BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Environmental cost recovery clause.	DOCKET NO. 100007-EI
	DATED: September 30, 2010

COMMISSION STAFF'S PREHEARING STATEMENT

Pursuant to Order No. PSC-10-0097-PCO-EI, filed February 22, 2010, the Staff of the Florida Public Service Commission files its Prehearing Statement.

a. All Known Witnesses

Staff is not sponsoring any witnesses.

b. All Known Exhibits

Staff has no direct exhibits.

c. Staff's Statement of Basic Position

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 stated herein.

d. Staff's Position on the Issues

GENERIC ISSUES

ISSUE 1: **What are the final environmental cost recovery true-up amounts for the period ending December 31, 2009?**

POSITION: No position at this time.

ISSUE 2: **What are the estimated environmental cost recovery true-up amounts for the period January 2010 through December 2010?**

POSITION: No position at this time.

ISSUE 3: **What are the projected environmental cost recovery amounts for the period January 2011 through December 2011?**

POSITION: No position at this time.

ISSUE 4: **What are the environmental cost recovery amounts, including true-up amounts, for the period January 2011 through December 2011?**

POSITION: No position at this time.

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 2011 through December 2011?**

POSITION: 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.

ISSUE 6: **What are the appropriate jurisdictional separation factors for the projected period January 2011 through December 2011?**

POSITION: No position at this time.

ISSUE 7: **What are the appropriate environmental cost recovery factors for the period January 2011 through December 2011 for each rate group?**

POSITION: 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.

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 environmental cost recovery cycle and thereafter for the period January 2011 through December 2011. Billing cycles may start before January 1, 2011 and the last cycle may be read after December 31, 2011, so that each customer is billed for twelve months regardless of when the adjustment factor became effective.

COMPANY-SPECIFIC ISSUES

Florida Power & Light (FPL)

ISSUE 9A: **Should FPL be allowed to recover the costs associated with its proposed St. Lucie Turtle Net - Update Project?**

POSITION: Yes. The St. Lucie Turtle Net Project was originally filed for recovery through the Environmental Cost Recovery Clause (ECRC) in Docket No. 020648-EI, on June 18, 2002 and subsequently approved through Order No. PSC-02-1421-PAA-EI, issued on October 17, 2002. The Incidental Take Statement contained in the Endangered Species Act Section 7 Biological Opinion, issued to FPL on May 4, 2001 by the National Marine Fisheries Service, limits the number of lethal turtle takings FPL is permitted at its St. Lucie Power Plant. Also, Appendix B of the Facility Operating License for St. Lucie Unit 2, which was granted to FPL by the United States Nuclear Regulatory Commission, requires FPL to maintain a specified net system and to limit lethal takes of sea turtles to prescribed levels. In 2009, an unforeseen intrusion of large quantities of algae occurred that damaged the existing net support structure. The proposed update project will create a more robust barrier structure for effectively securing the turtle net to help FPL to remain in compliance with Appendix B to the Facility Operating License. FPL expects to begin the project during the last quarter of 2010 and expects to complete the project during the last quarter of 2011. The company projects to incur $1.4 million of capital costs and currently there are no operating and maintenance (O&M) costs projected for these activities.

ISSUE 9B: **Should FPL be allowed to recover the costs associated with its proposed Martin Plant Barley Swamp Iron (BBS-Iron) Project?**

POSITION: Yes. FPL's Martin Plant received a renewed Industrial Wastewater Facility Permit No. FL0030988 from the Florida Department of Environmental Protection, which included Administrative Order AO-15-TL (AO). The AO requests that FPL conduct an engineering evaluation of methods for meeting the water quality standard at the outfall of the Barley Barber Swamp (BBS), and comply with the Class III Fresh water quality standard for iron (4.8 mg/L before June 11, 2011, and 1.0 mg/L forward). Per the AO, FPL conducted an engineering evaluation at the BBS which determined that the BBS was above the allowable iron levels. The proposed BBS-Iron project will engineer and install a siphon and a new discharge piping system to turn the existing flow away from the BBS and back into the Martin Plant's cooling pond. FPL believes that the project will enable the company to remain in compliance with the new requirements set forth by the AO. FPL plans to complete the project by March 1, 2011, with projected total costs of $255,000.

ISSUE 9C: **How should the costs associated with FPL's proposed Martin Plant BBS-Iron Project be allocated to the rate classes?**

POSITION: Capital and O&M costs for BBS-Iron Project should be allocated to the rate classes on an average 12 CP demand basis.

