

**Ruth Nettles**

---

**From:** Butler, John [John.Butler@fpl.com]  
**Sent:** Friday, October 03, 2008 1:25 PM  
**To:** Filings@psc.state.fl.us  
**Cc:** Martha Brown; 'willis@ausley.com'; 'sdriveno@southernco.com'; 'mcglothlin.joseph@leg.state.fl.us'; 'john.burnett@pgnmail.com'; 'jbeasley@ausley.com'; 'alex.glenn@pgnmail.com'; Charles Beck; 'burgess.steve@leg.state.fl.us'; 'garyp@hgslaw.com'; 'kelly.jr@leg.state.fl.us'; 'JAS@beggslane.com'; 'jmcwhirter@mac-law.com'; 'christensen.patty@leg.state.fl.us'; 'paul.lewisjr@pgnmail.com'; 'regdept@tecoenergy.com'; 'rab@beggslane.com'  
**Subject:** Electronic Filing: Docket 080007-EI / FPL's Prehearing Statement  
**Attachments:** 10.3.08.environmental prehearing statement.doc; 10.3.08.environmental prehearing statement.pdf

**Electronic Filing**

**a. Person responsible for this electronic filing:**

John T. Butler, Esq.  
700 Universe Boulevard  
Juno Beach, FL 33408  
561-304-5639  
[John.Butler@fpl.com](mailto:John.Butler@fpl.com)

**b. Docket No. 080007-EI**

In Re: Environmental Cost Recovery Clause

**c. The document is being filed on behalf of Florida Power & Light Company.**

**d. There are a total of 9 pages.**

**e. The document attached for electronic filing is Florida Power & Light Company's Prehearing Statement.**

**John T. Butler**  
**Senior Attorney**  
**Florida Power & Light Company**  
**(561) 304-5639**  
**(561) 691-7135 Fax**  
**[John.Butler@fpl.com](mailto:John.Butler@fpl.com)**

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

IN RE: Environmental Cost )  
Recovery Clause )  
\_\_\_\_\_ )

DOCKET NO. 080007-EI  
DATED: October 3, 2008

FLORIDA POWER & LIGHT COMPANY'S  
PREHEARING STATEMENT

Pursuant to Order No. PSC-08-0149-PCO-EI, issued March 11, 2008 establishing the prehearing procedure in this docket, Florida Power & Light Company, ("FPL") hereby submits its Prehearing Statement.

A. APPEARANCES

John T. Butler, Esquire  
Senior Attorney  
Florida Power & Light Company  
700 Universe Boulevard  
Juno Beach, FL 33408-0420  
Telephone: 561-304-5639  
Facsimile: 561-691-7135

R. Wade Litchfield, Esq.  
Vice President and  
General Counsel  
Florida Power & Light Company  
700 Universe Boulevard  
Juno Beach, Florida 33408-0420  
Telephone: 561-691-7101  
Facsimile: 561-691-7135

B. WITNESSES

<u>WITNESS</u>	<u>SUBJECT MATTER</u>	<u>ISSUES</u>
K.M. DUBIN	ECRC Final True-up for January Through December 2007	1
K.M. DUBIN	ECRC Estimated/Actual True-up for January through December 2008	2

DOCUMENT NUMBER-DATE  
09357 OCT-3 08  
FPSC-COMMISSION CLERK

K.M. DUBIN	ECRC Projections and Factors for January through December 2009	3 - 8
R.R. LABAUVE	Petition for Approval to Modify the Scope of FPL's CWA 316(b) Phase II Rule Project	9A
E. SILAGY	Environmental Cost Recovery amounts of FPL's Three Next Generation Solar Energy Center Projects for the period January 2008 through December 2008	9B
E. SILAGY	Environmental Cost Recovery amounts of FPL's Three Next Generation Solar Energy Center Projects for the period January 2009 through December 2009	9C
K.M. DUBIN	Allocation of Costs Associated with FPL's Three Next Generation Solar Energy Center Projects	9D
R.R. LABAUVE	Recovery of Greenhouse Gas Reduction Program	9E
K.M. DUBIN	Allocation of Costs Associated with the Greenhouse Gas Reduction Program	9F
R.R. LABAUVE	Continuation of Cost Recovery of Capital and O&M Associated with CAVR, CAIR and CAMR Compliance Projects in Light of the Vacatur of CAMR and Potential Vacatur of CAIR	9G

