BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Environmental cost recovery clause.	DOCKET NO. 090007-EI ORDER NO. PSC-09-0720-PHO-EI ISSUED: October 30, 2009

Pursuant to Notice and in accordance with Rule 28-106.209, Florida Administrative Code (F.A.C.), a Prehearing Conference was held on October 20, 2009, in Tallahassee, Florida, before Commissioner Nathan A. Skop, as Prehearing Officer.

APPEARANCES:

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On behalf of FLORIDA POWER & LIGHT COMPANY (FPL)

R. ALEXANDER GLENN and JOHN T. BURNETT, ESQUIRES, Progress Energy Service Company, LLC, Post Office Box 14042, St. Petersburg, Florida 33733-4042; GARY V. PERKO, ESQUIRE, Hopping, Green & Sams, P.A., P.O. Box 6526, Tallahassee, Florida 32314-6526
On behalf of Progress Energy Florida, Inc. (PEF)

JAMES D. BEASLEY and LEE L. WILLIS, ESQUIRES, Ausley & McMullen, Post Office Box 391, Tallahassee, Florida 32302
On behalf of Tampa Electric Company (TECO)

JEFFREY A. STONE, RUSSELL A. BADDERS, and STEVEN R. GRIFFIN, ESQUIRES, Beggs & Lane, Post Office Box 12950, Pensacola, Florida 32591-2950
On behalf of Gulf Power Company (Gulf)

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On behalf of the Florida Industrial Power Users Group (FIPUG)

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On behalf of the Citizens of the State of Florida (OPC)

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On behalf of the Federal Executive Agencies (FEA)

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On behalf of the FLORIDA PUBLIC SERVICE COMMISSION (Staff)

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Advisor to the Florida Public Service Commission.

PREHEARING ORDER

I. CASE BACKGROUND

As part of the Commission's continuing environmental cost recovery clause proceedings, the Commission has set a hearing in this docket for November 2-4, 2009. This Order sets forth the order of witnesses, issues and positions, list of exhibits, and other procedural matters to be addressed at the hearing.

II. CONDUCT OF PROCEEDINGS

Pursuant to Rule 28-106.211, F.A.C., this Prehearing Order is issued to prevent delay and to promote the just, speedy, and inexpensive determination of all aspects of this case.

III. JURISDICTION

This Commission is vested with jurisdiction over the subject matter by the provisions of Section 366.8255, Florida Statutes (F.S.). This hearing will be governed by that statute, Chapter 120, F.S., and Rules 25-22.075 and 28-106, F.A.C., as well as any other applicable provisions of law.

IV. PROCEDURE FOR HANDLING CONFIDENTIAL INFORMATION

Information for which proprietary confidential business information status is requested pursuant to Section 366.093, F.S., and Rule 25-22.006, F.A.C., shall be treated by the Commission as confidential. The information shall be exempt from Section 119.07(1), F.S., pending a formal ruling on such request by the Commission or pending return of the information to the person providing the information. If no determination of confidentiality has been made and the information has not been made a part of the evidentiary record in this proceeding, it shall be returned to the person providing the information. If a determination of confidentiality has been made and the information was not entered into the record of this proceeding, it shall be returned to the person providing the information within the time period set forth in Section 366.093, F.S. The Commission may determine that continued possession of the information is necessary for the Commission to conduct its business.

It is the policy of this Commission that all Commission hearings be open to the public at all times. The Commission also recognizes its obligation pursuant to Section 366.093, F.S., to protect proprietary confidential business information from disclosure outside the proceeding. Therefore, any party wishing to use any proprietary confidential business information, as that term is defined in Section 366.093, F.S., at the hearing shall adhere to the following:

(1) When confidential information is used in the hearing, parties must have copies for the Commissioners, necessary staff, and the court reporter, in red envelopes clearly marked with the nature of the contents and with the confidential information highlighted. Any party wishing to examine the confidential material that is not subject to an order granting confidentiality shall be provided a copy in the same fashion as provided to the Commissioners, subject to execution of any appropriate protective agreement with the owner of the material.

(2) Counsel and witnesses are cautioned to avoid verbalizing confidential information in such a way that would compromise confidentiality. Therefore, confidential information should be presented by written exhibit when reasonably possible.

At the conclusion of that portion of the hearing that involves confidential information, all copies of confidential exhibits shall be returned to the proffering party. If a confidential exhibit has been admitted into evidence, the copy provided to the court reporter shall be retained in the Office of Commission Clerk's confidential files. If such material is admitted into the evidentiary record at hearing and is not otherwise subject to a request for confidential classification filed with the Commission, the source of the information must file a request for confidential classification of the information within 21 days of the conclusion of the hearing, as set forth in Rule 25-22.006(8)(b), F.A.C., if continued confidentiality of the information is to be maintained.

V. PREFILED TESTIMONY AND EXHIBITS; WITNESSES

Testimony of all witnesses to be sponsored by the parties has been prefiled and will be inserted into the record as though read after the witness has taken the stand and affirmed the correctness of the testimony and associated exhibits. All testimony remains subject to timely and appropriate objections. Upon insertion of a witness' testimony, exhibits appended thereto may be marked for identification. Each witness will have the opportunity to orally summarize his or her testimony at the time he or she takes the stand. Summaries of testimony shall be limited to five minutes.

Witnesses are reminded that, on cross-examination, responses to questions calling for a simple yes or no answer shall be so answered first, after which the witness may explain his or her answer. After all parties and Staff have had the opportunity to cross-examine the witness, the exhibit may be moved into the record. All other exhibits may be similarly identified and entered into the record at the appropriate time during the hearing.

The Commission frequently administers the testimonial oath to more than one witness at a time. Therefore, when a witness takes the stand to testify, the attorney calling the witness is directed to ask the witness to affirm whether he or she has been sworn.

The parties shall avoid duplicative or repetitious cross-examination. Further, friendly cross-examination will not be allowed. Cross-examination shall be limited to witnesses whose testimony is adverse to the party desiring to cross-examine. Any party conducting what appears to be a friendly cross-examination of a witness should be prepared to indicate why that witness's direct testimony is adverse to its interests.

VI. ORDER OF WITNESSES

Each witness whose name is preceded by an asterisk (*) will be excused from the hearing if no Commissioners have questions for them.