ISSUE 9D: **Should FPL be allowed to recover the costs associated with its proposed 800 MW Units Electrostatic Precipitators (ESPs) Project for complying with the Maximum Achievable Control Technology (MACT) Rule?**

POSITION: Yes, if the MACT Rule proposed by the U.S. Environmental Protection Agency (EPA) in 2011 requires the ESPs for operating oil-fired electric utility steam generating units (EGUs). In October 2009, the EPA entered into a Consent Decree, approved by the U.S. Court of Appeals for the District of Columbia Circuit, which requires the EPA to issue a proposed MACT Rule for coal-fired and oil-fired EGUs by March 2011 and the final rule by November 2011. Under the timetable of the Consent Decree and Clean Air Act Section 112's requirement that EGUs be in compliance with Hazardous Air Pollutants standards within three years from their adoption, FPL anticipates that EPA's MACT rule will require EGUs to be in compliance with the new Hazardous Air Pollutants standards of performance by November 16, 2014. For oil-fired EGUs currently in operation, FPL expects that compliance will require the installation and operation of ESPs, because ESPs are currently used on the low-emitting oil-fired units that will define what constitutes MACT for such units.

The proposed Project consists of installing ESPs at each of the four 800 MW EGUs (Martin Units 1 and 2 and Manatee Units 1 and 2). Without ESPs, FPL expects that it would only be permitted to burn a very low percentage of oil in the 800 MW units (likely in the range of 10%), whereas FPL must burn at least 70% oil in order to achieve the full output of those units. Operating the 800 MW units on the lower oil percentage fuel mix that would be permissible without ESPs would cause FPL to lose 984 MW of available generating capacity to serve customer load in peak periods, which would require FPL to add a comparable amount of expensive incremental capacity to its system. Additionally, retaining the option to burn a high percentage of oil in the 800 MW units would help maintain fuel supply diversity, would help hedge against natural gas supply and could reduce fuel costs to customers. It would also provide greater reliability for FPL's electric generating system and further improve the stability of the transmission grid.

The optimum, least-cost configuration for the Martin and Manatee units is to place the ESPs in between the emission stacks and the boilers at each plant. However, such in-line configuration requires that each unit be taken out of service during installation, which takes approximately 8-12 months. FPL believes that removing the units from service for the ESP installation work one at a time, on a staggered outage schedule, would be the most efficient and cost-effective way to install the ESPs at the 800 MW EGUs with the least disruption and reliability risk. In order to facilitate the staggered schedule and have ESPs installed at all four 800 MW EGUs by the anticipated November 2014 deadline of the MACT Rule, FPL proposes to commence the project prior to publication of the MACT Rule, and begin construction of the first unit ESP in October 2011. However, the Company

asserts that if the proposed MACT Rule does not require ESPs at oil-fired EGUs, it would not proceed with the project unless and until an appropriate scope modification had been filed and approved by the Commission.

The total estimated capital cost for the proposed project is $303 million with the first year (2011) capital expenditures being $48.3 million. FPL conducted an analysis to compare the installation of ESPs vs. no-ESPs on the 800 MW EGUs. The results shown an estimated benefit of $487 million CPVRR (over the first 20 years after installation) for adding the ESPs, which includes an estimated $24 million per year fuel switching benefit for adding the ESPs and maintaining the option to burn oil. Notably, the economics of this analysis are driven by the costs of new combined cycle natural gas-fired generating capacity that would be required to make up the lost 984 MW of capacity at the 800 MW EGUs in the no-ESP case. The additional combined cycle unit would be required in 2020 to meet reserve margins.

ISSUE 9E: **How should the costs associated with FPL's proposed 800 MW Units ESPs Project be allocated to the rate classes?**

POSITION: Capital costs for the Project should be allocated to the rate classes on an average 12 CP demand basis. O&M costs should be allocated to the rate classes on an energy basis.

ISSUE 9F: **Should FPL submit to the Commission monthly schedules to report the operation status of its three Next Generation Solar Energy Centers?**

POSITION: Yes. Gathering cost and performance data as well as information pertaining to reduced fuel consumption and emission reductions resulting from the output of the solar projects is consistent with the intent of Section 366.92(1), F.S. Monthly filings by FPL would provide the most efficient means of gathering such data. Information not directly ascertainable from operating data can be manually calculated for the purposes of the monthly filing; however, staff would reserve the opportunity to pursue simulated approximations, for comparison purposes, through a discovery request each year in the ECRC proceeding, recognizing that FPL will require additional time to respond to such discovery in the event that simulated approximations are requested that cover a period of more than one month.

ISSUE 9G: **Should the Commission approve FPL's 2010 Supplemental Clean Air Interstate Rule (CAIR), Clean Air Mercury Rule (CAMR) and Clean Air Visibility Rule (CAVR) Filing?**

POSITION: Yes. Completion of the compliance activities discussed in FPL's Supplemental CAIR/CAMR/CAVR Filing of April 1, 2010, is required by existing federal and state environmental rules and regulatory requirements for air quality control and

monitoring; and the associated project costs appear reasonable and prudent. 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 ECRC proceedings on these matters.

