

**Ruth Nettles**

090007-EI

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**Subject:** Electronic Filing / Docket 090007-EI / FPL's Prehearing Statement  
**Attachments:** 10 2 09 FPL Prehearing Statement.pdf; 10.2.09.FPL Prehearing Statement .doc

**Electronic Filing**

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

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**b.** Docket No. 090007-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 13 pages.

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

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FPSC-COMMISSION CLERK

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

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

DOCKET NO. 090007-EI  
DATED: October 2, 2009

FLORIDA POWER & LIGHT COMPANY'S  
PREHEARING STATEMENT

Pursuant to Order No. PSC-09-0138-PCO-EI, issued March 6, 2009 establishing the prehearing procedure in this docket, Florida Power & Light Company, ("FPL") hereby submits its Prehearing Statement.

A. APPEARANCES

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B. WITNESSES

<u>WITNESS</u>	<u>SUBJECT MATTER</u>	<u>ISSUES</u>
T.J. KEITH	ECRC Final True-up for January Through December 2008	1
T.J. KEITH	ECRC Estimated/Actual True-up for January through December 2009	2

T.J. KEITH	ECRC Projections and Factors for January through December 2010	3 - 8
R.R. LABAUVE	Approval of Plant Riviera Manatee Temporary Heating System (MTHS) Project	9A
T.J. KEITH	Allocation of Costs associated with the MTHS – Riviera Project	9B
R.R. LABAUVE	Approval of Manatee Temporary Heating System (MTHS) – Cape Canaveral Project	9C
T.J. KEITH	Allocation of Costs associated with the MTHS – Cape Canaveral Project	9D
R.R. LABAUVE	Approval of Turkey Point Cooling Canal Monitoring Plan (TP-CCMP) Project	9E
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R.R. LABAUVE	Approval of NESHAP Information Collection Request Project	9G
T.J. KEITH	Allocation of Costs associated with the NESHAP Information Collection Request Project	9H
T.J. KEITH	Reasonable environmental cost recovery amounts for FPL's three Next Generation Solar Energy Center for the final true-up period January 2008-December 2008	9I
R.R. LABAUVE	Reasonable and prudent updated CAIR, CAMR and CAVR project costs	9J
R.R. LABAUVE	Recovery of increased costs associated with the St. Lucie Cooling Water System Inspection and Maintenance Project	9K

**C. EXHIBITS**

<u>EXHIBITS</u>	<u>WITNESS</u>	<u>DESCRIPTION</u>
(TJK-1)	T.J. KEITH	Appendix I Environmental Cost Recovery Final True-up January - December 2008 Commission Forms 42 - 1A through 42 - 8A
(TJK-2)	T.J. KEITH	Appendix I Environmental Cost Recovery Estimated/Actual Period January- December 2009 Commission Forms 42-1E through 42-8E
(TJK-3)	T.J. KEITH	Appendix I Environmental Cost Recovery Projections January - December 2010 Commission Forms 42-1P through 42-7P
(RRL-1)	R.R. LABAUVE	Manatee Heating System Conceptual Location of Pumps and Heater
(RRL-2)	R.R. LABAUVE	Florida Department of Environmental Protection (FDEP) Industrial Wastewater Facility Permit Number FL0001546 for Plant Riviera (PRV)
(RRL-3)	R.R. LABAUVE	PRV Manatee Protection Plan (MPP)
(RRL-4)	R.R. LABAUVE	U.S. Fish and Wildlife Service letter to FPL
(RRL-5) Previously (RRL-1) <sup>1</sup>	R.R. LABAUVE	Florida Department of Environmental Protection (FDEP) Conditions of Certification (PA 03-45A2) Special Conditions IX and X
(RRL-6) Previously (RRL-2) <sup>1</sup>	R.R. LABAUVE	DRAFT Turkey Point Plant Groundwater, Surface Water, and Ecological Monitoring Plan, dated July 16, 2009

<sup>1</sup> As filed in FPL's 2009 Estimated/Actual on August 3, 2009 in Docket No. 090007-EI. On September 25, 2009, FPL filed revised testimony and exhibits for Mr. LaBauve that reflect the correct exhibit numbers.

