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April 1, 2010

**-VIA HAND DELIVERY -**

Ms. Ann Cole  
Commission Clerk  
Florida Public Service Commission  
2540 Shumard Oak Blvd.  
Tallahassee, FL 32399-0850

RECEIVED - FPSC  
10 APR - 1 PM 3:46  
COMMUNICATIONS SECTION

**Re: Docket No. 100007-EI**

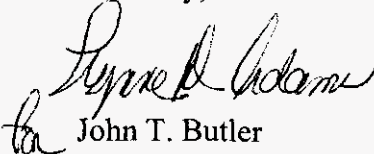
Dear Ms. Cole:

I am enclosing for filing in the above docket the original and seven (7) copies of Florida Power & Light Company's Petition for Approval of Environmental Cost Recovery True-Up for the Period Ending December 2009 and FPL's Supplemental CAIR/CAMR/CAVR Filing, which is included as Attachment I to this petition, together with a CD containing the electronic version of same.

Also enclosed for filing are the original and fifteen (15) copies of the prefiled testimony and documents of Florida Power & Light Company witness T. J. Keith.

If there are any questions regarding this transmittal, please contact me at 561-304-5639.

Sincerely,

  
John T. Butler

COM \_\_\_\_\_  
APA 1  
ECR 4 + CD  
GCL 1  
RAD 1  
SSC \_\_\_\_\_ Enclosures  
ADM \_\_\_\_\_ cc: Counsel for Parties of Record (w/encl.)  
OPC \_\_\_\_\_  
CLK \_\_\_\_\_

DOCUMENT NUMBER - DATE  
02434 APR - 1 2010  
FPSC - COMMISSION CLERK

**BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**

In re: Environmental Cost )  
Recovery Clause )

Docket No. 100007-EI  
Filed: April 1, 2010

**PETITION FOR APPROVAL OF ENVIRONMENTAL COST RECOVERY  
TRUE-UP FOR THE PERIOD ENDING DECEMBER 2009**

Florida Power & Light Company ("FPL") hereby petitions this Commission for approval of FPL's actual End-of-Period Environmental Cost Recovery Clause ("ECRC") true-up over-recovery amount of \$8,074,131 for the period January 2009 through December 2009 and an over-recovery of \$4,500,429 as the adjusted net true-up amount for the same period. In support of this Petition, FPL states as follows:

1. The actual End-of-Period ECRC true-up over-recovery of \$8,074,131 for the period January 2009 through December 2009 was calculated in accordance with the methodology set forth in Schedule A-2 for the Fuel Cost Recovery Clause, attached to Order 10093 dated June 19, 1981. This calculation and the supporting documentation are contained in the prepared testimony and exhibit of FPL witness T.J. Keith, which is being filed together with this Petition and incorporated herein.

2. In Order No. PSC-09-0759-FOF-EI, dated November 18, 2009, the Commission approved an over-recovery of \$3,602,753 as the estimated/actual ECRC true-up for the period January 2009 through December 2009.

3. The adjusted net true-up for the period January 2009 through December 2009 is an over-recovery of \$4,500,429. This includes an adjustment of \$29,048 recorded in September 2009 in order to properly account for the land lease associated with the Space Coast Next

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FPSC-COMMISSION CLERK


Generation Solar Energy Center.

4. Per Order No. PSC-09-0759-FOF-EI, issued on November 18, 2009, FPL is providing its current estimates of project activities and associated costs related to its Clean Air Interstate Rule (CAIR), Clean Air Mercury Rule (CAMR), and Clean Air Visibility Rule (CAVR)/BART Projects as Appendix I to this petition.

WHEREFORE, Florida Power & Light Company respectfully requests the Commission to approve an actual End-of-Period Environmental Cost Recovery true-up over-recovery amount of \$8,074,131, and an over-recovery of \$4,500,429 as the adjusted net true-up, for the period January 2009 through December 2009.