Witness	Proffered By	Issues #
Direct		
* T.J. KEITH	FPL	1-8, 9B, 9D, 9F, 9H, 9I
* R.R. LABAUVE	FPL	9A, 9C, 9E, 9G, 9J, 9K
* WILL GARRETT	PEF	1
* COREY ZIEGLER	PEF	1-3
* PATRICIA Q. WEST	PEF	1-3, 10A, 10C
* KEVIN MURRAY (also adopting testimony of DALE WILTERDINK)	PEF	1-3
* JOSEPH McCALLISTER	PEF	1-3
* THOMAS G. FOSTER	PEF	2-8, 10A-B
* HOWARD T. BRYANT	TECO	1, 2, 3, 4, 5, 6, 7, 8
* PAUL L. CARPINONE	TECO	3
* J. O. VICK	Gulf	1, 2, 3, 4 (Generic) 11A, 11C, 11E, 11F (Company Specific)

Witness	Proffered By	Issues #
* R.W. DODD	Gulf	1, 2, 3, 4, 5, 6, 7, 8 (Generic) 11A – 11G (Company Specific)

VII. BASIC POSITIONS

FPL: None necessary.

PEF: None necessary.

TECO: The Commission should approve for environmental cost recovery the compliance programs described in the testimony and exhibits of Tampa Electric Witnesses Bryant and Carpinone. The Commission should also approve Tampa Electric's calculation of its environmental cost recovery final true-up for the period January 2008 through December 2008, the actual/estimated environmental cost recovery true-up for the current period January 2009 through December 2009, and the company's projected ECRC revenue requirement and the company's proposed ECRC factors for the period January 2010 through December 2010.

GULF: It is the basic position of Gulf Power Company that the environmental cost recovery factors proposed by the Company present the best estimate of Gulf's environmental compliance costs recoverable through the environmental cost recovery clause for the period January 2010 through December 2010 including the true-up calculations and other adjustments allowed by the Commission.

OPC: No position at this time.

FIPUG: No position at this time.

FEA: No position.

STAFF: Staff's positions are preliminary and based on materials filed by the parties and on discovery. The preliminary positions are offered to assist the parties in preparing for the hearing. Staff's final positions will be based upon all the evidence in the record and may differ from the preliminary positions.

VIII. ISSUES AND POSITIONS

ISSUE 1: What are the final environmental cost recovery true-up amounts for the period ending December 31, 2008?

POSITIONS

PROPOSED STIPULATION
FPL: $2,694,222 over-recovery.

PROPOSED STIPULATION
PEF: $4,320,606 under-recovery.

PROPOSED STIPULATION
TECO: The appropriate final environmental cost recovery true-up amount for this period is an under-recovery of $8,112,993.

PROPOSED STIPULATION
GULF: $1,381,411 over-recovery.

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

POSITIONS

PROPOSED STIPULATION
FPL: $3,602,753 over-recovery.

PROPOSED STIPULATION
PEF: $24,065,931 over-recovery

PROPOSED STIPULATION
TECO: The estimated environmental cost recovery true-up amount for the period is an under-recovery of $9,279,129.

PROPOSED STIPULATION
GULF: Over recovery of $405,127.

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

POSITIONS

PROPOSED STIPULATION
FPL: $174,734,516.

PROPOSED STIPULATION
PEF: $230,703,521.

PROPOSED STIPULATION
TECO: The appropriate amount of environmental costs projected to be recovered for the period January 2010 through December 2010 is $75,435,869.

PROPOSED STIPULATION
GULF: $155,938,965.

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

POSITIONS

PROPOSED STIPULATION
FPL: The total environmental cost recovery amount, adjusted for prior period true-ups and revenue taxes, is $168,558,816.

PROPOSED STIPULATION
PEF: $211,110,086.

PROPOSED STIPULATION
TECO: The total environmental cost recovery amount, including true-up amounts, for the period January 2010 through December 2010 is $92,894,828 after the adjustment for taxes.

PROPOSED STIPULATION
GULF: Recovery of $154,152,427 (excluding revenue taxes).

PROPOSED STIPULATION

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?

POSITION The depreciation rates used to calculate the depreciation expense shall be the rates that are in effect during the period the allowed capital investment is in service.

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

POSITIONS

PROPOSED STIPULATION

FPL:

Retail Energy Jurisdictional Factor	99.08384%
Retail CP Demand Jurisdictional Factor	99.09394%
Retail GCP Demand Jurisdictional Factor	100.00000%

PROPOSED STIPULATION

PEF: The jurisdictional energy separation factor is calculated for each month based on retail kWh sales as a percentage of projected total system kWh sales.

Transmission Average 12 CP demand jurisdictional factor - 68.256%
Distribution Primary demand jurisdictional factor - 99.634%
Jurisdictional Separation Study factors were used for production demand jurisdictional factor as Production Base – 91.669%, Production Intermediate – 59.352%, and Production Peaking – 91.716%
Production A&G – 87.583%.

PROPOSED STIPULATION

TECO: The demand jurisdictional separation factor is 96.39735%. The energy jurisdictional separation factors are calculated for each month based on projected retail kWh sales as a percentage of projected total system kWh sales. These are shown on the schedules sponsored by witness Bryant.

PROPOSED STIPULATION

GULF: The demand jurisdictional separation factor is 96.42160%. Energy jurisdictional separation factors are calculated each month based on retail KWH sales as a percentage of projected total territorial KWH sales.

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

POSITIONS

PROPOSED STIPULATION

FPL:

Rate Class	Environmental Recovery Factor ($/kWh) – based on 12 CP and 1/13AD
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

PROPOSED STIPULATION

PEF: The appropriate factors are as follows: *

RATE CLASS	ECRC FACTORS 12CP & 50%AD	ECRC FACTORS 12CP & 25%AD	ECRC FACTORS 12CP & 1/13AD
Residential	0.591 cents/kWh	0.592 cents/kWh	0.593 cents/kWh
General Service Non-Demand			
@ Secondary Voltage	0.584 cents/kWh	0.583 cents/kWh	0.583 cents/kWh
@ Primary Voltage	0.578 cents/kWh	0.577 cents/kWh	0.577 cents/kWh
@ Transmission Voltage	0.572 cents/kWh	0.571 cents/kWh	0.571 cents/kWh
General Service 100% Load Factor	0.567 cents/kWh	0.565 cents/kWh	0.564 cents/kWh
General Service Demand			
@ Secondary Voltage	0.573 cents/kWh	0.572 cents/kWh	0.571 cents/kWh
@ Primary Voltage	0.567 cents/kWh	0.566 cents/kWh	0.565 cents/kWh
@ Transmission Voltage	0.562 cents/kWh	0.561 cents/kWh	0.560 cents/kWh
Interruptible & Curtailable			
@ Secondary Voltage	0.555 cents/kWh	0.553 cents/kWh	0.552 cents/kWh
@ Primary Voltage	0.549 cents/kWh	0.547 cents/kWh	0.546 cents/kWh
@ Transmission Voltage	0.544 cents/kWh	0.542 cents/kWh	0.541 cents/kWh
Lighting	0.574 cents/kWh	0.571 cents/kWh	0.569 cents/kWh

* The factors are subject to change pending staff's administrative approval upon the resolution of PEF's pending rate case (Docket No. 090079-EI).

