

State of Florida



Public Service Commission

CAPITAL CIRCLE OFFICE CENTER • 2540 SHUMARD OAK BOULEVARD
TALLAHASSEE, FLORIDA 32399-0850

-M-E-M-O-R-A-N-D-U-M-

DATE: April 2, 2015

TO: Office of Commission Clerk (Stauffer)

FROM: Office of Industry Development and Market Analysis (Laux)
Division of Accounting and Finance (Fletcher) *BF*
Division of Economics (Draper, Garl) *ED Jw.D.*
Office of the General Counsel (Young, Mapp, Brownless) *KRM*

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ALM MZ
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RE: Docket No. 150009-EI – Nuclear cost recovery clause.

Docket No. 150001-EI – Fuel and purchased power cost recovery clause with generating performance incentive factor.

AGENDA: 04/16/15 – Regular Agenda – Interested Persons May Participate

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: Graham

CRITICAL DATES: None

SPECIAL INSTRUCTIONS: None

RECEIVED-PPSC
15 APR -2 4:10:47
COMMISSION
CLERK

Case Background

In 2013, Duke Energy Florida, Inc. (DEF) filed a Petition for Limited Proceeding to Approve a Revised and Restated Stipulation and Settlement Agreement (2013 Settlement Agreement) that was signed by the Office of Public Counsel (OPC), Florida Retail Federation (FRF), Florida Industrial Power Users Group (FIPUG), and White Springs Agricultural Chemical, Inc. d/b/a PCS Phosphate (PCS Phosphate). The Commission approved the 2013 Settlement Agreement by Order No. PSC-13-0598-FOF-EI.¹ Paragraph 11 of the 2013

¹See Order No. PSC-13-0598-FOF-EI, issued November 12, 2013, in Docket 130208-EI, In re: Petition for limited proceeding to approve revised and restated stipulation and settlement agreement by Duke Energy Florida, Inc. d/b/a Duke Energy.

Settlement Agreement required DEF to collect Levy Nuclear Project (LNP) costs through certain fixed factors (LNP fixed factors) in the Capacity Cost Recovery Clause (CCRC). Pursuant to paragraph 12, DEF was to terminate the Engineering, Procurement and Construction (EPC) contract for the LNP. Under this same paragraph, DEF is also required to end the application of the LNP fixed factors upon the earlier of full recovery of the LNP costs or the first billing cycle for January 2018, and to submit a final true-up filing with the Commission by no later than May 1, 2017.

On January 28, 2014, DEF canceled the EPC contract with Westinghouse Electric Company (WEC). In December 2013, DEF had requested WEC refund \$54,127,100 related to payments for long lead equipment that would not be delivered due to the anticipated cancellation of the EPC. The payments in question were made by DEF in 2008 and 2009 and subsequently found to have been prudently incurred by the Commission. In March 2014, DEF sued WEC for return of these payments. The litigation remains ongoing and is currently scheduled for a 2016 hearing in Federal Court, the Western District of North Carolina.

On October 27, 2014, the Commission issued Order No. PSC-14-0617-FOF-EI requiring DEF to make a downward adjustment of \$54,127,100 to its projected 2015 expenses in light of what was known at that time concerning the termination of the EPC contract and the ongoing litigation between DEF and WEC.²

On March 2, 2015, DEF filed a petition to end the collection of LNP costs using the fixed factors. DEF also requested the Commission approve deferred collection of the approximately \$54 million of LNP costs, plus carrying cost, until DEF's litigation with WEC is finalized. In addition, DEF seeks approval of revised tariff sheets that reflect the cancelation of the LNP fixed factor for all affected rate classes.

On March 5, 2015, a group of intervenors (OPC, FRF and PCS Phosphate) filed a joint response to DEF's petition. On March 19, 2015, FIPUG filed a motion to dismiss DEF's petition. On March 24, 2015, DEF filed a response in opposition to FIPUG's motion.

The Commission has jurisdiction over these matters pursuant to Section 366.93, Florida Statutes (F.S.), as well as Sections 366.04, 366.041, 366.05, 366.06 and 366.07, F.S.

² See Order No. PSC-14-0617-FOF-EI, issued October 27, 2014, in Docket 140009-EI, In re: Nuclear Cost Recovery Clause.

Discussion of Issues

Issue 1: Should the Commission grant FIPUG's Motion to Dismiss DEF's Petition to End the Fixed Levy Nuclear Projected Rate Component of the Nuclear Cost Recovery Clause Charges?

