – first, there is no requirement or need to have stored gas as inventory for natural gas-fired plants, and FPL’s intention in entering into the gas storage arrangements is to implement a physical hedge, not to provide an inventory necessary for ordinary plant operations. Second, and well known to OPC, the Storage Carrying Costs for natural gas storage are not contained in FPL’s base rates. Most fundamentally, the Storage Carrying Costs are necessary hedging costs that are required to be

incurred in order for FPL to maintain gas in storage in order to carry out its intended physical hedge, which costs are recoverable through the FCR Clause pursuant to the Hedging Resolution.

The fact that stored natural gas is not conventional fuel inventory is clear from the record in this proceeding. Gas-fired plants have operated effectively for years under normal operating conditions without gas storage, and could certainly continue to do so. Tr. 1037 (Dubin) The only thing that would be lost if FPL did not engage in gas storage is FPL's ability to provide customers the hedging benefit against price volatility that the stored gas provides, as well as a reduction in the risk of supply unavailability. Id. In contrast, FPL has never owned or co-owned an oil-fired or coal-fired unit that does not have an onsite fuel inventory, and it would be impractical if not impossible to operate such a unit. Tr. 1037-38 (Dubin). While an oil or coal inventory may incidentally provide a small degree of physical hedging benefits, that is not the reason the inventory is maintained, and FPL has no choice but to maintain it. Tr. 1038 (Dubin) Because there is no need for FPL to maintain natural gas storage as a requirement to operate its gas-fired units, and because the gas is stored exclusively offsite, OPC's theory that the stored gas is like normal oil or coal "inventory" at a generating plant should be rejected.

In a vain effort to bolster its theory that gas storage carrying costs should not be recovered through the FCR clause, OPC points to Gulf Power's inclusion of costs for stored gas related to its gas storage agreement with Bay Gas in the working capital calculation for its last base rate case, Docket No. 010949-EI. However, Gulf Power's inclusion of those costs in base rates does not limit or affect FPL's right to FCR Clause recovery of Storage Carrying Costs incurred for hedging purposes during a period between rate cases.

Moreover, at the time of Gulf's last base rate case, Gulf was already storing gas – it was not a new program between rate cases. Tr. 1038 (Dubin). Even more significantly, the Hedging

Resolution agreeing to inclusion of hedging costs in FCR Clause recovery, and the Commission's order approving hedging, had not yet been considered or entered. Id. In its circumstance, Gulf's only available recovery mechanism was to include the stored gas cost in its working capital calculation. Id. In contrast, FPL did not begin any program of firm gas storage until after the Hedging Resolution was approved and has never included, or sought to include, any of the costs associated with gas storage in the determination of base rates. Id. Accordingly, OPC's assertion that Gulf's base rate recovery of gas storage costs precludes FPL's proposed FCR Clause recovery of Storage Carrying Costs is unfounded, ignores the later-entered Hedging Resolution and Hedging Order, and should be rejected by the Commission.⁵

FPL's proposed recovery of Storage Carrying Costs through the FCR clause is based upon these costs being incurred to operate and manage a hedging program. Tr. 1039 (Dubin). Such costs are recoverable through the FCR Clause pursuant to the Hedging Resolution and, as discussed with respect to issue 1B above, the basis for allowing recovery is that the Commission wanted to remove disincentives that exist for utilities to engage in hedging transactions that may create customer benefits. Tr. 1038 (Dubin). Accordingly, OPC's assertion that only costs that are "volatile" can be recovered through the FCR Clause lacks merit and should be rejected. Tr. 1039 (Dubin).

Similarly as discussed concerning Base Gas Costs with respect to Issue 1B above, the Hedging Resolution and Hedging Order were adopted at a time when expanded hedging

⁵ TECO and Progress Energy Florida, in their responses to Staff data request nos. 8 and 6, respectively, entered into the record as part of Staff Consol. Ex. 1, also make clear that these companies would expect to recover through the fuel clause charges such as carrying costs, demand costs, as well as storage injection and withdrawal costs for natural gas not included in their base rates. Tr. 16, Staff Consolidated Exhibit 1.

programs were new to all utilities in Florida and there was no possible way they could cover all the types of hedging costs and hedging instruments that would be allowed. Tr. 1021 (Yupp). FPL's Mr. Yupp and Ms. Dubin both participated extensively in Docket No. 011605-EI on behalf of FPL and understood that the list of recoverable items in the Hedging Resolution was not intended to be exhaustive but rather a list of examples. Tr. 1021 (Yupp); Tr. 1040 (Dubin). Accordingly, OPC's suggestion that Storage Carrying Costs or Base Gas Cost must be referred to by name in the Hedging Resolution or Hedging Order to be recoverable is incorrect. Id.