PROPOSED STIPULATION

TECO:	**Rate Class**		**Factor at Secondary Voltage (¢/kWh)**
	RS		0.486
	GS, TS		0.486
	GSD, SBF		
		Secondary	0.485
		Primary	0.480
		Transmission	0.475
	IS		
		Secondary	0.478
		Primary	0.474
		Transmission	0.469
	LS1		0.484
	Average Factor		0.485

PROPOSED STIPULATION
GULF:

RATE CLASS	**ENVIRONMENTAL COST RECOVERY FACTORS ¢/KWH**
RS, RSVP	1.391
GS	1.384
GSD, GSDT, GSTOU	1.372
LP, LPT	1.343
PX, PXT, RTP, SBS	1.322
OS-I/II	1.327

OSIII	1.358

STAFF: The factors are a mathematical calculation based on the resolution of company-specific issues. Staff asks for administrative authority to review the calculations reflecting the Commission's vote and include the resulting factors in the Order. Staff agrees with the ECRC factors proposed by TECO and Gulf. For PEF, the factors are subject to change pending staff's administrative approval upon the resolution of PEF rate case, Docket No. 090079-EI. For this docket, the cost recovery factors should be based on the currently-approved 12CP and 1/13 Average Demand cost allocation methodology. For FPL, the factors are subject to change pending staff's administrative approval upon the resolution of FPL rate case, Docket No. 080677-EI. For this docket, the cost recovery factors should be based on the currently-approved 12CP and 1/13 Average Demand cost allocation methodology.

PROPOSED STIPULATION

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

POSITION The factors should be effective beginning with the specified environment cost recovery cycle and thereafter for the period January 2010 through December 2010. Billing cycles may start before January 1, 2010, and the last cycle may be read after December 31, 2010, so that each customer is billed for 12 months regardless of when the adjustment factors became effective.

COMPANY-SPECIFIC ISSUES

Florida Power & Light (FPL)

PROPOSED STIPULATION

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

POSITION: Yes. The purpose of the MTHS – Riviera Project is to provide a warm water habitat for endangered manatees at FPL's Power Plant Riviera (PRV). It helps FPL remain in compliance with FPL's PRV Manatee Protection Plan (MPP), which is Specific Condition 13 of the Industrial Wastewater Facility (IWWF) Permit Number FL0001546 issued by the Florida Department of Environmental Protection (FDEP) for PRV. The Project also helps the Company to comply with the Condition of Certifications set forth by the Florida Fish and Wildlife Conservation Commission (FWC) for a Modernization Project at PRV.

Historically, a portion of the once-through cooling water discharge from the steam units at PRV has provided a warm water refuge for the manatees in winter. The

MPP states ". . . the FPL Riviera power plant shall endeavor to operate in a manner that maintains the water temperature in an adequate portion . . . at or above 68 °F., until such time as the ambient water temperature reaches 61 °F." FPL plans to undertake a Modernization Project at PRV, which was approved by the Commission in Order No. PSC-08-0591-FOF-EI, issued September 12, 2008, in Docket No. 080245-EI. FPL plans to take the existing conventional steam units at PRV out of service no later than 2011 in order to replace them with a gas-fired combined cycle (CC) unit. Due to FPL's projection of lower electric load demands and lower electricity sales resulting from the current economic slowdown, the Company has decided to place the steam units at PRV into inactive reserve status during 2009 and 2010 until they are dismantled for the Modernization Project. FPL estimated that it could save approximately $10 million in O&M costs during 2009 and 2010. With the PRV steam units in inactive status, FPL can no longer depend on them to meet the obligation of MPP to provide a warm water refuge for manatees. The units could not be returned to service quickly enough to respond to a sudden cold-weather event that required warming water for the manatees congregated nearby. The MTHS is the proposed alternative quick-response heating source to put in place in 2009, which will help to avoid potentially adverse impacts from cold weather to manatees congregating at PRV area during the winters of 2009 through 2014. Additionally, the MTHS is less costly to operate in comparison to operating the steam units out of economic dispatch just for water heating. FPL plans to dismantle and remove the MTHS upon the commercial operation of the CC unit at PRV in 2014. From 2014 onward the CC unit will provide a regular warm-water source to comply with the MPP. Furthermore, FPL will begin environmental and biological monitoring of the manatee habitat area pursuant to the Conditions of Certification proposed by the FWC and will develop a long-term manatee strategy at PRV. These activities will be included in the proposed MTHS – Riviera Project.

FPL estimated that the total costs for the MTHS – Riviera Project, including the expenses associated with meeting the monitoring for the period 2009 through 2015 and strategy development requirements, is approximately $5 million. The Company proposed to amortize the MTHS over 56 months from November 2009 through June 2014.

There are specific environmental laws and regulations requiring FPL to comply with the MPP at PRV, and thus warrant the implementation of the MTHS – PRV Project: (1) IWWF Permit for PRV issued by the FDEP; (2) Condition of Certifications set forth by the FWC; (3) Marine Mammal Protection Act of 1972 (16 U.S.C. 1361, et. seq.); and (4) Endangered Species Act of 1973 (16 U.S.C. 1531, et. seq.). FPL shall be permitted to recover the costs associated with the MTHS – PRV Project. Such costs meet the requirements of Section 366.8255, F.S., for recovery through the environmental cost recovery clause (ECRC). The Company is not presently recovering the costs of the Project through base rates or

any other recovery mechanism, nor has it included the costs in FPL's 2010 test year Minimum Filing requirements.

PROPOSED STIPULATION

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

POSITION: Capital costs for the MTHS- Riviera Project should be allocated to the rate classes on an average 12 CP demand basis and $1/13^{th}$ energy basis. Operating and maintenance costs should be allocated to the rate classes on an energy basis.