Respectfully submitted,

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By:   
John T. Butler  
Florida Bar No. 283479

**CERTIFICATE OF SERVICE**  
**Docket No. 100007-EI**

I HEREBY CERTIFY that a true and correct copy of Florida Power & Light Company's Petition for Approval of Environmental Cost Recovery True-Up for the Period Ending December 2009 has been furnished by hand delivery (\*) or U.S. mail this 1<sup>st</sup> day of April, 2010 to the following:

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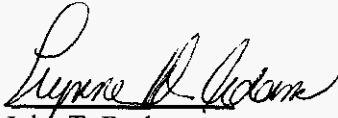
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**FLORIDA POWER & LIGHT COMPANY  
DOCKET NO. 100007-EI  
ENVIRONMENTAL COST RECOVERY CLAUSE  
FPL SUPPLEMENTAL CAIR/CAMR/CAVR FILING  
APRIL 1, 2010**

**Per Order No. 09-0795-FOF-EI, issued on November 18, 2009, the discussion below provides FPL's current estimates of project activities and associated costs related to its Clean Air Interstate Rule (CAIR), Clean Air Mercury Rule (CAMR) and Clean Air Visibility Rule (CAVR)/ Best Available Retrofit Technology (BART) Projects.**

**CAIR Compliance Project Update:**

**St. Johns River Power Park (SJRPP) Selective Catalytic Reduction Systems (SCR) and Ammonia Injection Systems** – The construction and installation of SCR and Ammonia Injection Systems on SJRPP was completed in 2009 with the completion of testing and in-service operation of the Unit 2 SCR in December 2009. Completion of the Unit 1 SCR was accomplished in June 2009. FPL has projected a capital cost of \$150,000 in 2010 for the addition of sootblowers to the SCRs on Units 1 and 2, which will facilitate combustion of Petcoke. The total CAIR capital cost for installation of the SCR and Ammonia Injection System for FPL's ownership share of SJRPP was \$55.3 million.

Estimated CAIR O&M expenses for 2010 are \$840,000 and estimated annual O&M expenses beginning 2011 are approximately \$860,000 (FPL 20% ownership). Ongoing O&M activities for the SCR include incremental operating staff, ammonia consumption, maintenance of the SCR ammonia injection skid and SCR auxiliary equipment.

**Scherer SCR and Wet Flue Gas Desulfurization (FGD)** - Current capital cost estimates for the installation of the FGD, Scrubber and SCR with Ammonia Injection System on Scherer Unit 4 is \$441.1 million. The construction of plant infrastructure required for the reagent supply has been completed and waste by-product removal from the emission controls being implemented at Plant Scherer is currently underway and FPL's share of the costs for those facilities needed for support of Unit 4 are included in the project costs. Unit specific engineering and design work on the FGD and SCR for Unit 4 was completed in 2008 and procurement of materials needed for the construction of the equipment began in 2009 is currently underway. Foundation work for construction of the FGD and SCR and the foundation for the new chimney for output from the FGD were completed in 2008.

Project work accomplished in 2009 includes: delivery and initial installation of SCR structural steel; delivery and installation of SCR ammonia storage facility; initial construction of FGD chimney liner and absorber foundation activities; Scherer common FGD facility work including limestone handling prep equipment, tanks, piping, and electrical; and initial construction activities for FGD gypsum waste disposal facility. Scheduled project work associated with erection of the scrubber vessel and stack/liner was adversely impacted

by unanticipated persistent inclement weather increasing the original planned construction schedule. Project work scheduled for 2010 includes the SCR support structure and Unit 4 FGD absorber vessel; construction will progress in order to meet the projected 2012 in-service dates for the projects. Additionally, construction will be substantially complete for SCR and FGD project common facilities (e.g., unloading and storage facilities for ammonia and limestone and limestone grinding facilities). FPL estimates its share of the Scherer Unit 4 CAIR capital costs to be \$101.9 million in 2010 and \$97.4 million in 2011. Georgia Power Company has not provided O&M estimates for the SCR and FGD for 2012 and beyond when the FGD and SCR are projected to be in-service. O&M activities for the SCR include incremental operating staff, ammonia consumption, maintenance of the SCR ammonia injection skid and SCR auxiliary equipment. O&M activities for the FGD include limestone consumption, limestone and by-product handling operation, FGD operations, FGD tower and auxiliary equipment maintenance.