Progress Energy Florida (PEF)

ISSUE 10A: Should the Commission grant PEF's Petition for approval of cost recovery for the Effluent Limitation Guidelines-related Information Collection Request (ELG-ICR) Project?

POSITION: Yes. Section 304 of the Clean Water Act directs the EPA to develop and periodically review regulations, called effluent guidelines, to limit the amount of pollutants that are discharged to surface waters from various point source categories. In October 2009, EPA published in the Federal Register a proposed information collection request (ICR) to collect information to support the development of revised effluent guidelines for the steam electric power generating category. (74 Fed. Reg. 55,837) On June 18, 2010, PEF received notification that the Crystal River Energy Complex, Suwannee River Plant and the Hines Energy Complex are required to complete the ICR and submit responses to EPA within 90 days. Collection and submittal of the requested information is mandatory under Section 308 of the Clean Water Act. The Commission has previously held that the costs of complying with a similar ICR related to the EPA's development of air emissions standards are recoverable under the ECRC.[1]

PEF estimates the total project costs to be approximately $60,000 for 2010. Such estimates are based on the cost estimates published by EPA and PEF's estimate of contractor support costs. PEF currently anticipates that all costs for complying with the new ICR will be incurred in 2010, and the Company expects that all of these costs will be subject to audit by the Commission.

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[1] Order No. PSC-09-0759-FOF-EI, issued November 18, 2009, in Docket No. 090007-EI, In Re: Environmental Cost Recovery Clause.

ISSUE 10B: How should the costs associated with PEF's proposed ELG-ICR Project be allocated to the rate classes?

POSITION: O&M costs associated with the ELG-ICR project should be allocated to rate classes on an energy basis.

ISSUE 10C: Should the Commission approve PEF's Updated Review of Integrated Clean Air Compliance Plan that was submitted on April 1, 2010?

POSITION: Yes. PEF remains confident that its Integrated Clean Air Compliance Plan will have the desired effect of achieving timely compliance with the applicable regulations in a cost-effective manner. PEF has achieved significant project milestones, including execution of all major contracts and commencement of construction activities, including installation of steel support for the Crystal River Units 4 and 5 control projects. No new or revised environmental regulations have been adopted that have a direct bearing on PEF's compliance plan. 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.

Gulf Power Company (Gulf)

ISSUE 11A: Should the Commission approve Gulf's Environmental Compliance Program Update for the Clean Air Interstate Rule (CAIR) and Clean Air Visibility Rule (CAVR) that was submitted on April 1, 2010?

POSITION: Yes. Gulf's Compliance Program Update identifies the timing and current estimates of costs for specific projects planned by the Company in order to comply with CAIR and CAVR requirements along with information regarding the relative value of the planned projects compared to other viable compliance alternatives, if any. It includes the description and results of the evaluation process that lead Gulf to conclude that the chosen means of compliance is the most reasonable, cost-effective alternative and that the affected generating units remain economically viable as a source of energy to Gulf's retail customers with the addition of the emission controls. Gulf's Compliance Program represents the most cost-effective alternative for the Company to ensure environmental compliance at this time. 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.

ISSUE 11B: Should the Commission grant Gulf's Petition for approval of the inclusion of the Plant Daniel Units 1 and 2 Selective Catalytic Reduction Systems (SCRs) in the Company's Compliance Program and for recovery of the associated costs through the ECRC?

POSITION: Yes. Gulf's petition is related to a 2007 stipulation negotiated between Gulf, the Office of Public Counsel, and the Florida Industrial Power Users Group, which was approved by the Commission in Order No. PSC-07-0721-S-EI.[2] In that order, the Commission approved Phase I of Gulf's Compliance Program. With respect to Phase II components, which included the Plant Daniel Units 1 and 2 SCRs, of the Compliance Program, the Commission stated "... once Gulf makes a decision to proceed with implementation, Gulf agrees to make a supplementary filing in the ECRC docket ... that will identify the timing of the planned implementation and updated estimates prior to incorporating them in the normal projection or true-up filings under the ECRC." On April 1, 2010, Gulf filed a Second Supplemental Petition regarding its CAIR/CAVR Environmental Compliance Program to request approval of the inclusion of the Plant Daniel Units 1 and 2 SCRs in the Compliance Program, and recovery of the associated costs through the ECRC. On May 19, 2010, the Commission issued a procedural Order,[3] setting June 30, 2010 as the deadline for the Commission Staff or other interested parties to raise objections, if any, to Gulf's Second Supplemental Petition. No such objections were raised by the Staff or interested parties.