(RRL-7) Previously (RRL-3) <sup>1</sup>	R.R. LABAUVE	CCM Plan Objectives and Strategies
(RRL-8) Previously (RRL-4) <sup>2</sup>	R.R. LABAUVE	NESHAP ICR Public Notice
(RRL-9) Previously (RRL-5) <sup>2</sup>	R.R. LABAUVE	Electric Utility Steam Generating Unit Hazardous Air Pollutant Information Collection Effort Burden Statement – Part B
(RRL-10) Previously (RRL-6) <sup>2</sup>	R.R. LABAUVE	Florida Department of Environmental Protection (FDEP) Industrial Wastewater Facility (IWWF) Permit Number FL0001473 for Plant Cape Canaveral (PCC)
(RRL-11) Previously (RRL-7) <sup>2</sup>	R.R. LABAUVE	PCC Manatee Protection Plan (MPP)
(RRL-12) Previously (RRL-8) <sup>2</sup>	R.R. LABAUVE	U.S. Fish and Wildlife Service (USFWS) letter to FPL
(RRL-13) Previously (RRL-9) <sup>2</sup>	R.R. LABAUVE	Florida Fish and Wildlife Commission's (FWC) "FWC Staff Report for Florida Power and Light Company - Cape Canaveral Energy Center (CCEC)"
(RRL-14) Previously (RRL-10) <sup>2</sup>	R.R. LABAUVE	Manatee Heating System Conceptual Location of Pumps and Heater

**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 January 2008 through December 31, 2008?

<sup>1</sup> As filed in FPL's 2009 Estimated/Actual on August 3, 2009 in Docket No. 090007-EI. On September 25, 2009, FPL filed revised testimony and exhibits for Mr. LaBauve that reflect the correct exhibit numbers.

<sup>2</sup> As filed in FPL's 2010 Projections on August 28, 2009 in Docket No. 090007-EI. On September 25, 2009, FPL filed revised testimony and exhibits for Mr. LaBauve that reflect the correct exhibit numbers.

**FPL:** \$2,694,222 over-recovery. (KEITH)

**ISSUE 2:** What are the estimated/actual environmental cost recovery true-up amounts for the period January 2009 through December 2009?

**FPL:** \$3,602,753 over-recovery. (KEITH)

**ISSUE 3:** What are the projected environmental cost recovery amounts for the period January 2010 through December 2010?

**FPL:** \$174,734,516. (KEITH)

**ISSUE 4:** What are the environmental cost recovery amounts, including true-up amounts, for the period January 2010 through December 2010?

**FPL:** The total environmental cost recovery amount, adjusted for prior period true-ups and revenue taxes, is \$168,558,816. (KEITH)

**ISSUE 5:** What depreciation rates should be used to develop the depreciation expense included in the total environmental cost recovery amounts for the period January 2010 through December 2010?

**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. (KEITH)

**ISSUE 6:** What are the appropriate jurisdictional separation factors for the projected period January 2010 through December 2010?

**FPL:**

Retail Energy Jurisdictional Factor	99.08384%
Retail CP Demand Jurisdictional Factor	99.09394%
Retail GCP Demand Jurisdictional Factor	100.00000% (KEITH)

**ISSUE 7:** What are the appropriate environmental cost recovery factors for the period January 2010 through December 2010 for each rate group?