PROPOSED STIPULATION

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

POSITION: Yes. The purpose of the MTHS – Cape Canaveral Project is to provide a warm water habitat for endangered manatees at FPL's Power Plant Cape Canaveral (PCC). It helps FPL remain in compliance with the facility's Manatee Protection Plan (MPP), which is Specific Condition 9 of the IWWF Permit Number FL0001473 issued by the FDEP. The Project also helps the Company comply with the Condition of Certifications set forth by the FWC for a Modernization Project at PCC. FPL plans to undertake the Modernization Project at PCC, which was approved by the Commission in Order No. PSC-08-0591-FOF-EI, issued September 12, 2008, in Docket No. 080246-EI. FPL plans to take the existing conventional steam units at PCC out of service in 2010 in order to convert them into a combined cycle (CC) unit. The implementation of the proposed MTHS project will provide warm water discharge into the facility's intake canal, which will function as a temporary "manatee refuge," during the period from the decommissioning of the facility in April 2010 until its conversion is complete in June 2013. In addition, pursuant to the Conditions of Certification proposed by the FWC, FPL will begin environmental and biological monitoring of the manatee habitat area, and will develop a long-term manatee strategy at PCC. These activities will be included in the proposed MTHS – Cape Canaveral Project.

The estimate of the capital costs associated with the Project is $5 million, and the O&M costs, including environmental and biological monitoring and development of the long-term manatee strategy, are expected to be approximately $1.6 million in total.

There are specific environmental laws and regulations requiring FPL to comply with the MPP at PCC, and thus warrant the implementation of the MTHS – PCC Project: (1) IWWF Permit for PCC issued by the FDEP; (2) Condition of Certifications set forth by the FWC; (3) Marine Mammal Protection Act of 1972 (16 U.S.C. 1361, et. seq.); and (4) Endangered Species Act of 1973 (16 U.S.C.

1531, et. seq.). FPL shall be permitted to recover the costs associated with the MTHS- PCC Project. Such costs meet the requirements of Section 366.8255, F.S., for recovery through the ECRC. FPL is not presently recovering the costs of the Project through base rates or any other recovery mechanism, nor has it included the costs in its 2010 test year Minimum Filing requirements.

PROPOSED STIPULATION

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

POSITION: Capital costs for the MTHS – Cape Canaveral Project should be allocated to the rate classes on an average 12 CP demand basis and $1/13^{th}$ energy basis. Operating and maintenance costs should be allocated to the rate classes on an energy basis.

PROPOSED STIPULATION

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?

POSITION: Yes. On January 18, 2008, FPL submitted an application for power plant site certification to FDEP under the Florida Electrical Power Plant Siting Act, section 403.501 et. seq., for its TP Uprate Project. The Commission had approved a determination of need for the project in Order No. PSC-08-0021-FOF-EI, issued January 7, 2008, in Docket No. 070602-EI, In re: Final order granting petition for determination of need for proposed expansion of nuclear power plants. On October 29, 2008, the FDEP Siting Office issued the Conditions of Certification (PA 03-45A2), which include Conditions IX and X. Conditions IX and X require FPL to develop a monitoring plan for the Cooling Canal System (CCS) and its surrounding area. On July 13, 2009, FPL filed its Preliminary List of New Projects to be Submitted for Cost Recovery in which the proposed TP-CCMP Project was included. The purpose of the project is to conduct water, groundwater and water quality monitoring, and ecological monitoring to assess the potential impacts of the CCS. The estimated O&M and capital expenditures for the total project are $7.2 million and $2.7 million, respectively. FPL is not presently recovering the costs associated with the TP-CCMP Project through base rates or any other recovery mechanism, nor has it included such costs in FPL's 2010 test year Minimum Filing requirements.

The TP-CCMP Project is legally required to comply with environmental regulations necessary for site certification for its TP Uprate Project. Thus the TP-CCMP Project is tied to the Uprate construction requirements of the TP nuclear units, and consequently it is difficult at first to categorize the expenditures associated with the TP-CCMP Project as environmental compliance costs rather than the TP Uprate Project costs.

The Commission addressed a similar case in Order No. PSC-00-2092-PAA-EI, issued November 3, 2000, in Docket No. 000808, In re: Order granting in part and denying in part petition for cost recovery under the environmental cost recovery clause. There the Commission denied Gulf Power's petition for approval of ECRC recovery for costs associated with the Smith Unit 3 wetland mitigation plan (Smith Plan), even if the Commission found that the Smith Plan was legally required to comply with a governmentally-imposed environmental regulation. The Commission said:

> We find that whether the costs of the Smith Plan may be recovered through the ECRC is a matter of agency discretion and policy. [...] the intent of the clauses is to address costs that may fluctuate or increase significantly and unpredictably from year to year. [...] Construction of a new plant can not be characterized as an unpredictable event. [...] much of the planning process is under the control of the utility, [...] Thus the rationale behind the clauses does not apply in the case of planned construction of a new power plant. [...] Approval of Gulf's petition would set a precedent for recovery, through the ECRC, of a class of expenses that is quite large. Because many of the components of a new plant must meet environmental requirements, a substantial percentage of the cost of a new plant could be recovered through the ECRC. [...] Furthermore, some environmental requirements are inextricably bound with construction requirements, which makes it very difficult, if not impossible, to distinguish between environmental compliance costs and construction costs.

Order No. PSC-00-2092-PAA-EI, pages 5-6.

FPL has been conducting certain monitoring activities at the TP Plant for some time, and FPL indicates that the DEP and water management district have been concerned with adverse environmental impacts from the CCS beyond the specific impacts that may result from the nuclear uprate. The costs associated with these current monitoring efforts are being recovered through FPL's current base rates. With respect to the proposed TP-CCMP project, the company has testified in its Estimated/Actual True-up filing that:

> These activities will be incremental to FPL's current monitoring efforts. . . . The CCM Plan has been designed to focus on the objectives as they relate to the cooling canal system and the Uprate Project and those resources that may be affected adjacent to the cooling system. . . . [R]eports will be submitted every six months during the pre Uprate period and initially during the post Uprate period. . . . The potential additional measures that might be required include . . . the development and application of a 3-

> dimensional coupled surface and groundwater model to further assess impacts of the Uprate Project on ground and surface waters . . . [and] mitigation measures to offset such impacts of the Uprate Project necessary to comply with State and local water quality standards . . .

LaBauve testimony filed August 3, 2009, pages 8, 9, 12, 13.