**800 MW unit cycling project** - The 800 MW unit cycling project is currently underway, with anticipated completion in 2010 at the Martin and Manatee Plants. Mr. LaBauve introduced this project in his September 1, 2006 testimony and subsequently provided an estimate for implementation of the projects with a total capital cost of \$104.8 million. Project work completed at the Martin and Manatee Plants for 2009 includes major boiler, turbine and balance of plant initiatives, as well as feed-water modernization. Extraction control and boiler/main steam drains were completed for Martin 2 during the 2009-2010 Winter outage. The reschedule of the Martin Unit 2 outage from September to December 2009 was the result of changes in system load requirements, which resulted in some of the 2009 outage work being deferred into 2010. The same work will be accomplished for Manatee Unit 1 as a part of a Spring outage that had commenced in mid-March of 2010.

Planned work for 2010 for the completion of the 800 MW cycling project includes the Manatee Unit 1 outage that began in March 2010. All remaining work, including feed-water modernization, extraction control and boiler/main steam drains will be completed as a part of the Martin 1 and Manatee 2 outages currently scheduled for the Fall of 2010. For 2010, FPL projects a capital cost of \$26.1 million and an O&M expense of \$1.9 million. FPL plans to complete the project work at the Manatee and Martin plants in 2010 with a revised estimated total project cost of \$111.2 million in capital costs and \$4.1 million in O&M expenses. Increases to the capital project costs from the prior estimate are primarily the result of upgrades to the chlorination system to prevent biological fouling of new condenser tubes, and also a result of higher than projected labor costs for: fabrication of boiler and main steam drains; extraction control and mass blow-down; and required superheat steam spray upgrades. Increases to the O&M expenses were primarily a result of upgrades necessary to prevent biological fouling of new condenser tubes.

**Rule Challenge** - On July 11, 2008 the United States Circuit Court of Appeals for the District of Columbia Circuit issued an opinion vacating the United States Environmental Protection Agency's (EPA) CAIR. On December 23, 2008, the Court issued an opinion on rehearing of the July 11 decision and remanded CAIR to the EPA without vacatur, instructing EPA to remedy the CAIR flaws in accordance with the Court's July 11 opinion.

This results in CAIR remaining in effect in its current form until it is revised for the July 11 opinion. On September 23, 2009, FPL filed a petition with the EPA to expedite rulemaking for the rewrite of the CAIR rules. As a result of EPA's inaction regarding fuel adjustment factors, FPL filed a Writ of Mandamus on December 18, 2009 asking the DC Circuit Court of Appeals to force EPA to remove the fuel adjustment factors. On January 5, 2010, the Court ordered EPA to respond to FPL's Writ of Mandamus by January 26, 2010. The Court denied FPL's Writ of Mandamus on February 2, 2010. EPA Assistant Administrator Regina McCarthy testified before the Senate Committee on Environment and Public Works on March 4, 2010 that EPA plans to provide a draft replacement rule for CAIR by May of 2010. While successful in the challenge of CAIR's use of fuel adjustment factors, FPL has exhausted all available remedies to remove the fuel factors from CAIR until the CAIR replacement rule is published.

**Continuous Emissions Monitoring System (CEMS) Plan for Gas Turbines (GT)** - The Low Mass Emitting (LME) CEMS have been installed, tested, and are now in operation at the Fort Myers, Port Everglades, and Fort Lauderdale Gas Turbine Parks, as required by the CAIR.

Testing of the GT CEMS is required every five years at current operating conditions to maintain certification of the monitoring systems. FPL has projected a 2010 expense of \$70,000 for required maintenance and testing of GT CEMS. In addition, it is anticipated that an average annual expense of \$5,000 per year will be required for routine maintenance beginning in 2011 of these CEMS systems. It should be noted that the LME option is available for a GT only if its emissions remain under EPA-prescribed thresholds. If any GT emits more than 50 tons of NO<sub>x</sub> or 25 tons of SO<sub>2</sub> in a given calendar year, the testing for that GT will be required every year, instead of every five years. That would increase the testing costs for non-qualifying GTs to \$65,000 per year, along with \$5,000 per year for maintenance.