C. **EXHIBITS**

<b><u>EXHIBITS</u></b>	<b><u>WITNESS</u></b>	<b><u>DESCRIPTION</u></b>
(KMD-1)	K.M. DUBIN	Appendix I Environmental Cost Recovery Final True-up January - December 2007 Commission Forms 42 - 1A through 42 - 8A

(KMD-2)	K.M. DUBIN	Appendix I Environmental Cost Recovery Estimated/Actual Period January- December 2008 Commission Forms 42-1E through 42-8E
(KMD-3)	K.M. DUBIN	Appendix I Environmental Cost Recovery Projections January - December 2009 Commission Forms 42-1P through 42-7P
(RRL-1)	R.R. LABAUVE	FPL's Supplemental CAIR/CAMR/CAVR Filing
(RRL-2)	R.R. LABAUVE	Executive Order 07-127
(RRL-3)	R.R. LABAUVE	HB 7135
(ES-1)	E. SILAGY	Martin Solar Project Milestones
(ES-2)	E. SILAGY	Desoto Solar Project Milestones
(ES-3)	E. SILAGY	Space Coast Solar Project Milestones

**D. STATEMENT OF BASIC POSITION**

None necessary

**E. STATEMENT OF ISSUES AND POSITIONS**

**GENERIC ENVIRONMENTAL COST RECOVERY ISSUES**

**ISSUE 1:** What are the final environmental cost recovery true-up amounts for the period ending December 31, 2007?

**FPL:** \$3,174,379 over-recovery including interest. (DUBIN)

**ISSUE 2:** What are the estimated environmental cost recovery true-up amounts for the period January 2008 through December 2008?

**FPL:** \$5,728,576 under-recovery including interest. (DUBIN)

**ISSUE 3:** What are the projected environmental cost recovery amounts for the period January 2009 through December 2009?

**FPL:** \$91,077,343 (DUBIN)

**ISSUE 4:** What are the environmental cost recovery amounts, including true-up amounts, for the period January 2009 through December 2009?

**FPL:** The total environmental cost recovery amount, adjusted for prior period true-ups and revenue taxes, is \$93,698,955. (DUBIN)

**ISSUE 5:** What depreciation rates should be used to develop the depreciation expense included in the total environmental cost recovery true-up amounts for the period January 2009 through December 2009?

**FPL:** The depreciation rates used to calculate the depreciation expense should be the rates that are in effect during the period the allowed capital investment is in service as approved by the FPSC. (DUBIN)

**ISSUE 6:** What are the appropriate jurisdictional separation factors for the projected period January 2009 through December 2009?

**FPL:** Energy Jurisdictional Factor 98.69261%  
CP Demand Jurisdictional Factor 98.76729%  
GCP Demand Jurisdictional Factor 100.00000% (DUBIN)

**ISSUE 7:** What are the appropriate environmental cost recovery factors for the period January 2009 through December 2009 for each rate group?

<b>FPL:</b> Rate Class	<b>Environmental Recovery Factor (\$/kWh)</b>
RS-1/RST1	0.00094
GS-1/GST1/WIES1	0.00095
GSD1/GSDT1/HLFT1 (21-499 kW)	0.00084
OS2	0.00077
GSLD1/GSLDT1/CS1/CST1/ HLFT2 (500-1,999 kW)	0.00081
GSLD2/GSLDT2/CS2/CST2/ HLFT3 (2,000 +)	0.00075
GSLD3/GSLDT3/CS3/CST3	0.00071
ISST1D	0.00067
ISST1T	0.00068
SST1T	0.00068
SST1D1/SST1D2/SST1D3	0.00067

CILC D/CILC G	0.00074
CILC T	0.00070
MET	0.00085
OL1/SL1/PL1	0.00038
SL2/GSCU-1	0.00066

(DUBIN)

**ISSUE 8:** What should be the effective date of the new environmental cost recovery factors for billing purposes?

**FPL:** The new environmental cost recovery factors should become effective with customer bills for January 2009 through December 2009 (cycle day 3 through cycle day 2). Billing cycles may start before January 1, 2009, and the last cycle may be read after December 31, 2009, so that each customer is billed for twelve consecutive months regardless of when the adjustment factor became effective. (DUBIN)