The Commission has established the Nuclear Cost Recovery Clause (NCRC), pursuant to Section 366.93, F.S., to address the need of investor-owned electric utilities to recover certain of the costs associated with building a nuclear power plant, including construction of a new unit and uprate of an existing one. On March 3, 2008, FPL filed a petition seeking prudence review and recovery of costs through the NCRC for uprate activities at its existing nuclear generating plants, TP Units 3 and 4 and St. Lucie Units 1 and 2. Since the TP-CCMP Project serves as a prerequisite of the TP Nuclear Uprate, the costs associated with this Project could be treated in the NCRC. However, the NCRC has specific implementation policies pursuant to Rule 25-6.0423, F.A.C., and Section 366.93 (4), F.S. Should the TP-CCMP Project be treated through the NCRC, its cost recovery ultimately would be moved into base rates together with the recovery of the revenue requirements associated with the TP Uprate Project after the Uprate is completed and placed into commercial service in 2012. In light of these implementation policies, the following facts should be considered: (a) the major portion of the costs associated with the TP-CCMP Project is O&M expenditures; (b) the Company has projected O&M expenditures until 2015; and (c) it is uncertain at this point when the incremental O&M activities of the Project will cease, due to the nature of the project scope, which includes further assessment of impacts of the Uprate Project and implementation of mitigation measures to offset such impacts. It is not necessary to move substantial amounts of O&M costs into base rates since it is uncertain when such incremental O&M costs will cease being incurred.

Because the costs for the TP-CCMP Project are predominantly O&M expenses that will continue for an uncertain duration and because the water-quality issues that the Project is being undertaken to address relate to operation of the Turkey Point plant as a whole and not just the TP Nuclear Uprate, FPL should be allowed to recover the costs associated with the TP-CCMP Project through the ECRC. The eligibility of ECRC recovery for any similar project will be dependent on individual circumstances and shall therefore be considered on a case-by-case basis.

PROPOSED STIPULATION

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

POSITION: Capital costs for the TP-CCMP Project should be allocated to the rate classes on an average 12 CP demand and $1/13^{th}$ energy basis. O&M costs shall be allocated on an energy basis.

PROPOSED STIPULATION

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

POSITION: Yes. The U.S. Environmental Protection Agency (EPA) intends to review the National Emission Standard for Hazardous Air Pollutants (NESHAP) for coal-fired and oil-fired electric utility steam generating units. The EPA published its Proposed Information Collection Request (ICR) in the Federal Register on July 2, 2009, for the collection of the emissions and fuel data. FPL anticipates that the final ICR will be published by December 2009. The Company has indicated that once the final ICR is published, affected sources must complete data collection and testing requirements within six months of the Federal Register publish date. Such information collection is mandatory under Clean Air Act Section 114 (42 U.S.C. 7414).

The proposed NESHAP-ICR Project is for complying with the EPA data collection and testing requirements for FPL's facilities that have been identified in the EPA proposal, including 17 oil-filed units and 3 coal-fired units. FPL believes that it must begin its plan to respond to a final ICR due to the near certainty that the ICR will be issued, the short time frame in which the Company would be required to respond, and due to the limited availability of contractors that will be needed for the emission testing and fuel analyses. Relying upon the EPA estimates from the ICR Statement of Burden – Part B for those activities which FPL anticipates to be performed by outside firms, the Company has projected approximately $3.3 million in O&M costs in 2010 for contractor and professional services required by the project. Costs for activities identified in the ICR which FPL expects to be completed using in-house resources have not been included in the 2010 cost projection. FPL does not plan to recover these costs through the ECRC. Costs associated with similar activities required to comply with existing state and federal regulations are also not included in the cost projections for this Project.

Subject to the adjustments per the EPA's final ICR requirements, FPL shall be permitted to recover the prudently incurred costs of the NESHAP-ICR Project.

The costs of the Project meet the requirements of Section 366.8255, F.S., for recovery through the ECRC. FPL is not presently recovering NESHAP-ICR Project costs through base rates or any other recovery mechanism, nor has it included such costs in FPL's 2010 test year Minimum Filing requirements.

PROPOSED STIPULATION

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

POSITION: Capital costs for the NESHAP Information Collection Request Project, if any, should be allocated to the rate classes on an average 12 CP demand and 1/13th energy basis. Operating and maintenance costs should be allocated to the rate classes on an energy basis.

PROPOSED STIPULATION

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

POSITION: The Commission granted FPL's petition for approval of the eligibility of three Next Generation Solar Energy Centers for recovery through the ECRC, in Order No. PSC-08-0491-PAA-EI, issued August 4, 2008, in Docket No. 080281-EI, In re: Petition for approval of Solar Energy Projects for Recovery through Environmental Cost Recovery Clause, by Florida Power & Light Company. Per Commission review and audit, the total amount of recoverable costs of the three Next Generation Solar Energy Centers is $78,554 for the final true-up period January 2008 through December 2008.

PROPOSED STIPULATION

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

POSITION: Yes. FPL's updated CAIR, CAMR and CAVR compliance plans that are reflected in FPL's April 1, 2009, supplemental filing appear to represent the most cost-effective alternatives at this time for achieving and maintaining compliance with the environmental rules and regulatory requirements for air quality control and monitoring.

In December 2008, the US Circuit Court of Appeals for the District of Columbia Circuit (the Court) remanded the CAIR to the EPA without vacatur, thereby leaving CAIR compliance requirements in place while EPA develops a revised rule. FPL is thus obligated to comply with the current CAIR requirements, beginning in 2009, until the rule is revised. In line with FPL's CAIR compliance plan, the Selective Catalytic Reduction Systems (SCRs) have been placed into

service at St. Johns River Park Units 1 and 2. Installation of a Scrubber and a SCR for Plant Scherer Unit 4 will be completed in 2012. The 800 MW Cycling Project for Manatee Units 1 and 2 and Martin Units 1 and 2 are currently providing annual and ozone season reductions in NOx emissions that are needed to comply with CAIR. The Low Mass Emitting Continuous Emissions Monitoring Systems are in operation at the Fort Myers, Port Everglades and Fort Lauderdale Gas Turbine Parks.

In February 2008, the Court vacated the CAMR regulation, eliminating CAMR mercury emission control obligations and monitoring requirements. The Court 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. In lieu of CAMR, EPA must define Maximum Available Control Technology (MACT) for control of Hg emissions on coal-fired EGUs. FPL is in the process of installing Hg controls on Scherer Unit 4 in order to comply with the Georgia Multi-pollutant Rule, for which FPL has an obligation to comply at Plant Scherer. FPL believes that these controls will meet any subsequent MACT requirements adopted by the EPA. For the SJRPP units, the Hg emission reductions will be achieved through the co-benefits from the operation of the SCRs that are being installed to comply with CAIR. No separate Hg emission controls have been planned at this time.

