

**Marguerite McLean**

100007-EI

**From:** Butler, John [John.Butler@fpl.com]  
**Sent:** Friday, October 01, 2010 4:17 PM  
**To:** Filings@psc.state.fl.us  
**Subject:** Electronic Filing / Docket 100007-EI / FPL's Prehearing Statement  
**Attachments:** 10.1.10.FPL Prehearing Statement.pdf; 10.1.10 FPL Prehearing Statement.doc

**Electronic Filing**

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

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

**b.** Docket No. 100007-EI

In Re: Environmental Cost Recovery Clause

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

**d.** There are a total of 10 pages.

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

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

10/1/2010

DOCUMENT NUMBER-DATE

08260 OCT-1 2010

FPSC-COMMISSION CLERK

**BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**

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

DOCKET NO. 100007-EI  
DATED: October 1, 2010

**FLORIDA POWER & LIGHT COMPANY'S  
PREHEARING STATEMENT**

Pursuant to Order No. PSC-10-0097-PCO-EI, issued February 22, 2010 establishing the prehearing procedure in this docket, Florida Power & Light Company, ("FPL") hereby submits it's Prehearing Statement.

**A. APPEARANCES**

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

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

**B. WITNESSES**

<u>WITNESS</u>	<u>SUBJECT MATTER</u>	<u>ISSUES</u>
T.J. KEITH	ECRC Final True-up for January Through December 2009	1
T.J. KEITH	ECRC Estimated/Actual True-up for January through December 2010	2
T.J. KEITH	ECRC Projections and Factors for January through December 2011	3 - 8

R.R. LABAUVE	Approval of St. Lucie Turtle Net Update Project	9A
R.R. LABAUVE	Approval of Martin Plant Barley Barber Swamp Iron Project	9B
T.J. KEITH	Allocation of Costs associated with the Martin Plant Barley Barber Swamp Iron Project	9C
R.R. LABAUVE	Approval of 800 MW Unit ESP Project	9D
T.J. KEITH	Allocation of Costs associated with The 800 MW Unit ESP Project	9E
T.J. KEITH	Monthly Reporting of Operation Status of FPL's three Next Generation Solar Energy Centers	9F
R.R. LABAUVE	Reasonable and prudent updated CAIR, CAMR and CAVR project costs	9G

**C. EXHIBITS**

<u>EXHIBITS</u>	<u>WITNESS</u>	<u>DESCRIPTION</u>
(TJK-1)	T.J. KEITH	Appendix I Environmental Cost Recovery Final True-up January - December 2009 Commission Forms 42 - 1A through 42 - 9A
(TJK-2)	T.J. KEITH	Appendix I Environmental Cost Recovery Estimated/Actual Period January- December 2010 Commission Forms 42-1E through 42-9E
(TJK-3)	T.J. KEITH	Appendix I Environmental Cost Recovery Projections January - December 2011 Commission Forms 42-1P through 42-8P

(RRL-1)	R.R. LABAUVE	Proposed Design of New Barrier Structure
(RRL-2)	R.R. LABAUVE	EPA Transport Rule Fact Sheet
(RRL-3)	R.R. LABAUVE	Environmental Protection Agency – Proposed Consent Decree, Clean Air Act Citizen Suit, October 28, 2009
(RRL-4)	R.R. LABAUVE	EPA’s January 30, 2004 proposed National Emission Standards for Hazardous Air Pollutants (NESHAP) 40 CFR Parts 60 and 63
(RRL-5)	R.R. LABAUVE	FPL Letter to FDEP regarding Martin Plant Industrial Wastewater Facility Permit No. FL0030988 – Administrative Order AO-15-TL- Engineering Feasibility Study Report dated July 16, 2009

**D. STATEMENT OF BASIC POSITION**

None necessary.

**E. STATEMENT OF ISSUES AND POSITIONS**

**GENERIC ENVIRONMENTAL COST RECOVERY ISSUES**

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

**FPL:** \$4,500,429 over-recovery. (KEITH)

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

**FPL:** \$35,697,142 over-recovery. (KEITH)

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

**FPL:** \$174,762,078. FPL’s position on Issue 3 and subsequent issues that reflect recovery of 2011 environmental cost recovery amounts assumes recovery of the projected 2011 costs associated with the Scherer Unit 4 Turbine Upgrade project. FPL has petitioned for recovery of those costs through the environmental cost

recovery clause. The issue of where the costs should be recovered has been spun off for decision in Docket No. 100404-EI. (KEITH)

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

**FPL:** The total environmental cost recovery amount, adjusted for prior period true-ups and revenue taxes, is \$134,661,393. (KEITH)

**ISSUE 5:** What depreciation rates should be used to develop the depreciation expense included in the total environmental cost recovery amounts for the period January 2011 through December 2011?