Finally, as with Base Gas Costs, FPL's 2005 Rate Case Stipulation and subsequent stipulation in the 2005 fuel docket are consistent with recovery of Storage Carrying Costs because the stipulation was understood by the parties as discussed concerning Issue 1B above to expressly contemplate continued charging of hedging costs through the FCR Clause. Neither the 2005 Rate Case Stipulation nor any other document or agreement restricted hedging costs only to hedging programs or costs existing at the time of the Stipulation, or to the costs of purely financial hedges. Accordingly, OPC's claim that the 2005 Rate Case Stipulation precludes inclusion of Storage Carrying Costs in the FCR Clause is incorrect. Recovery of such hedging expenses would not call for any "new surcharge" in violation of the 2005 Rate Case Stipulation. Rather, FPL's proposed recovery would be through the existing fuel clause – not any "new surcharge" – consistent with the existing wording of the Hedging Resolution. OPC's claim that recovery of hedging costs through the FCR Clause violates the 2005 Rate Stipulation therefore lacks merit and should be rejected.

ISSUE 1D: Should the Commission approve cost recovery through the fuel clause by Florida Power & Light Company for the following natural gas storage project costs and charges at both the MoBay storage facility and the Bay Gas storage facility: *carrying costs on unamortized amounts of base gas?*

FPL: *The Commission should authorize FPL to charge the cost of the base gas to the FCR Clause when base gas is initially injected into the MoBay storage facility, with a credit to the FCR Clause at the end of the storage arrangement, when the base gas is either removed and burned or FPL receives compensation for leaving the gas in the facility. Under that approach, there is no need to recover carrying costs on unamortized base gas. However, if base gas costs are instead amortized and recovered through the FCR clause, the carrying charges on the unamortized balance are properly recovered through the FCR clause as a hedging cost.*

As described with respect to issue 1B, FPL proposes that Base Gas Cost be charged through the FCR clause at the time it is purchased. This eliminates the need for any carrying costs on Base Gas Cost. Then, at the end of the MoBay contract, after having provided the benefit of the gas as a necessary part of FPL's hedging program, FPL will either burn the Base Gas or sell it, in either case for the benefit of customers.

Again, as discussed above, Base Gas is not analogous to the coal at the bottom of a coal pile ("base coal"), which Order No. 12645 distinguished from non-recoverable oil and required utilities to capitalize and amortize over a period of years. As discussed in Order No. 12645, base coal actually becomes part of the physical foundation of the coal pile and, as such, is a physical property asset. This is not the case for either Base Gas or non-recoverable oil "tank bottoms". Moreover, unlike Base Gas or non-recoverable oil, base coal is never removed from the coal pile and burned. FPL understands those two distinctions to be the basis for the Commission's decision in Order No. 12645 to require different accounting treatments for base coal and non-recoverable oil. Base Gas is clearly much more analogous to non-recoverable oil and therefore the logic of Order No. 12645 dictates that the Commission follow the accounting treatment for non-recoverable oil and not base coal.

However, in the event that the Commission determines that the Base Gas should be recorded as a regulatory asset, to be amortized over the period of the contract with a return, then

carrying costs for the Base Gas should be recovered through the FCR Clause as a hedging cost consistent with the terms of the Hedging Resolution. OPC provided no reasoned basis for doing otherwise, and OPC's witness Patricia Merchant admitted that a utility should be entitled to earn a return on the unamortized balance of a regulatory asset. Tr. 973.

Conclusion

For all the foregoing reasons, the Base Gas Cost and Storage Carrying Costs are properly recoverable as hedging costs through the FCR Clause. Failure to permit such recovery would serve as a serious disincentive to FPL's pursuit of this and future physical hedging opportunities, to the disadvantage of FPL's customers. This would be inconsistent with the letter and spirit of the Hedging Resolution and the 2005 Rate Case Stipulation.

Respectfully submitted this 17th day of November, 2006.

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CERTIFICATE OF SERVICE

Docket No. 060362-EI

I HEREBY CERTIFY that a true and correct copy of the foregoing Post-Hearing Brief of Florida Power & Light Company has been furnished by electronic delivery and U.S. Mail on this 17th day of November, 2006, to the following:

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