With regard to the CAVR compliance, in February 2009, FPL successfully concluded negotiations with the FDEP regarding its TP Units 1 and 2 retrofit measures.

FPL shall file, as part of its annual ECRC final true-up testimony, a review of the efficacy of its CAIR/CAMR/CAVR compliance plans, and the cost-effectiveness of its retrofit options for each generating unit in relation to expected changes in environmental regulations and ongoing state and federal CAIR legal challenges. The reasonableness and prudence of individual expenditures, and FPL's decisions on the future compliance plans made in light of subsequent developments, shall continue to be subject to the Commission's review in future proceedings on these matters.

PROPOSED STIPULATION

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

POSITION: Yes. The Commission granted permission to allow FPL to recovery costs associated with the St. Lucie Cooling Water System Inspection and Management Project in Order No. PSC-07-0992-FOF-EI, issued November 16, 2007, in Docket No. 07007-EI, In re: Environmental Cost Recovery Clause. The purpose of the Project is to inspect and, as necessary, maintain the cooling water system at FPL's St. Lucie nuclear plant such that it minimizes injuries and/or deaths of endangered

species. The Project helps FPL remain in compliance with the federal Endangered Species Act, 16 U.S.C. Section 1531, et seq. (ESA). The original cost estimate for the inspection and cleaning and debris removal was approximately $3 million to $6 million. In FPL's 2010 Projection filing, the Company significantly increased its estimate of the total project costs, to over $21 million, including $4.2 million of expenditures for the period January 2010 to December 2010, due to the change in the scope of the Project.

FPL completed the inspection of the intake pipes and the velocity caps of the cooling system in 2007. The results provide details for what additional work will be needed to clean and remove or minimize debris or structural obstructions. The major change to the required scope of the Project, and thus the total costs associated with the Project, relates to the decision made by the National Marine Fisheries Services (NMFS), pursuant to section 7 of the ESA, to require FPL to install exclusion devices at the velocity cap (VC) openings in order to prevent large organisms such as adult sea turtles from entering the intake pipes. The Company will have to correct the inconsistencies in the size and shape of the windows in the VC structures identified during the 2007 inspection to avoid purchasing customized exclusion devices. FPL will need to manually clean and remove any debris or structural obstructions, and physically cut out large sections of concrete and other protrusions with professional divers.

FPL shall be allowed to recover the increased costs associated with its St. Lucie Cooling Water System Inspection and Management Project to help the Company remain in compliance with the ESA and the NMFS's request. FPL shall perform due diligence over the life of the Project to minimize the costs. The recovery of the project costs through the ECRC is subject to Commission review and audit to ensure such costs are prudent and not otherwise recovered in base rates or any other cost recovery mechanism.

Progress Energy Florida (PEF)

PROPOSED STIPULATION

ISSUE 10A: Should the Commission grant PEF's petition for approval of cost recovery for the Total Maximum Daily Loads Hg Emissions (TMDLs-Hg emissions) Program?

POSITION: Yes. Section 303(d) of the federal Clean Water Act requires each state to identify state waters not meeting water quality standards and establish a Total Maximum Daily Loads (TMDLs) for the pollutant or pollutants causing the failure to meet standards. Under a 1999 federal consent decree, TMDLs for over 100 Florida water bodies listed as impaired for mercury (Hg) must be established by September 12, 2012. The Florida Department of Environmental Protection (FDEP) has initiated a research program to provide the necessary information for setting the appropriate TMDLs for Hg. It will assess the relative contributions of Hg-emitting sources, such as coal-fired power plants, to Hg levels in surface

waters. FDEP could seek to use the information to attempt to impose new regulatory requirements on Hg-emitting sources. Additionally, FDEP is in the process of developing rules to regulate Hg emissions from various sources, and has invited stakeholders to participate in the design and completion of the Hg TMDLs study.

Pursuant to the FDEP's invitation, PEF is participating in the Hg TMDLs study and in the parallel air rulemaking proceedings through its membership in the Florida Electric Power Coordinating Group's Environmental Committee (FCG). The FCG is contracting with various consultants to participate in the monitoring and modeling of Hg emissions and their fate in the environment to ensure that the ongoing regulatory efforts are based on good science; and that the relative contributions of Hg-emitting from the power plants are appropriately analyzed so that future environmental compliance costs are minimized. On March 4, 2009, the Company filed a petition for approval for its participation in environmental studies related to the FDEP's development of TMDLs for Hg in State waters and rules regulating Hg emissions from various sources including, potentially, coal-fired power plants. The estimate of the total costs for PEF to participate in the proposed activities is approximately $166,000 for the period 2009 through 2011. The Company has asserted that the costs are not recovered in base rates or any other cost recovery mechanism, nor are they included in PEF's 2010 test year Minimum Filing Requirements.

This Commission recognized in Order No. PSC-08-0775-FOF-EI, issued November 24, 2008, in Docket No. 08-0007-EI, In re: Environmental Cost Recovery Clause, that utilities are expected to take steps to control the level of costs that must be incurred for environmental compliance. An effective way to control the costs for complying with a particular environmental law or regulation can be participation in the regulatory and legal processes involved in defining compliance. PEF shall be permitted to recover the costs associated with the TMDLs-Hg Emissions Program. Such costs meet the requirements of Section 366.8255, F.S., for recovery through the ECRC.

PROPOSED STIPULATION

ISSUE 10B: How should the costs associated with the TMDLs-Hg Emissions Program be allocated to the rate classes?

POSITION: Operating and maintenance costs for the TMDLs-Hg Emissions Program should be allocated to the rate classes on an energy basis.

PROPOSED STIPULATION

ISSUE 10C: Should the Commission approve PEF's 2009 Review of Integrated Clean Air Compliance Plan as reasonable and prudent?

POSITION: Yes. On April 1, 2009, PEF filed its Review of Integrated Clean Air Compliance Plan. Based on significant project milestones achieved to date, PEF remains confident that its plan will have the desired effect of achieving timely compliance with the applicable regulations in a cost-effective manner. No new or revised environmental regulations have been adopted that have a direct bearing on PEF's compliance plan. Although the Environmental Protection Agency (EPA) is proceeding with the adoption of new standards for utility hazardous air pollutant emissions as a result of a federal court decision vacating the CAMR rules, this development does not immediately impact PEF's implementation of its compliance plan because the plan relies primarily on installation of NOx and SO2 controls to reduce Hg emissions and does not contemplate installation of Hg-specific controls until 2017. It appears that PEF's plan remains the most cost-effective alternative for achieving and maintaining compliance with the applicable air quality control and monitoring regulatory requirements. PEF shall file, as part of its true-up testimony in the ECRC, a yearly review of the efficacy of its plan and the cost-effectiveness of PEF's retrofit options for each generating unit in relation to expected changes in environmental regulations.