Plant Daniel consists of two coal-fired EGUs each having a nameplate rating of 548.2 MW. In order to satisfy CAIR and CAVR requirements, these units need to achieve significant SO_2 and NO_x reductions. Gulf has conducted a systematic assessment to compare various options to achieve these goals. The options reviewed include: 1) relying on emission allowance purchases; 2) switching to lower emission fuel; 3) retrofitting of environmental emission controls on existing generating units; 4) retiring existing generating units and replacing with new or purchased generation; and 5) a combination of these options. The results indicate that fuel switching alone will not reduce emissions to the required level. Purchasing emission allowances is too uncertain and risky as a sole compliance option for Gulf and its customers because of the high price volatility and unpredictable availability. Additionally, should allowances not be available, Gulf might be forced to operate higher cost units while curtailing operation of lower cost units in order to maintain compliance. Retiring the Plant Daniel units and replacing them with two combined cycle units would not be economically feasible. The Company has thus concluded that the retrofit of Daniel Units 1 and 2 is the best option. The SCRs will help to achieve the NOx emission reduction

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[2] Order No. PSC-07-0721-S-EI, issued on September 5, 2007, in Docket No. 070007-EI, In Re: Environmental Cost Recovery Clause.
[3] Order No. PSC-10-0316-PCO-EI, issued on May 19, 2010, in Docket No. 100007-EI, In Re: Environmental Cost Recovery Clause.

goals set in the CAIR and CAVR requirements. Additionally, SCRs appear to contribute to satisfying the requirements of the anticipated new 8-hour ozone designation standard. Further, these SCRs, along with the Units 1 and 2 scrubbers, will also provide a co-benefit of significantly reducing mercury emissions. This would help Gulf in complying with the MACT Rule for power plant mercury emissions control anticipated to be adopted by the EPA by November 2011. Therefore, the addition of the Plant Daniel Units 1 and 2 SCRs would be the most reasonable, cost-effective alternative available to Gulf for meeting the environmental compliance requirements of CAIR and CAVR. Gulf expects to include the scope, budget, and schedule for the Daniel Units 1 and 2 SCRs Project in its CAIR/CAVR Compliance Program Update in April 2011.

ISSUE 11C: Should the Commission approve Gulf's newly proposed Information Collection Request-related Effluent Limitation Guidelines (ICR-ELG) Project?

POSITION: Yes. Section 304 of the Clean Water Act directs the EPA to develop and periodically review regulations, called effluent guidelines, to limit the amount of pollutants that are discharged to surface waters from various point source categories. In October 2009, EPA published in the Federal Register a proposed information collection request (ICR) to collect information to support the development of revised effluent guidelines for the steam electric power generating category. (74 Fed. Reg. 55,837) On June 18, 2010, Gulf was notified by the EPA that its Plant Crist, Plant Smith, Plant Daniel and Plant Scholz would be required to respond to the ICR. The ICR requires Gulf to collect an extensive amount of data and to respond to hundreds of questions on a broad range of topics related to these plants. Gulf's ICR response must be submitted to the EPA on or before October 15, 2010. The collection and submission of the requested information is mandatory under Section 308 of the Clean Water Act. The Commission has previously held that the costs of complying with a similar ICR related to the EPA's development of air emissions standards are recoverable under the ECRC.[4] Gulf estimated that the costs associated with the proposed ICR-ELG Project would total $159,000 during 2010.

ISSUE 11D: How should the costs associated with Gulf's proposed ICR-ELG Project be allocated to the rate classes?

POSITION: O&M expenses associated with this project should be allocated to the rate classes on an energy basis.

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[4] Order No. PSC-09-0759-FOF-EI, issued November 18, 2009, in Docket No. 090007-EI, In Re: Environmental Cost Recovery Clause.

e. Stipulated Issues

Staff is not aware of any stipulated issues at this time.

f. Pending Motions

Staff has no pending motions at this time.

g. Pending Confidentiality Claims or Requests

Staff has no pending confidentiality claims or requests at this time.

h. Objections to Witness Qualifications as an Expert

Staff has no objections to any witness' qualifications as an expert in this proceeding.

i. Compliance with Order No. PSC-10-0097-PCO-EI

Staff has complied with all requirements of the Order Establishing Procedure entered in this docket.

Respectfully submitted this 30th day of September, 2010.

Martha C. Brown

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that the original of COMMISSION STAFF'S PREHEARING STATEMENT has been filed with Office of Commission Clerk and one copy has been furnished to the following by electronic and U.S. Mail, on this 30th day of September, 2010:

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