Recommendation: No, FIPUG's Motion to Dismiss should be denied in its entirety. DEF's Petition states a cause of action upon which relief may be granted. (Young, Mapp, Brownless)

Staff Analysis:

Standard of Review

A motion to dismiss raises as a question of law the sufficiency of the facts alleged in a petition to state a cause of action. Varnes v. Dawkins, 624 So. 2d 349, 350 (Fla. 1st DCA 1993). The standard to be applied in disposing of a motion to dismiss is whether, with all factual allegations in the petition taken as true and construed in the light most favorable to the petitioner, the petition states a cause of action upon which relief may be granted. Id. at 350. In determining the sufficiency of the petition, the Commission should confine its consideration to the petition and documents incorporated therein and the grounds asserted in the motion to dismiss. Flye v. Jeffords, 106 So. 2d 229 (Fla. 1st DCA 1958); Rule 1.130, Florida Rules of Civil Procedure.

FIPUG's Motion to Dismiss

In its Motion to Dismiss, FIPUG argues that DEF's Petition is unauthorized, unnecessary, and inappropriate because no further Commission action is needed. FIPUG contends that the Commission has already considered the issue, after the submission of evidence and argument, and ordered DEF to stop collecting the LNP fixed factors and to ensure that ratepayers will be credited the sum of \$54 million for certain equipment that DEF's contractor, WEC, never produced. Citing exclusively to the transcript of the October 2, 2014, Commission Agenda Conference, FIPUG asserts that there were no conditions or amendments placed on the Commission's vote and the transcript of the evidentiary hearing speaks for itself. Thus, FIPUG asserts that the Commission considered, debated and approved a credit of \$54 million to DEF's ratepayers that hinged on the Commission's determination that it is imprudent and inappropriate to require DEF's ratepayers to pay for equipment that was never manufactured.

FIPUG also contends that DEF's Petition, while styled as a petition to terminate the LNP fixed factors, strays into other topics, such as whether a carrying charge should be imposed and collected (or imposed and accrued) on the \$54 million sum that the Commission has already determined should be credited to ratepayers. FIPUG asserts that DEF's Petition is simply not needed and should be dismissed. FIPUG argues that if DEF was unsure or unclear about Order No. PSC-14-0617-FOF-EI, it should have filed a motion for reconsideration of the \$54 million credit. No such motion was filed, and DEF's attempt to have the Commission reconsider its decision to have DEF stop collecting money for equipment that was never produced should not be entertained for many reasons, including its untimeliness pursuant to Rule 25-6.0424, Florida Administrative Code (F.A.C.).

DEF's Response to FIPUG's Motion to Dismiss

In its response, DEF argues that FIPUG's Motion to Dismiss should be denied because the Motion is based upon two misplaced assertions. First, DEF asserts that FIPUG falsely contends that DEF's Petition is unnecessary because the Commission ordered DEF to stop collecting the LNP fixed factors. DEF argues that the Commission did just the opposite and refused to terminate the LNP fixed factors in Order No. PSC-14-0617-FOF-EI. DEF contends that the Commission expressly stated in Order No. PSC-14-0617-FOF-EI that "we do not require the termination of the Levy Project NCRC fixed monthly charge" as requested by the Joint Intervenors. Moreover, DEF further states that FIPUG fails to reference any Commission Order that advances its proposition that the Commission terminated the LNP fixed factors.

Second, DEF asserts that FIPUG's contention that DEF previously sought, unsuccessfully, to recover from ratepayers \$54 million for certain equipment that WEC never produced, that the Commission considered the issue and found DEF's ratepayers should not be charged for equipment never manufactured, and that, for this reason, DEF's customers should receive a credit of \$54 million is factually and legally incorrect. Thus, FIPUG's Motion, accordingly, must be denied. DEF, among other reasons, contends that the Commission, in Order No. PSC-14-0617-FOF-EI, recognized that there is no dispute that the \$54 million long lead equipment payments were incurred by DEF for the Levy Nuclear Project in the 2008-2009 timeframe and that the payments were prudently incurred. Also, in Order No. PSC-14-0617-FOF-EI, the Commission stated "there is no dispute regarding the prudence of DEF's original activities when it made the scheduled milestone payments in 2008 and 2009, totaling \$54,127,100." DEF asserts that the payments were found prudent by the Commission in Order No. PSC-09-0783-FOF-EI and Order No. PSC-11-0095-FOF-EI. Thus, FIPUG's contention is factually and legally incorrect, and its Motion to Dismiss should be denied.