**FPL:**

Rate Class	Environmental Recovery Factor (\$/kWh)
RS1/RST1	.00179
GS1/GST1	.00177
GSD1/GSDT1/HLFT (21-499 kW)	.00157
OS2	.00188
GSLD1/GSLDT1/CS1/CST1/ HLFT (500-1,999 kW)	.00153

GSLD2/GSLDT2/CS2/CST2/ HLFT (2,000 kW+)	.00140
GSLD3/GSLDT3/CS3/CST3	.00128
ISST1D	.00128
ISST1T	.00115
SST1T	.00115
SST1D1/SST1D2/SST1D3	.00128
CILC D/CILC G	.00136
CILC T	.00125
MET	.00171
OL1/SL1/PL1	.00070
SL2/GSCU1	.00130
	(KEITH)

**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 starting with meter readings scheduled to be read on or after Cycle Day 1 of January 2010 and will remain in effect until modified by subsequent order of this Commission. (KEITH)

#### **COMPANY-SPECIFIC ENVIRONMENTAL COST RECOVERY ISSUES**

**ISSUE 9A:** Should the Commission grant FPL's Petition for Approval of Plant Riviera Manatee Temporary Heating System (MTHS) Project for environmental cost recovery?

**FPL:** Yes. In order to remain in compliance with the Manatee Protection Plan (MPP) issued by the Florida Department of Environmental Protection (FDEP) on February 10, 2004, and pursuant to Specific Condition 13 of the Industrial Wastewater Facility (IWWF) Permit for Plant Riviera (PRV) and the Conditions of Certification set forth by the Florida Fish and Wildlife Conservation Commission (FWC), FPL will install an electric heating system at PRV to provide a temporary manatee refuge during the modernization project by discharging warm water, when necessary, to the manatee embayment area until PRV is converted to the Riviera Beach Next Generation Clean Energy Center. (LABAUVE)

**ISSUE 9B:** How should the costs associated with the MTHS – Riviera Project be allocated to the rate classes?

**FPL:** Capital costs for the MTHS – Riviera Project 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. (KEITH)

**ISSUE 9C:** Should FPL be allowed to recover the costs associated with its proposed Manatee Temporary Heating System (MTHS) – Cape Canaveral Project?

**FPL:** Yes. In order to remain in compliance with the MPP issued by the FDEP on August 10, 2005, and pursuant to Specific Condition 9 of the IWWF Permit for Plant Cape Canaveral (PCC) and the Conditions of Certification set forth by the FWC, during the modernization project, FPL will install an electric heating system at PCC to provide a temporary manatee refuge, from the time of its decommissioning in April 2010 until its conversion to the Cape Canaveral Next Generation Clean Energy Center is complete in June 2013, by discharging warm water when necessary to the manatee embayment area.

In addition, pursuant to those Conditions of Certification, FPL will begin environmental and biological monitoring of the manatee embayment area and will develop a long-term manatee strategy at PCC. (LABAUVE)

**ISSUE 9D:** How should the costs associated with the MTHS – Cape Canaveral Project be allocated to the rate classes?

**FPL:** Capital costs for the MTHS – Cape Canaveral Project 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. (KEITH)

**ISSUE 9E:** Should FPL be allowed to recover the costs associated with its proposed Turkey Point Cooling Canal Monitoring Plan (TP-CCMP) Project through the ECRC?

**FPL:** Yes. Special Conditions IX and X from Conditions of Certification, issued by the FDEP on October 29, 2008 require FPL to develop a monitoring plan for the cooling canal system and the areas surrounding the cooling canal system used by FPL's Turkey Point Plant. In order to remain in compliance to Special Conditions IX and X, FPL will conduct surface water and groundwater quality monitoring, and ecological monitoring to delineate the vertical and horizontal extent of the hypersaline plume that originates from the cooling canal system. (LABAUVE)

**ISSUE 9F:** How should the costs associated with the TP-CCMP Project be allocated to the rate classes?

**FPL:** Capital costs for the TP-CCMP Project 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. (KEITH)

**ISSUE 9G:** Should FPL be allowed to recover the costs associated with its proposed NESHAP Information Collection Request Project through the ECRC?

**FPL:** Yes. An information collection request from the Environmental Protection Agency (EPA), mandated by the Clean Air Act Section 114, was published as a proposed rule and is expected to be finalized by December 2009. In order to comply with this rule FPL will perform emission testing and fuel sampling on ten of its oil and coal-fired generating units. (LABAUVE)

**ISSUE 9H:** How should the costs associated with the NESHAP Information Collection Request Project be allocated to the rate classes?