#### COMPANY SPECIFIC ENVIRONMENTAL COST RECOVERY ISSUES

**ISSUE 9A:** Should the Commission grant FPL's petition to modify the scope of its CWA 316(b) Phase II Rule Project?

**FPL:** Yes. On July 9, 2007, several key provisions of the 316(b) Phase II Rule were remanded to the U.S. Environmental Protection Agency by the U.S. Court of Appeals for the Second Circuit for further rulemaking. FPL is requesting to recover costs associated with legal support to help limit the compliance cost impact of a revision to the Phase II Rule, which could potentially require FPL to install cumbersome and very expensive compliance technologies on the cooling water intake structures at eight FPL power plants. (LABAUVE)

**ISSUE 9B:** What are the environmental cost recovery amounts of FPL's three Next Generation Solar Energy Centers for the period January 2008 through December 31, 2008?

**FPL:** \$25,018,649 (SILAGY)

**ISSUE 9C:** What are the environmental cost recovery amounts of FPL's three Next Generation Solar Energy Centers for the period January 2009 through December, 2009?

**FPL:** \$403,465,386 (SILAGY)

**ISSUE 9D:** How should the costs associated with the three Next Generation Solar Energy Centers be allocated to the rate classes?

**FPL:** Capital costs for the Martin, DeSoto and Space Coast Next Generation Solar Energy Center projects should be allocated to the rate classes on an average 12 CP demand and 1/13<sup>th</sup> energy basis. Operating and maintenance costs should be allocated to the rate classes on an average 12 CP demand basis. (DUBIN)

**ISSUE 9E:** Should FPL be allowed to recover the costs associated with its proposed Greenhouse Gas Reduction Program?

**FPL:** Yes. Executive Order 07-127, signed into law by Governor Crist on July 13, 2008, requires immediate actions to reduce GHG emissions within Florida. In order to comply with reporting requirements per House Bill 7135, FPL will participate in “The Climate Registry” reporting program, which requires joining the Registry and reporting baseline data associated with GHG emissions. Future CO2 allowance and program management costs would also be included in FPL’s GHG Reduction Program. (LABAUVE)

**ISSUE 9F:** How should the costs associated with the Greenhouse Gas Reduction Program be allocated to the rate classes?

**FPL:** Capital costs for the Greenhouse Gas (GHG) Reduction Program should be allocated to the rate classes on an average 12 CP demand and 1/13<sup>th</sup> energy basis. Operating and maintenance costs should be allocated to the rate classes on an energy basis. (DUBIN)

**ISSUE 9G:** Should FPL continue to recover Capital and O&M costs associated with its CAVR, CAIR and CAMR compliance projects in light of the vacatur of CAMR and potential vacatur of CAIR?

**FPL:** Yes. As discussed in more detail below, completion of the CAIR and CAMR compliance projects is required by existing air-emission rules and is prudent in light of the current uncertainty over the status of existing rules and the emergence of new regulatory requirements.

CAIR. On September 24, 2008, petitions for rehearing and rehearing *en banc* were filed by the United States Environmental Protection Agency (EPA), the National Mining Association, the Environmental Intervenors and the Utility Air Regulatory Group, with the United States Circuit Court of Appeals for the District of Columbia. The applicable appellate rules do not specify a time period for the Court to act on petitions for rehearing or rehearing *en banc* so it is not possible at this time to predict when these petitions will be resolved. Until this process is concluded, CAIR remains in effect and there is no way of knowing whether it ultimately will be vacated or will remain in effect either in its current or modified form. If CAIR is vacated, the United States Environmental Protection Agency (EPA) will quickly have to devise alternative emission reduction rules to control

impacts of upwind sources on downwind non-attainment areas. Georgia has adopted a Multi-Pollutant Rule that independently requires the same emission controls at Plant Scherer that would be used to comply with CAIR. The Florida Department of Environmental Protection (FDEP) may also adopt rules requiring the same emission controls at St. Johns River Power Park (SJRPP) that would be used to comply with CAIR. Installation of the emission controls at SJRPP is well advanced, and FPL would incur substantial termination and re-mobilization costs if it stopped the installation now and re-started the work later. The 800 MW Cycling project for Manatee Units 1 & 2 and Martin Units 1 & 2, in addition to providing annual and ozone season reductions in NOx emissions that are needed to comply with CAIR, also provide substantial fuel savings by allowing these large units to cycle off-line more frequently when not needed for system load. Projected fuel savings associated with the 800 MW Cycling Project are \$2.9 billion over the life of the project.