Staff's Analysis

Staff recommends that FIPUG's Motion to Dismiss be denied in its entirety. DEF's Petition states a cause of action upon which relief may be granted. Pursuant to Section 366.06, F.S., "All applications for changes in rates shall be made to the commission in writing under the rules and regulations prescribed, and the commission shall have the authority to determine and fix fair, just, and reasonable rates that may be requested, demanded, charged, or collected by any public utility for its service." Here, DEF is requesting a change in rates; thus, it must file with the Commission a petition to end the LNP fixed factors. Terminating the LNP fixed factors absent this petition is potentially a violation of paragraph 12 of the 2013 Settlement Agreement, and a violation of Commission rules, order, and statutes. Moreover, there is nothing in any order that authorizes DEF to end the LNP fixed factors at-will. Thus, DEF's Petition states a cause of action upon which relief may be granted and FIPUG's Motion should be denied.

Moreover, Rule 25-6.033(4), F.A.C., states that "No rules and regulations, or schedules of rates or charges, or modification or revisions of the same, shall be effective until filed with and approved by the Commission as provided by Law." Again, DEF is seeking a modification of its rates to end the LNP fixed factors. DEF cannot modify its tariff without prior Commission approval. Thus, DEF must file a petition to modify its tariff with the Commission to end the

LNP fixed factors. Consequently, DEF's Petition states a cause of action upon which relief may be granted and FIPUG's Motion should be denied.

Therefore, staff recommends that FIPUG's Motion to Dismiss be denied in its entirety. DEF's Petition states a cause of action upon which relief may be granted.

Issue 2: Should the Commission approve ending the LNP fixed rate component in the CCRC?

Recommendation: Yes, staff recommends that the Commission approve DEF's request to end the LNP fixed factors in the CCRC. (Laux, Young, Mapp)

Staff Analysis: In Order No. PSC-14-0617-FOF-EI, the Commission ordered DEF to make a downward adjustment to LNP projected 2015 expenses. This decision was based upon the Commission's finding that there was a reasonable expectation that, in 2015, a court would award DEF a refund of certain scheduled milestone payments made by DEF to WEC associated with the manufacturing of long lead equipment items. The Commission acknowledged, at the time of its decision, that the ordered adjustment would likely result in ending collection of LNP costs using the fixed factors earlier than would otherwise occur. The Commission did not at that time order DEF to cease collection using the fixed factors because the 2013 Settlement Agreement fully prescribes the terms and conditions for ending the LNP fixed factors.

In light of the adjustment ordered by the Commission, DEF currently projects it could over-collect known LNP costs beginning in May 2015 if the fixed factors remain in effect. Consistent with the requirements of paragraph 12 of the 2013 Settlement Agreement, DEF is requesting that the Commission approve ending the LNP fixed factors beginning with the first full billing cycle in May of this year. Staff notes that the group intervenors, as stated in their response, agree with DEF's request to end the LNP fixed factors and urges expeditious Commission approval.

Based on the information presented in DEF's Petition and staff's preliminary review of data filed on March 2, 2015, in Docket 150009-EI, staff believes DEF's assessment concerning an anticipated over-collection of currently known LNP costs is reasonable. Therefore, based on staff's understanding of the requirements of the 2013 Settlement Agreement, staff recommends the Commission approve ending the LNP fixed factors effective on the first billing cycle for May of 2015. Ending the collection from these factors should minimize the potential of over-collection of revenues as compared to known project costs before a final true-up can be fully determined by the Commission. The requested action to end the LNP fixed factors is consistent with the Commission's expectation and intent when it ordered the downward adjustment, for the benefit of customers, in Order No. PSC-14-0617-FOF-EI.

Issue 3: Should the Commission approve DEF's request to defer collection of LNP project costs in the amount of approximately \$54 million, along with carrying costs, until DEF's litigation with WEC has been resolved?