PROPOSED STIPULATION

ISSUE 10D: How should the capital and O&M costs associated with Project 7 be allocated to the rate classes?

POSITION: Project 7 capital and O&M costs should be allocated to the retail rate classes on an energy basis as opposed to a production demand basis. This is consistent with Order No. PSC-94-0044-FOF-EI where the Commission ordered that costs associated with the compliance with the Clean Air Act Amendments of 1990 (CAAA) be allocated to the rate classes in the ECRC on an energy basis due to the strong nexus between the level of emissions which the CAAA seeks to reduce and the number of kilowatt hours generated. This also is consistent with the stipulation approved for TECO regarding air pollution control-related costs in Order PSC-04-1187-FOF-EI in Docket No. 040007.

Gulf Power Company (Gulf)

PROPOSED STIPULATION

ISSUE 11A: Should Gulf be allowed to recover the costs associated with its proposed Plant Smith Reclaimed Water Project?

POSITION: Yes. This project is the additional part of Gulf's Plant Smith Water Conservation and Consumptive Program. The Commission approved the Program for cost recovery in Order No. PSC-01-1788-PAA-EI, issued September 4, 2001, in Docket No.010562-EI, In re: Petition for approval of Consumptive Use-Shield Water Substitution Project as new program for cost recovery through Environmental Cost Recovery Clause by Gulf Power Company. Due to the increase in costs relative to the original program, the Company included this

addition in Gulf's Preliminary List of New Projects filed in Docket No. 090007-EI. Gulf's estimated capital expenditures of the Project are approximately $1.5 million for the period January 2010 through December 2010. The total cost associated with the Project is estimated to be $20 ~ $30 million. Specific Condition Nine of the Northwest Florida Water Management District (NFWMD) Individual Water Use Permit Number 19850073, issued November 30, 2006, requires Gulf's Plant Smith in Bay County to implement measures to increase water conservation and efficiency at the facility. Gulf is investigating the feasibility of utilizing reclaimed water at the Smith Plant in order to increase groundwater and surface water conservation as required in the Permit. If the Company determines that it is feasible, the proposed Project will move forward. On October 20, 2008, the NFWMD issued a letter stating that re-use of reclaimed water clearly meets the requirement listed in Specific Condition Nine in the Permit. Gulf has begun initial discussions with potential reclaimed water suppliers in the Bay County area. The Project would ultimately include the necessary engineering and infrastructure for the Company to connect to local reclaimed water source(s). Gulf shall be allowed to recover prudently incurred costs associated with the Plant Smith Reclaimed Water Project. Such costs meet the requirements of Section 366.8255, F.S., for recovery through the ECRC. The Company is not presently recovering the costs of the Project through base rates or any other recovery mechanism.

PROPOSED STIPULATION

ISSUE 11B: How should the costs associated with the Plant Smith Reclaimed Water Project be allocated to the rate classes?

POSITION: Capital costs for the Plant Smith Reclaimed Water Project should be allocated to the rate classes on an average 12CP demand basis and $1/13^{th}$ energy basis.

PROPOSED STIPULATION

ISSUE 11C: Should Gulf be allowed to recover the costs associated with its proposed Plant Crist Unit 6 Precipitator Project?

POSITION: Yes. The Plant Crist Unit 6 Precipitator is part of a previously approved ECRC program required to comply with the Clean Air Act Amendments of 1990. The program was approved for cost recovery in Order No. PSC-94-0044-FOF-EI, issued January 12, 1994, in Docket No. 930613-EI, In re: Order Regarding Gulf Power Company's Petition for Environmental Compliance Cost Recovery. Gulf's recent inspections of the Plant Crist Unit 6 precipitator have indicated that the internals of the precipitator will need to be replaced by 2013. The Company expects to begin preliminary engineering and design in 2010. The 2010 projected expenditures for the Project are approximately $1.1 million. Gulf shall be allowed to recover prudently incurred costs associated with the Plant Crist Unit 6 Precipitator Project. Such costs meet the requirements of Section 366.8255, F.S.,

for recovery through the ECRC. The Company is not presently recovering the costs of the Project through base rates or any other recovery mechanism.

PROPOSED STIPULATION

ISSUE 11D: How should the costs associated with the Plant Crist Unit 6 Precipitator Project be allocated to the rate classes?

POSITION: Capital Costs for the Plant Crist Unit 6 Precipitator Project should be allocated to the rate classes on a 100% energy basis.

PROPOSED STIPULATION

ISSUE 11E: Should the Commission approve Gulf's Environmental Compliance Program Update for the Clean Air Interstate Rule and Clean Air Visibility Rule as reasonable and prudent?

POSITION: Yes. On April 1, 2009, Gulf filed its Environmental Compliance Program Update to address the Company's ongoing pollutants emission control projects and its reasons to continue these projects. In this Update, Gulf has identified the timing and current estimates of costs for specific projects planned by the Company in order to comply with the CAIR, CAVR, CAMR, and the requirements of the Florida Department of Environmental Protection and the Mississippi Department of Environmental Quality, along with information regarding the relative value of the planned projects compared to other viable compliance alternatives. The Update has included a description of the evaluation process used and the results of the process that lead Gulf to conclude that the chosen control technology is both cost-effective and that the affected generating units remain economically viable as a source of energy to Gulf's customers with the addition of the controls. Based on the evaluation of various compliance options as well as the combination of these options, Gulf has decided that the purchase of emission allowances in conjunction with the retrofit projects comprises the most reasonable, cost-effective means for Gulf to meet pollutants emission control requirements. In response to the vacated CAMR ruling, Gulf has removed the affected projects, including the mercury monitor projects at Plant Crist, Plant Daniel, Plant Smith, and the ACI project at Plant Daniel, from the Company's compliance schedule and budget projections.

Gulf's Environmental Compliance Program is reasonable and prudent at this time; it represents the most cost-effective alternative for Gulf to assure environmental compliance while preserving flexibility to cope with the inevitable changes and evolvements of the compliance requirements. Gulf shall file, as part of its annual ECRC true-up testimony, an update of the efficacy of its Environmental Compliance Program and the cost-effectiveness of its compliance options for each generating unit in relation to changes in environmental regulations.