CAMR. The Court's order vacating CAMR also rejected EPA's delisting of coal fired EGUs from the list of emission sources that are subject to section 112 of the Clean Air Act. Therefore, in lieu of CAMR, EPA must define Maximum Available Control Technology (MACT) for control of mercury (Hg) emission on coal fired EGUs. Hg controls must continue as planned on Plant Scherer Unit 4 in order to comply with the Georgia Multi-Pollutant rule. FPL also believes that those controls will meet any subsequent MACT requirements adopted by EPA. At SJRPP, FPL and JEA planned to comply with CAMR with co-benefits from the operation of the SCRs that are being installed to comply with CAIR, so there are no separate Hg emission controls. CAMR imposed distinct monitoring requirements, however, which required the installation of an Hg Continuous Emission Monitoring System (HgCEMS). The system was procured prior to the CAMR vacatur and has already been installed. Until required by rule, FPL does not intend to operate the HgCEMS and has not included O&M costs for that system in its ECRC recovery request.

**F. STATEMENT OF POLICY ISSUES AND POSITIONS**

FPL: None at this time

**G. STIPULATED ISSUES**

FPL: None at this time.

**H. PENDING MOTIONS**

FPL has no pending motions at this time, but filed a Request for Official Notice of Petitions for Rehearing of D.C. Circuit Opinion Vacating CAIR on October 1, 2008.

**I. PENDING REQUEST FOR CONFIDENTIALITY**

FPL has no requests for confidentiality pending at this time.

**J. OBJECTIONS TO A WITNESS' QUALIFICATION AS AN EXPERT**

FPL: None at this time.

**I. STATEMENT OF COMPLIANCE WITH ORDER ESTABLISHING PROCEDURE**

There are no requirements of the Order Establishing Procedure with which FPL cannot comply.

Respectfully submitted,

R. Wade Litchfield, Esq.  
Vice President and  
General Counsel  
John T. Butler, Esq.  
Senior Attorney  
Law Department  
Florida Power & Light Company  
700 Universe Boulevard  
Juno Beach, Florida 33408-0420  
Telephone: 561-304-5639  
Fax: 561-691-7135

By: /s/ John T. Butler  
John T. Butler  
Fla. Bar No. 283479

**CERTIFICATE OF SERVICE**

**Docket No. 080007-EI**

**I HEREBY CERTIFY** that a true and correct copy of Florida Power & Light Company's Prehearing Statement has been furnished by electronic mail on the 3rd day of October, 2008, to the following:

Martha Brown  
Office of the General Counsel  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Room 370P – Gunter Building  
Tallahassee, FL 32399-0850

Ausley Law Firm  
Lee L. Willis/James D. Beasley  
P.O. Box 391  
Tallahassee, FL 32302

Beggs & Lane Law Firm  
Jeffrey Stone/Russell Badders/S/ Griffin  
P.O. Box 12950  
Pensacola, FL 32591-2950

Florida Industrial Power Users Group  
John W. McWhirter, Jr.  
c/o McWhirter Reeves & Davidson, P.A.  
P.O. Box 3350  
Tampa, FL 33601-3350

Progress Energy Florida, Inc.  
R. Alexander Glenn/John T. Burnett  
c/o Progress Energy Service Company  
P.O. Box 14042  
Saint Petersburg, FL 33733-4042

Gulf Power Company  
Ms. Susan D. Ritenour  
One Energy Place  
Pensacola, FL 32520-0780

Hopping Law Firm  
G. Perko/C. Raeppe/V.Dailey/D. Roberts  
P.O. Box 6526  
Tallahassee, FL 32314

Tampa Electric Company  
Paula K. Brown  
Regulatory Affairs  
P. O. Box 111  
Tampa, FL 33601-0111

Progress Energy Florida, Inc.  
Paul Lewis, Jr.  
106 East College Avenue, Suite 800  
Tallahassee, FL 32301-7740

Office of Public Counsel  
J.R. Kelly/Patricia Christensen/Steve Burgess  
c/o The Florida Legislature  
111 West Madison St., Room 812  
Tallahassee, FL 32399-1400

By: /s/John T. Butler

JOHN T. BUTLER  
Fla. Bar No. 283479