Recommendation: Staff recommends that it is not necessary for the Commission to take action on this request. (Laux, Fletcher, Young, Mapp)

Staff Analysis: DEF requests the Commission approve deferred collection of approximately \$54 million in unrecovered LNP costs (along with carrying cost) until such time as the litigation between DEF and WEC is finalized. In their response to DEF's petition, the group of intervenors stated that if the Commission approves DEF's request to end the LNP fixed factors, that the Commission should take no action on DEF's other requests because "the only necessary Commission action at this time is the ministerial implementation of a final Commission order (Order 14-6017) that is not subject to further revision, clarification, explication or reconsideration."

Staff notes that there are at least four documents that impact and govern the approval of DEF's requests: Section 366.93, F.S., Rule 25-6.0423 F.A.C., the 2013 Settlement Agreement, and Order No. PSC-14-0617-FOF-EI. The pertinent parts of these documents are as follows.

Section 366.93, F.S., and Rule 25-6.0423, F.A.C., establish a utility's right to recover prudently incurred costs and describe the manner of recovery and regulatory treatment to be applied to these costs until recovered. The 2013 Settlement Agreement, at paragraph 11, established that collection of LNP costs would occur through employing certain fixed factors in the CCRC. Paragraph 12 describes the basis for termination of these fixed factors and the filing of a final true-up to reconcile the variance between actual achieved collections and prudently incurred costs.

By Order No. PSC-14-0617-FOF-EI, the Commission required DEF to make a downward adjustment to its 2015 projected expenses, in anticipation of a court award. The Commission recognized that a contract-based opportunity existed where DEF could seek a refund of payments made for services or goods not provided by WEC, and decided that customers should benefit from that anticipated court award as soon as possible. Given what was known concerning the termination of the EPC contract and the ongoing litigation between DEF and WEC, the Commission stated:

Therefore, in light of our obligations under Florida law and our duty to address this matter before us, we find that there is sufficient basis to order DEF to make a downward adjustment of \$54,127,100 to its projected 2015 expenses. Such an adjustment is well within the scope of the 2013 Settlement Agreement and does not constitute any review of our prior decisions concerning the prior approval of milestone payments made by DEF in prior years. DEF will continue to account for this adjustment consistent with Section 366.93, F.S.

In balancing the requirements from these documents, staff believes that Order No. PSC-14-0617-FOF-EI is clear. The ordered adjustment to 2015 LNP projected expenses primarily affects the timing of when DEF's collection of LNP costs using the fixed factors can end, as

addressed in Issue 2. The Commission did not reverse or recede from any prior finding of prudence, or disallow any particular cost which would affect DEF's right to recovery. In addition, the Commission's statement that DEF was to continue to account for the adjustment consistent with Section 366.93, F.S., is also clear. Staff notes that upon the ending of collection of LNP costs using the fixed factors in the CCRC, the recovery of any uncollected project costs, or refund of over-collections, that remains would be subject to the Commission's future final true-up review and determination proceeding consistent with paragraph 12 of the 2013 Settlement Agreement. Consequently, the regulatory treatment to be applied to any remaining costs or collections is clearly described in Section 366.93, F.S., and Rule 25-6.0423, F.A.C., and does not require additional Commission approval.

Given the Commission's prior orders and the guidance provided by existing statutes and rules, staff believes that the Commission need not take any action on this part of DEF's request.

Issue 4: Should the Commission approve DEF's revised tariff sheet No. 6.105?

Recommendation: If the Commission approves staff's recommendation in Issue 2, DEF's revised tariff sheet No. 6.105 as shown in Attachment A should be approved as it accurately reflects the removal of the Levy Nuclear Project fixed rate component. The revised tariff should become effective with the first billing cycle in May, which falls on April 27, 2015. (Draper, Garl, Young, Mapp, Brownless)

Staff Analysis: The 2013 Settlement Agreement established the collection of LNP costs using certain fixed factors.³ The LNP fixed factors, as a component for cost collection in the CCRC, are shown below:

Table 4-1

LNP Fixed Factors	
RS	0.345 cents/kWh
GS-1	0.252 cents/kWh
GS-2	0.182 cents/kWh
GSD	0.84 \$/kW
CS	0.91 \$/kW
IS	0.69 \$/kW
LS	0.052 cents/kWh

As discussed in Issue 2, DEF requested approval to end collection of that portion of the CCRC factor attributable to the LNP. Staff reviewed the tariff sheet DEF proposed to ensure the changes corresponded with the amounts specified in the 2013 Settlement Agreement. The following table demonstrates the results of the review.