**Purchases of allowances** - To comply with the CAIR Ozone Season NO<sub>x</sub> program requirements, FPL purchased CAIR allowances that were needed for compliance at a total cost of \$98,325. The 855 CAIR Ozone season allowances, in addition to the 12,418 allowances allocated to FPL by the EPA, were needed to comply with CAIR requirements for fossil generating unit emissions during the May through September 2009 Ozone Season. FPL's actual CAIR Ozone Season emissions were in excess of the allowances allocated by EPA primarily as a result of the continued use of fuel adjustment factors by EPA and FDEP for allocation of allowances emissions. Future purchases of allowances will be made as needed for compliance with the annual and ozone season NO<sub>x</sub> requirements. FPL has revised its estimate to reflect the changes, which were made in the projected operation of FPL fossil generating units, including the projected in-service date of additional generation at West County Energy Center, use of available excess emission allowances from Unit Power Sale contracts, and emission reductions from the implementation of the CAIR projects. While FPL has received allocations to its existing CAIR fossil generating units, FPL has projected, but does not know precisely, the number of allowances it will be allocated under the CAIR NO<sub>x</sub> Annual and Ozone Season new source set-aside program. As a result of the lower than

previously projected system load, and changes in FPL's generation plan mentioned above, FPL projects that it may have sufficient allowances for compliance with the CAIR NOx Ozone Season and NOx Annual programs in 2010 without purchasing additional allowances.

<b>CAIR CAPITAL COST ESTIMATES (\$Millions)</b>			
<b>PROJECT</b>	<b>2010</b>	<b>2011</b>	<b>TOTAL PROJECT</b>
SJRPP- SCR/Ammonia Injection System	0.15	0.0	55.3
Scherer-SCR/FGD	101.9	97.4	441.1
800 MW Unit Cycling - Martin	11.4	0.0	56.0
800 MW Unit Cycling - Manatee	14.7	0.0	55.2
CEMS at GTs	Capital project completed	Capital project completed	Capital project completed
Allowances	N/A	N/A	N/A

<b>CAIR O&amp;M EXPENSE ESTIMATES (\$Millions)</b>			
<b>PROJECT</b>	<b>2010</b>	<b>2011</b>	<b>TOTAL PROJECT</b>
SJRPP- SCR/Ammonia Injection System	0.840	0.860	1.98 (2011+ annual operating costs are on-going)
Scherer-SCR/FGD	0	0	Not yet available
800 MW Unit Cycling - Martin	1.25	0	2.10
800 MW Unit Cycling - Manatee	.715	0	1.96
CEMS at GTs	0.070	0.005	0.019 (2011+ annual operating costs are on-going)
Allowances	0	0	N/A



**CAMR Compliance Project Update:**

On February 8, 2008, the United States District Court of Appeals ruled that EPA's delisting rule for mercury emissions from coal-fired Electric Generating Units (EGUs) utility boilers and the CAMR were unlawful and vacated both rules. On February 6, 2009, the United States Department of Justice withdrew its petition for certiorari in *EPA v. New Jersey*. On February 12, 2009, industry intervenors filed a letter with the Supreme Court responding to EPA's decision to move for dismissal of its request for review of the D.C. Circuit's decision in *New Jersey v. EPA*, which vacated the CAMR and EPA's rule delisting coal- and oil-fired EGUs from regulation under § 112 of the Clean Air Act (Delisting Rule).

On February 23, 2009, the U.S. Supreme Court dismissed EPA's petition for certiorari in the case of *EPA v. State of New Jersey*, following the EPA's request to withdraw the petition. As a result, the 2008 D.C. Circuit's ruling vacating EPA's Delisting Rule and CAMR stands firm. Following EPA's withdrawal of its petition for a writ of certiorari, EPA has begun efforts to develop appropriate standards to regulate power plant emissions under Section 112.