**FPL:** Capital costs for the NESHAP Information Collection Request Project 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. (KEITH)

**ISSUE 9I:** What are the reasonable environmental cost recovery amounts for FPL's three Next Generation Solar Energy Center for the final true-up period January 2008 through December 2008?

**FPL:** As filed on April 1, 2009, and revised in the 2009 Estimated/Actual True-up on Form 42-2E line 7a, filed on August 3, 2009, capital depreciation and return on investment for FPL's three Next Generation Solar Energy Centers for the period January 2008 through December 2008 are as follows:

DeSoto Next Generation Solar Energy Center	\$12,528
Space Coast Next Generation Solar Energy Center	\$32,419
Martin Next Generation Solar Energy Center	\$33,607

There were no operations and maintenance costs incurred for the period January 2008 through December 2008. (KEITH)

**ISSUE 9J:** Should the Commission approve FPL's updated Clean Air Interstate Rule, Clean Air Mercury Rule and Clean Air Visibility Rule Compliance Project costs that are reflected in FPL's April 1, 2009, supplemental filing as reasonable and prudent?

**FPL:** Yes. As discussed in more detail below, completion of the CAIR, CAMR and CAVR/BART are required by existing air-emission rules and project costs are reasonable and prudent.

CAIR. On December 23, 2008 the United States Circuit Court of Appeals for the District of Columbia Circuit (the Court) issued an opinion on rehearing of the July 11, 2008 opinion vacating EPA's CAIR. The new opinion remanded CAIR to the EPA without vacatur, instructing EPA to remedy CAIR's flaws in accordance with the Court's July 11 opinion. EPA has indicated that it plans to propose a new CAIR rule by Spring 2010. In the interim, and consistent with the Court's July 11 opinion, FPL filed a petition with EPA on September 22, 2009 to amend the existing CAIR rule to remove the fuel factors that improperly reduce the number of NOx allowances FPL and other Florida power plant owners receive. Because the Court did not vacate CAIR, FPL must continue to comply with its current requirements. Performance and acceptance testing has been completed for the Selective Catalytic Reduction System (SCR) at St. Johns River Power Park (SJRPP) Unit 1 and was placed into service in July 2009. Installation and testing of the SCR for SJRPP Unit 2 was completed earlier with the SCR being placed into service in January 2009. Installation of Scrubber and SCR for Scherer Unit 4 will be completed in 2012 and the installation of the support steel for the SCR is in progress. In addition, the 800 MW Cycling Project for Manatee Units 1 and 2 and Martin Units 1 and 2 are currently providing both annual and ozone season reductions in NOx emissions that are needed to comply with CAIR and substantial fuel savings to customers 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. Finally, to keep in compliance with the CAIR FPL has installed and tested Low Mass Emitting (LME) Continuous Emissions Monitoring Systems (CEMS). They are now in operation at the Fort Myers, Port Everglades and Fort Lauderdale Gas Turbine Parks, as required by CAIR. Testing of the GT CEMS is required every five years at current operating conditions to maintain certification of the monitoring systems.

CAMR. The Court's order vacating CAMR also rejected EPA's delisting of coal-fired Electric Generating Units (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) emissions on coal-fired EGUs. In addition to implementation of CAIR and CAMR rulemaking in Georgia, the state developed and implemented a Georgia Multi-Pollutant rule requiring installation of NOx, SO2 and Hg controls on coal-fired power plants within the state. FPL is in the process of installing Hg controls on Plant Scherer Unit 4 in order to comply with the Georgia Multi-Pollutant Rule. FPL believes that these controls will meet any subsequent MACT requirements adopted by EPA. For the SJRPP units, FPL and majority owner JEA, planned to comply with Phase I of the CAMR through the co-benefits from the operation of the SCRs that are being installed to comply with CAIR, so there

are no separate Hg emission controls. FPL will evaluate the future Hg control requirements for Plant Scherer and SJRPP as the EPA reviews its MACT control options in response to the CAMR vacatur. FPL and JEA will evaluate the appropriate technology for implementation at SJRPP to comply with a future Hg reduction requirement.