PROPOSED STIPULATION

ISSUE 11F: Should Gulf be allowed to recover the costs associated with its newly proposed Maximum Achievable Control Technology Information Collection Request (MACT-ICR) Project?

POSITION: Yes. The U.S. Environmental Protection Agency (EPA) recently proposed an extensive Information Collection Request (ICR) in the Federal Register for coal-fired and oil-fired electric utility steam generating units to support Maximum Achievable Control Technology (MACT) rulemaking under section 112 of the Clean Air Act. Gulf expects that the EPA will finalize the ICR in January 2010. The proposed ICR requires each of Gulf's facilities to conduct a broad range of emission testing, and submit information on control equipment efficiencies, emissions, capital and O&M costs, and fuel data. In order to comply with the EPA data collection and testing requirements, Gulf proposed the MACT-ICR Project. The Company estimated that the O&M expenses associated with the project would be $541,000 in 2010. Subject to the adjustments per the final ICR requirements, Gulf shall be allowed to recover the prudently incurred costs associated with the MACT-ICR Project. Such costs meet the requirements of Section 366.8255, F.S., for recovery through the ECRC. The Company is not presently recovering the costs of the Project through base rates or any other recovery mechanism.

PROPOSED STIPULATION

ISSUE 11G: How should the costs associated with the MACT-ICR Project be allocated to the rate classes?

POSITION: O&M costs of the MACT-ICR Project shall be allocated on an energy basis.

IX. EXHIBIT LIST

Witness	Proffered By		Description
Direct			
T.J. KEITH	FPL	TJK-1	Appendix I Environmental Cost Recovery Final True-up January- December 2008 Commission Forms 42 - 1A through 42 - 8A

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

[1] 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.

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

[1] 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.
[2] 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.

Witness	Proffered By		Description
WILL GARRETT	PEF	WG-1	PSC Forms 42-1A through 42-8A January 2008 – December 2008
WILL GARRETT	PEF	WG-2	Capital Program Detail January 2009 – December 2009
PATRICIA Q. WEST (Confidential)	PEF	PQW-1 Confidential	Review of PEF's Integrated Clean Air Compliance Plan - 4/1/09
KEVIN MURRAY (adopting DALE WILTERDINK's exhibit)	PEF	DW-1	Crystal River Project Organizational Structure
THOMAS G. FOSTER	PEF	TGF-1	PSC Forms 42-1E through 42-8E January 2009 – December 2009
THOMAS G. FOSTER	PEF	TGF-2	Capital Program Detail January 2009 – December 2009
THOMAS G. FOSTER	PEF	TGF-3	PSC Forms 42-IP through 42-7P January 2009 – December 2009
THOMAS G. FOSTER	PEF	TGF-4	Capital Program Detail January 2009 – December 2009
HOWARD T. BRYANT	TECO	HTB-1	Final Environmental Cost Recovery Commission Forms 42-1A through 42-8A for the period January 2008 through December 2008

Witness	Proffered By		Description
HOWARD T. BRYANT	TECO	HTB-2	Environmental Cost Recovery Commission Forms 42-1E through 42-8E for the Period January 2009 through December 2009
HOWARD T. BRYANT	TECO	HTB-3	Forms 42-1P through 42-7P Forms for January 2010 through December 2010
J. O. VICK	Gulf	JOV-1	Various Documentation
R. W. DODD	Gulf	RWD-1	Calculation of Final True-up 1/08 – 12/08
R. W. DODD	Gulf	RWD-2	Calculation of Estimated True-up 1/09 – 12/09
R. W. DODD	Gulf	RWD-3	Calculation of Projection 1/10 - 12/10

Parties and Staff reserve the right to identify additional exhibits for the purpose of cross-examination.

X. PROPOSED STIPULATIONS

There are proposed stipulations on all the issues, with OPC, FIPUG, and FEA taking no position.

XI. PENDING MOTIONS

There are no pending motions at this time.

XII. PENDING CONFIDENTIALITY MATTERS

There are several pending confidentiality matters at this time. They will be addressed by separate order.

XIII. POST-HEARING PROCEDURES

If no bench decision is made, each party shall file a post-hearing statement of issues and positions. A summary of each position of no more than 50 words, set off with asterisks, shall be included in that statement. If a party's position has not changed since the issuance of this Prehearing Order, the post-hearing statement may simply restate the prehearing position;

however, if the prehearing position is longer than 50 words, it must be reduced to no more than 50 words. If a party fails to file a post-hearing statement, that party shall have waived all issues and may be dismissed from the proceeding.

Pursuant to Rule 28-106.215, F.A.C., a party's proposed findings of fact and conclusions of law, if any, statement of issues and positions, and brief, shall together total no more than 40 pages and shall be filed at the same time.

XIV. RULINGS

Opening statements, if any, shall not exceed five minutes per party.

It is therefore,

ORDERED by Commissioner Nathan A. Skop, as Prehearing Officer, that this Prehearing Order shall govern the conduct of these proceedings as set forth above unless modified by the Commission.

By ORDER of Commissioner Nathan A. Skop, as Prehearing Officer, this 30th day of October, 2009.

NATHAN A. SKOP
Commissioner and Prehearing Officer

(SEAL)

MCB

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), Florida Statutes, to notify parties of any administrative hearing or judicial review of Commission orders that is available under Sections 120.57 or 120.68, Florida Statutes, as well as the procedures and

time limits that apply. This notice should not be construed to mean all requests for an administrative hearing or judicial review will be granted or result in the relief sought.

Mediation may be available on a case-by-case basis. If mediation is conducted, it does not affect a substantially interested person's right to a hearing.

Any party adversely affected by this order, which is preliminary, procedural or intermediate in nature, may request: (1) reconsideration within 10 days pursuant to Rule 25-22.0376, Florida Administrative Code; or (2) judicial review by the Florida Supreme Court, in the case of an electric, gas or telephone utility, or the First District Court of Appeal, in the case of a water or wastewater utility. A motion for reconsideration shall be filed with the Office of Commission Clerk, in the form prescribed by Rule 25-22.0376, Florida Administrative Code. Judicial review of a preliminary, procedural or intermediate ruling or order is available if review of the final action will not provide an adequate remedy. Such review may be requested from the appropriate court, as described above, pursuant to Rule 9.100, Florida Rules of Appellate Procedure.