On October 28, 2009, EPA published its proposed consent decree with respect to the "*American Nurses Association, et al v. EPA*" Clean Air Act citizen suit, in December 2008. The consent decree establishes a timeline for EPA's proposal of MACT standards for coal- and oil-fired electric utility steam generating units with a proposed rule no later than March 16, 2011 and a final rule no later than November 16, 2011. In December 2009, EPA approved an Information Collection Request (ICR) requiring all coal- and oil-fired electric utility steam generating units to submit emissions data and for a specified list of affected units to perform fuel sampling and stack emission testing of Hazardous Air Pollutants (HAPs). Data collected in the ICR will be used in setting standards of performance for coal- and oil-fired electric utility steam generating unit emissions of HAPs. In the August 2009 Projection filing FPL, proposed, and in Order No. 09-0795-FOF-EI issued November 18, 2009, the Commission subsequently approved, a new ECRC project for recovery of costs for compliance with the ICR in 2010.

The Georgia Environmental Protection Division (EPD) promulgated two major rules to implement mercury reductions within Georgia: a rule to adopt the CAMR federal mercury cap and trade program: Rule 391-3-1-.02(15) – "*Georgia Mercury Trading Rule*" and a Georgia state specific Multipollutant Rule: Rule 391-3-1-.02(2) (sss) – "*Multipollutant Control for Electric Utility Steam Generating Units*". The Multipollutant Rule was promulgated to specify the implementation of specific air pollution control equipment for reductions in mercury (Hg), sulfur dioxide (SO<sub>2</sub>), and nitrogen oxides (NO<sub>x</sub>) emissions from coal-fired EGUs. The rule requires controls to be implemented on specific EGUs within the state to control the emissions of SO<sub>2</sub>, NO<sub>x</sub> and Hg. Section 4(i) of the Multipollutant Rule requires that Scherer Unit 4 may not be operated after April 30, 2010, unless it is equipped and operated with sorbent injection and a baghouse for the control of Hg emissions.

Installation of the Hg controls, and associated continuous Hg emission monitoring that would have been needed to comply with the CAMR requirements remain necessary to comply with the requirements of the Georgia Multipollutant Rule; therefore installation of Hg controls on

Plant Scherer Unit 4 must continue. The Georgia Multipollutant Rule requires that each of the four units at Plant Scherer install and operate a sorbant injection system with a baghouse collection device for removal of Hg. The vacatur of CAMR does not change the compliance obligations at Plant Scherer, including FPL's share of Unit 4. FPL anticipates that controls being installed at Plant Scherer for Hg control will be needed to comply with the monitoring and reporting requirements. This will ultimately be required in order to remain in compliance with monitoring of the final MACT rule expected in late 2011. Specifically, FPL will comply with the Hg reduction requirements of the Georgia Multipollutant Rule by using the following projects identified previously under CAMR:

1. Installation of Fabric Filter Baghouse and Mercury Sorbant Injection System on Scherer Unit 4 (projected completion in 2010).
2. Installation of HgCEMS on Scherer Unit 4 (completed 2009).
3. Installation of HgCEMS on SJRPP Units 1 & 2 (completed in 2008 prior to the EPA decision and certification testing and operation have been delayed until the monitoring requirements begin for Hg MACT compliance).

Construction work completed in 2009 for the Scherer Unit 4 Hg controls included completion of the structural components, fabric filter assembly, and major electrical components. FPL has revised the cost estimates for the installation of Hg controls at Plant Scherer as a result of estimated increases in labor and material costs. Installation of Hg controls at Plant Scherer will be completed with an in-service date of 2010 for the controls and 2011 for completion of the by-product storage facility. FPL has projected a capital cost of \$20.9 million in 2010 and \$1.7 million in 2011 for the CAMR projects. Projected annual O&M associated with operation of the Hg controls includes purchase of new sorbant, disposal of spent sorbant, replacement of filter bags, and maintenance activities associated with the baghouse and sorbant injection system, and the maintenance costs associated with FPL's share of the HgCEMS. FPL's cost associated with the installation of HgCEMS at SJRPP represented a total capital cost of \$0.4 million. FPL has projected a CAMR O&M expense for Plant Scherer of \$2.5 million for 2010 and \$4.0 million beginning in 2011 for purchase and disposal of sorbants and replacement of baghouse media and an estimated total capital cost of \$154.7 million for FPL's share of the installation of the sorbant injection/baghouse controls for mercury emission reductions.