³ Order No. PSC-13-0598-FOF-EI, issued November 12, 2013, in Docket 130208-EI, In re: Petition for limited proceeding to approve revised and restated stipulation and settlement agreement by Duke Energy Florida, Inc. d/ b/a Duke Energy.

Table 4-2

Tariff Change vs. 2013 Settlement Agreement Impact						
Rate Schedule/ Metering Level	Existing CCRC Factor		Proposed CCRC Factor		¢ Change per kWh	\$ Change per kW
	¢/ kWh	\$/ kW	¢/ kWh	\$/ kW		
RS	1.619	-	1.274		-0.345	-
GS-1	1.282	-	1.030	-	-0.252	-
GS-2	0.883	-	0.701	-	-0.182	-
GSD	-	4.19		3.35	-	-0.840
CS	-	3.13	-	2.22	-	-0.910
IS	-	3.52	-	2.83	-	-0.690
LS	0.235		0.183		-0.052	

Note: Changes in bold equal impact specified in Settlement Agreement

DEF has requested that the ending of the LNP fixed factors become effective with the first billing cycle of May 2015. That cycle will begin on April 27, 2015. This case is scheduled to be voted on at the April 16, 2015 Agenda Conference or 11 days before the May 2015 billing cycle begins. Typically, effective dates are set a minimum of 30 days after a Commission vote modifying charges.⁴ This time limit is imposed in order to not have new rates applied to energy consumed before the effective date of the Commission’s action, i.e., the date of the vote. However, the Commission has also implemented changes in less than 30 days when circumstances warrant.⁵ Further, the Florida Supreme Court has recognized that the fuel adjustment clause proceeding “is a continuous proceeding and operates to a utility’s benefit by eliminating regulatory lag.”⁶ The NCRC factor is included in the fuel adjustment clause. Therefore, finding that there was competent, substantial evidence to support its 1984 decision⁷ with regard to 1980, 1981 and 1982 fuel costs previously allowed by the Commission, the Court

⁴ Gulf Power Co. v. Cresse, 410 So.2d 492 (Fla. 1982); Order No. PSC-96-0907-FOF-EI, issued on July 15, 1996, in Docket No. 960001-EI, In re: Fuel and purchased power cost recovery clause and generating performance incentive factor; Order No. 96-0908-FOF-EI, issued July 15, 1996, in Docket No. 960001-EI, In re: Fuel and purchased power cost recovery clause and generating performance incentive factor ; Order No. PSC-97-0021-FOF-EI, issued on January 6, 1997, in Docket No. 970001-EI, In re: Fuel and purchased power cost recovery clause and generating performance incentive factor.

⁵ Order No. PSC-01-0963-PCO-EI, issued April 18, 2001, in Docket No. 010001-EI, In re: Fuel and purchased power cost recovery clause and generating performance incentive factor, (allowing recovery of increase in fuel factor in order to decrease the carrying costs and therefore the total amount ratepayers were ultimately required to repay); Order No. PSC-00-2383-FOF-GU, issued December 12, 2000, in Docket No. 000003-GU, In re: Purchased gas adjustment (PGA) true-up (allowing recovery of an increased gas fuel factor due to drastic increases in natural gas prices in winter of 2000-2001.)

⁶ Gulf Power Company v. Florida Public Service Commission, 487 So.2d 1036, 1038 (Fla. 1986).

⁷ Order No. 13452, issued June 22, 1984, in Docket No. 820001-EU-A, In re: Investigation of fuel cost recovery clauses of electric utilities (Gulf Power Company – Maxine Mine).

affirmed the Commission's decision disallowing \$2.2 million related to managerial imprudence in the purchase of coal, finding that: "This authorization to collect fuel costs close to the time they are incurred should not be used to divest the commission of the jurisdiction and power to review the prudence of these costs."⁸ In this instance, the parties agree that there is no prejudice to the customers since their total rate would be decreasing, not increasing. Therefore, customers would get the benefit of reduced rates as quickly as administratively possible. Based on the nature of the fuel adjustment clause as recognized by the Florida Supreme Court, staff agrees that the Commission has the ability to shorten the time to less than 30 days and recommends that the effective date be set at the first billing cycle in May 2015.

If the Commission approves staff's recommendation in Issue 2, DEF's revised tariff sheet No. 6.105 as shown in Attachment A should be approved as it accurately reflects the removal of the LNP fixed factor component. Should the Commission approve DEF's request, DEF will notify its customers through bill inserts starting with the first billing cycle in May that lower CCRC factors have been approved. The revised tariff should become effective with the first billing cycle in May, which falls on April 27, 2015.