CAVR. Upon successful negotiations with the FDEP regarding Turkey Point Fossil Units 1 and 2, the FDEP accepted FPL's proposed plan to comply with the BART requirements under the Regional Haze program. In order for FPL to remain in compliance with its agreement with the FDEP it must continue to move forward to meet the conditions set forth in the permit issued by FDEP on April 14, 2009. In addition to the compliance requirement under the BART rule, FPL will take actions to remain in compliance with FDEP's Regional Haze rule 62-296.341, Reasonable Progress Control Technology (RPCT), which requires that an electric utility unit which had a "Significant Contribution to Regional Haze", as evidenced by SO<sub>2</sub> emissions in 2002, to address visibility impacts to the Class 1 areas. In 2007 FPL identified six generating units which it had determined are subject to the RPCT requirements. Although there are no projected costs to comply with RPCT in 2010, FPL may incur costs in subsequent years to comply with RPCT. (LABAUVE)

**ISSUE 9K:** Should FPL be allowed to recover the increased costs associated with the St. Lucie Cooling Water System Inspection and Maintenance Project?

**FPL:** Yes. The St. Lucie Cooling Water System Inspection and Maintenance Project began in anticipation of a Biological Opinion (BO) to be issued by the National Marine Fisheries Service (NMFS) pursuant to section 7 of the federal Endangered Species Act, 16 US Section 1531 (ESA). In the affidavit supporting the original petition, filed on January 5, 2007, FPL stated that the purpose of the project was to inspect and, as necessary, clean up or repair any conditions found during the inspection that could contribute to injuries and/or deaths of endangered species, thus keeping FPL in compliance with the ESA. The affidavit further stated that, while the initial project activity consisted of inspection and cleaning of the intake pipes, additional inspection, maintenance and/or modification activities could be required in the future to comply with the ESA.

The inspection of the intake pipes and the velocity caps was completed during the scheduled 2007 refueling outage. The results provided details for what additional work was needed to clean and remove or minimize debris or structural obstructions. In order to comply with the ESA, FPL must manually clean and remove any debris or structural obstructions with professional divers. A large portion of this work was completed during scheduled outages in 2007, however, adverse weather conditions have delayed the timing and increased the projected scope, due to the direct correlation of weather conditions and diving conditions. FPL has scheduled the completion of this work during the 2010 and 2012 Spring refueling outages.

The major change to the required scope relates to the decision made by the NMFS requiring FPL to install exclusion devices at the velocity cap openings in order to prevent large organisms such as adult sea turtles from entering the intake pipes. In order for FPL to comply with the conditions set forth by the NMFS it will have to correct the inconsistencies in the size and shape of the windows in the velocity cap structures identified during the 2007 inspection. These preemptive actions will prevent FPL from having to purchase customized exclusion devices and provide the most cost effective alternative while complying with NMFS' request. (LABAUVE)

**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.

**I. PENDING REQUEST FOR CONFIDENTIALITY**

To date, FPL has the following requests for confidentiality pending:

- Staff's 2<sup>nd</sup> Set of Interrogatories, Nos. 30, 31, 34 and 35. Filed on April 24, 2009.
- Staff's 3<sup>rd</sup> Set of Interrogatories, Nos. 39-41, 43 and 45. Filed on May 14, 2009.
- Staff's 1<sup>st</sup> Request for Production of Documents, Nos. 1 and 3. Filed June 1, 2009.
- Audit No. 09-012-4-1. Filed on June 30, 2009.
- 

**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,

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By: /s/ John T. Butler  
John T. Butler  
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**CERTIFICATE OF SERVICE**

**Docket No. 090007-EI**

**I HEREBY CERTIFY** that a true and correct copy of Florida Power & Light Company's Preliminary List of Issues and Positions has been furnished by electronic delivery on October 2, 2009 to the following:

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