FPL will evaluate future Hg control requirements for Plant Scherer and SJRPP as the EPA reviews its 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.

<b>CAMR CAPITAL COST ESTIMATES (\$Millions)</b>			
<b>PROJECT</b>	<b>2010</b>	<b>2011</b>	<b>TOTAL PROJECT</b>
SJRPP-Mercury CEMS	0	0	0.4
Scherer-Sorbant Injection/Baghouse/Mercury CEMS	20.9	1.7	154.7

<b>CAMR O&amp;M EXPENSE ESTIMATES (\$Millions)</b>			
<b>PROJECT</b>	<b>2010</b>	<b>2011</b>	<b>TOTAL PROJECT</b>
SJRPP-Mercury CEMS	0	0	0.0
Scherer-Sorbant Injection/Baghouse/HgCEMS	2.5	4.0	4.0 (2011+ annual operating costs are on-going)

**CAVR / BART Project Update:**

FPL successfully concluded negotiations with the Florida Department of Environmental Protection (FDEP or the Department) regarding Turkey Point Units 1 & 2 in February 2009, with the Department accepting FPL's proposed plan to comply with the BART requirements under the Regional Haze program. FPL and the FDEP agreed on the following compliance options for particulate and opacity control under BART:

1. installation of modern multi-cyclone separators;
2. switching to a lower sulfur fuel (from 1.0% to 0.7%);
3. adoption of a lower Particulate Matter (PM) emission limit from 0.1 lb./mmbtu to 0.07 lb./mmbtu;
4. conducting a fuel additive test program with the goal of a further PM reduction to 0.05 lb./mmbtu, if feasible; and
5. accepting a steady-state opacity limit of 20% based on an annual average for 99% of the annual steady-state operating periods.

The projected cost of this Emission Reduction Strategy is estimated to be \$7.3 million Capital with \$1.9 million increased O&M per year, which FPL will not include recovery of costs under the ECRC.

FDEP issued the final permit for compliance with BART on April 14, 2009 completing the BART project. The required implementation date will not be until December, 2013. In order to minimize the effect on total system load and availability, installation will be conducted using a staged approach, with work done during the unit's planned outages currently scheduled between now and 2013.

In addition to the compliance requirement under the BART rule, FDEP's Regional Haze Rule 62-296.341, Reasonable Progress Control Technology (RPCT), requires that an electric utility unit which had a "Significant Contribution to Regional Haze" as evidenced by SO<sub>2</sub> emissions in 2002 address visibility impacts to the Class 1 areas. FDEP has identified six FPL generating units which had been determined to be subject to the RPCT requirements: Turkey Point Units 1 & 2, Port Everglades Units 3 & 4, and Manatee Units 1 & 2.

FPL will need to address the RPCT requirements through submittal of an air construction permit that evaluates the RPCT factors for each of the six generating units. The permit application must be submitted no later than January 31, 2012. In compliance with the RPCT requirements, the FDEP must issue the final air construction permits implementing the applicant's RPCT proposal no later than December 31, 2017. FPL plans to begin analysis and evaluation in 2011 for the RPCT factors for the affected generating units.

FPL has projected a preliminary estimated O&M total cost of \$0.030 million for 2011 and 2012 for the required RPCT analysis of the six generating units.

<b>CAVR/BART O&amp;M EXPENSE ESTIMATES (\$Millions)</b>			
<b>PROJECT</b>	<b>2010</b>	<b>2011</b>	<b>TOTAL PROJECT</b>
Reasonable Process Control Technology	0	.030	0.070*

*\*Through 2011*