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

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

**FPL:**

Retail Energy Jurisdictional Factor	98.02710%
Retail CP Demand Jurisdictional Factor	98.03105%
Retail GCP Demand Jurisdictional Factor	100.00000% (KEITH)

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

<b>FPL:</b> Rate Class	<u>Environmental Recovery Factor (\$/kWh)</u>
RS1/RST1	.00143
GS1/GST1	.00138
GSD1/GSDT1/HLFT (21-499 kW)	.00123
OS2	.00137
GSLD1/GSLDT1/CS1/CST1/ HLFT (500-1,999 kW)	 .00119
GSLD2/GSLDT2/CS2/CST2/ HLFT (2,000 kW+)	 .00108
GSLD3/GSLDT3/CS3/CST3	.00102
ISST1D	.00127
ISST1T	.00078
SST1T	.00078
SST1D1/SST1D2/SST1D3	.00127
CILC D/CILC G	.00106

CILC T	.00098
MET	.00126
OL1/SL1/PL1	.00063
SL2/GSCU1	.00099
	(KEITH)

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

**FPL:** 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. (KEITH)

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

**Note:** FPL's position on each of the FPL-specific issues below reflects the wording in Staff's prehearing statement.

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

**FPL:** 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. (LABAUVE)

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

**FPL:** 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. (LABAUVE)

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

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

**ISSUE 9D: Should FPL be allowed to recover the costs associated with its proposed 800 MW Unit ESP Project?**

**FPL:** 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. (LABAUVE)

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

**FPL:** 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. (KEITH)



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

**FPL:** 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. (KEITH)

**ISSUE 9G: Should the Commission approve FPL's updated Clean Air Interstate Rule (CAIR), Clean Air Mercury Rule (CAMR) and Clean Air Visibility Rule (CAVR) / Best Available Retrofit Technology (BART) Projects that are reflected in FPL's April 1, 2010, supplemental filing as reasonable and prudent?**

**FPL:** 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. (LABAUVE)

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

**FPL:** None at this time.

**G. STIPULATED ISSUES**

**FPL:** None at this time.

**H. PENDING MOTIONS**

FPL has no pending motions at this time.

**I. PENDING REQUEST FOR CONFIDENTIALITY**

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

- Staff's 4<sup>th</sup> Set on Interrogatories Nos. 36. Filed on August 30, 2010 and revised on September 9, 2010.
- Estimated/Actual information provided in Randall R. LaBauve testimony. Filed on August 2, 2010
- Audit No. 09-363-4-1. Filed on July 14, 2010.

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

FPL: None at this time.

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

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

Respectfully submitted,

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

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

/s/John T. Butler

John T. Butler  
Florida Bar No. 283479

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

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by electronic mail on October 1, 2010 to the following:

Martha Brown, Esq.  
Division of Legal Services  
Florida Public Service Commission  
2540 Shumard Oak Blvd.  
Tallahassee, Florida 32399-0850

J. R Kelly, Esq  
Patricia Christensen, Esq.  
Charles Beck, Esq.  
Office of Public Counsel  
c/o The Florida Legislature  
111 W Madison St. Room 812  
Tallahassee, FL 32399-1400

James D. Beasley, Esq.  
J. Jeffrey Wahlen, Esq.  
Ausley & McMullen  
Attorneys for Tampa Electric  
P.O. Box 391  
Tallahassee, Florida 32302

John T. Burnett, Esq.  
Progress Energy Service Company, LLC  
P.O. Box 14042  
St. Petersburg, Florida 33733-4042

John W. McWhirter, Jr., Esq.  
McWhirter & Davidson, P.A.  
P.O. Box 3350  
Tampa, Florida 33601-3350  
Attorneys for FIPUG

Gary V. Perko, Esq.  
Hopping Green & Sams  
P.O Box 6526  
Tallahassee, FL 32314  
Attorneys for Progress Energy Florida

Jeffrey A. Stone, Esq.  
Russell A. Badders, Esq.  
Beggs & Lane  
Attorneys for Gulf Power  
P.O. Box 12950  
Pensacola, Florida 32576-2950

Jon C. Moyle, Esq.  
Vicki Kaufman, Esq.  
Co-Counsel for FIPUG  
Keefe, Anchors, Gordon & Moyle, P.A.  
118 N. Gadsden St.  
Tallahassee, FL 32301

Shayla L. McNeill, Capt., USAF  
Counsel for Federal Executive Agencies  
AFLSA/JACL-ULT  
139 Barnes Drive, Suite 1  
Tyndall AFB, FL 32403-5319

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