⁸ Id.

Issue 5: Should these dockets be closed?

Recommendation: No. Docket Nos. 150009-EI and 150001-EI are on-going dockets and should remain open. (Young, Mapp, Brownless)

Staff Analysis: Docket Nos. 150009-EI and 150001-EI are on-going dockets and should remain open.



SECTION NO. VI
 SEVENTY-SECOND REVISED SHEET NO. 6.105
 CANCELS SEVENTY-FIRST REVISED SHEET NO. 6.105

RATE SCHEDULE BA-1
 BILLING ADJUSTMENTS

Applicable:

To the Rate Per Month provision in each of the Company's filed rate schedules which reference the billing adjustments set forth below.

COST RECOVERY FACTORS								
Rate Schedule/Metering Level	Fuel Cost Recovery ⁽¹⁾			ECCR ⁽²⁾		CCR ⁽²⁾		ECRC ⁽²⁾
	Levelized ¢/ kWh	On-Peak ¢/ kWh	Off-Peak ¢/ kWh	¢/ kWh	\$/ kW	¢/ kWh	\$/ kW	¢/ kWh
RS-1, RST-1, RSL-1, RSL-2, RSS-1 (Sec.) < 1000 > 1000	4.323 5.323	6.189	3.849	0.270	-	1.274	-	0.138
GS-1, GST-1 Secondary Primary Transmission	4.605 4.559 4.513	6.198 6.136 6.074	3.854 3.816 3.777	0.231 0.229 0.228	- - -	1.030 1.020 1.009	- - -	0.133 0.132 0.130
GS-2 (Sec.)	4.605	-	-	0.179	-	0.701	-	0.125
GSD-1, GSDT-1, SS-1* Secondary Primary Transmission	4.647 4.601 4.554	6.255 6.193 6.130	3.890 3.851 3.812	- - -	0.79 0.78 0.77	- - -	3.36 3.32 3.28	0.129 0.128 0.126
CS-1, CST-1, CS-2, CST-2, CS-3, CST-3, SS-3* Secondary Primary Transmission	4.647 4.601 4.554	6.255 6.193 6.130	3.890 3.851 3.812	- - -	0.60 0.59 0.59	- - -	2.22 2.20 2.18	0.123 0.122 0.121
IS-1, IST-1, IS-2, IST-2, SS-2* Secondary Primary Transmission	4.647 4.601 4.554	6.255 6.193 6.130	3.890 3.851 3.812	- - -	0.71 0.70 0.70	- - -	2.83 2.80 2.77	0.122 0.121 0.120
LS-1 (Sec.)	4.332	-	-	0.097	-	0.183	-	0.114
*SS-1, SS-2, SS-3 Monthly Secondary Primary Transmission Daily Secondary Primary Transmission	- - - - - - - -	- - - - - - - -	- - - - - - - -	- - - - - - - -	0.078 0.077 0.076 0.037 0.037 0.036	- - - - - - -	0.328 0.325 0.321 0.156 0.154 0.153	- - - - - - -
GSLM-1, GSLM-2	See appropriate General Service rate schedule							

(1) Fuel Cost Recovery Factor:

The Fuel Cost Recovery Factors applicable to the Fuel Charge under the Company's various rate schedules are normally determined annually by the Florida Public Service Commission for the billing months of January through December. These factors are designed to recover the costs of fuel and purchased power (other than capacity payments) incurred by the Company to provide electric service to its customers and are adjusted to reflect changes in these costs from one period to the next. Revisions to the Fuel Cost Recovery Factors within the described period may be determined in the event of a significant change in costs.

(2) Energy Conservation Cost Recovery Factor:

The Energy Conservation Cost Recovery (ECCR) Factor applicable to the Energy Charge under the Company's various rate schedules is normally determined annually by the Florida Public Service Commission for twelve-month periods beginning with the billing month of January. This factor is designed to recover the costs incurred by the Company under its approved Energy Conservation Programs and is adjusted to reflect changes in these costs from one period to the next. For time of use demand rates the ECCR charge will be included in the base demand only.

(Continued on Page No. 2)

ISSUED BY: Javier J. Portuondo, Director Rates & Regulatory Strategy – FL

EFFECTIVE: