

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Florida Power & Light Company's
Petition for Approval of Arrangement to
Mitigate Impact of Unfavorable Cedar Bay
Power Purchase Obligation

DOCKET NO.: 150075-EI

FILED: June 23, 2015

**THE FLORIDA INDUSTRIAL POWER USERS GROUP
PREHEARING STATEMENT**

The Florida Industrial Power Users Group (FIPUG), pursuant to Commission Order No. PSC-15-0143-PCO-EI, issued on March 26, 2015, hereby files its Prehearing Statement.

A. APPEARANCES

JON MOYLE, JR.
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B. WITNESSES AND EXHIBITS

FIPUG will call the following witnesses, who will address the issues indicated next to each witness's name, and who will sponsor the exhibits listed below.

<u>Witness</u>	<u>Issues</u>
Jeffry Pollock	1,2,3,5,8,9
Michael Lane	1,2,3,4,5
Clifford Evans	1,2,3,4,5
Stephen Rudolph	1,2,3,4,5

Exhibits

Jeffry Pollock

A	Qualifications of Jeffry Pollock
B	Testimony Filed in Regulatory Proceedings
Michael Lane	
MGL-1	List of Utility Appraisals
MGL-2	Discount Rate Spreadsheet
Cliff Evans	Deposition Exhibits filed with deposition Nos. 1, 5, 6, 15, 24, 25, 26, 29, 30, 31, 33, 37, 38
Steven Rudolph	Deposition Exhibits filed with deposition Nos. 17, 18, 21, 22

C. FIPUG’S STATEMENT OF BASIC POSITION

The value sought by FPL for the Cedar Bay Generating Facility and the related purchased power agreement, \$520.5 million dollars, is an inflated, overstated sum that does not represent the fair value of the purchase power agreement that FPL seeks to acquire. Prior sales of the Cedar Bay Generating Facility, and the same attendant purchase power agreement, occurred for significantly less money than \$520 million dollars. Importantly, in these prior sales, the identical purchased power agreement in question had a longer term, and thus greater capacity payments were due, when these prior transactions took place. The arms-length transaction involving Goldman Sachs is compelling evidence that the amount FPL seeks to charge ratepayers should be denied or significantly reduced, given the value exchanged in that deal involving the same power plant and purchased power agreement.

Additionally, a prior valuation of the purchased power agreement in question, performed by FPL’s own valuation expert for another party, pegged the value of the same purchase power agreement at a significantly lower sum that FPL is proposing to charge ratepayers. The

Commission should deny FPL's Petition or reduce significantly the value of the purchased power agreement in question.

Further, with FPL becoming more and more dependent on natural gas, having ratepayers pay \$520.5 million for a coal-fired power plant that FPL does not plan to operate, but to immediately retire, does not advance the goal of diversifying the company's fuel supply or the ratepayer's fuel risks. The status quo contractually provides fuel diversity to FPL and its ratepayers, without shifting the operational and regulatory risk to FPL and its ratepayers.

Finally, should the Commission approve FPL's Petition, the \$520.5 million dollar sum should be significantly reduced. The reduced sum should be recovered in base rates, because the asset, the Cedar Bay Generating Facility, is a base-load coal facility that FPL will own outright. The capacity clause was established for the recovery of recurring, annual capacity payments made by a utility, not to recover a lump sum payment for a generating facility.

D. FIPUG'S STATEMENT OF ISSUES AND POSITIONS

FIPUG provides this statement of positions on the issues set forth in Order No. PSC-15-0143-PCO-EI, issued March 26, 2015, in accordance with Section III of the Order Establishing Procedure.

ISSUE 1: What is the fair value of the existing purchase power agreement with Cedar Bay Genco that FPL is acquiring?

FIPUG'S POSITION:

The value sought by FPL for the Cedar Bay Generating Facility and the related purchased power agreement, \$520.5 million dollars, is an inflated, overstated sum that does not represent the fair value of purchase power agreement that FPL seeks to acquire. Prior sales of the Cedar Bay Generating Facility and the attendant purchase power agreement occurred for significantly less money than \$520 million dollars, even though the purchased power agreement in question had a longer term, and thus greater capacity payments, when these prior transactions took place. The

arms-length transaction involving Goldman Sachs is compelling evidence that the amount FPL seeks to charge ratepayers should be denied or significantly reduced.

ISSUE 2: Is FPL's purchase price for the equity ownership interest of CBAS Power, Inc. fair and reasonable?

FIPUG'S POSITION:

No. The value sought by FPL for the Cedar Bay Generating Facility and the related purchased power agreement, \$520.5 million dollars, is an inflated, overstated sum that is not fair and reasonable. Prior sales of the Cedar Bay Generating Facility and the attendant purchase power agreement occurred for significantly less money than \$520 million dollars, even though the purchased power agreement in question had a longer term, and thus greater capacity payments, when these prior transactions took place. The arms-length transaction involving Goldman Sachs is compelling evidence that the amount FPL seeks to charge ratepayers should be denied or significantly reduced.

ISSUE 3: Is FPL's purchase and sale agreement between FPL and CBAS Power Holdings, LLC., and termination of the existing purchase power agreement with Cedar Bay Genco cost-effective?

FIPUG'S POSITION:

No. The value sought by FPL for the Cedar Bay Generating Facility and the related purchased power agreement, \$520.5 million dollars, is an inflated, overstated sum that is not cost-effective. Prior sales of the Cedar Bay Generating Facility and the attendant purchase power agreement occurred for significantly less money than \$520 million dollars, even though the purchased power agreement in question had a longer term, and thus greater capacity payments, when these prior transactions took place. The arms-length transaction involving Goldman Sachs is compelling evidence that the amount FPL seeks to charge ratepayers should be denied or significantly reduced.

ISSUE 4: If the Commission approves FPL's proposed Cedar Bay transaction, how will existing contracts between third party providers and CBAS Power, Inc. or subsidiaries be handled, what are the projected costs of fulfilling or terminating such contracts, and how should these costs be recovered?

FIPUG'S POSITION:

No position at this time.

ISSUE 5: What are the operational and regulatory risks associated with the FPL's proposed Cedar Bay transaction and has FPL appropriately accounted for these risks under the transaction?

FIPUG'S POSITION:

There are many of operational and regulatory risks associated with FPL's proposed Cedar Bay transaction. These include, but are not limited to, equipment malfunctions or breakage at the Cedar Bay Generating Facility, market risks associated with the price of coal and natural gas, compliance with existing and proposed state and federal environmental laws and regulations, and other risks that will be identified during the hearing.

ISSUE 6: Should the Commission approve as prudent FPL's request to approve the purchase and sale agreement between FPL and CBAS Power HOLDINGS, LLC. and terminate the existing purchase power agreement with Cedar Bay Genco?

FIPUG'S POSITION:

No, the Commission should not approve as prudent the inflated sum of \$520.5 million dollars that FPL proposes to pay for the Cedar Bay Generating Facility and its attendant purchase power agreement. This sum is overstated and does not represent the value of the assets in question, particularly when one considers that prior sales of the Cedar Bay Generating Facility and the attendant purchase power agreement occurred for significantly less money than \$520 million dollars, even though the purchased power agreement in question had a longer term, and thus greater capacity payments, when these prior transactions took place. The arms-length transaction involving Goldman Sachs is compelling evidence that the amount FPL seeks to charge ratepayers should be denied or significantly reduced.

ISSUE 7: If the Commission approves FPL's proposed Cedar Bay transaction, what is the proper accounting treatment for the transaction?

FIPUG'S POSITION:

Adopt the position of the Office of Public Counsel.

ISSUE 8: If the Commission approves FPL's proposed Cedar Bay transaction, what is the proper rate of return?

FIPUG'S POSITION:

Adopt the position of the Office of Public Counsel.

ISSUE 9: If FPL's petition is approved, how should the Cedar Bay Generating Facility acquisition costs be recovered?

FIPUG'S POSITION:

Since the proposed transaction, if approved, results in FPL effectively acquiring the Cedar Bay Generating Facility, a base load coal generating facility, the costs should be recovered in base rates. The fuel and capacity clause is used to recover ongoing purchase power and capacity payments, not the acquisition of a generating facility.

OPC's PROPOSED ISSUE (OPC P1): Is continued recovery of payments under the terms of the existing PPA in the public interest?

FIPUG'S POSITION:

Adopt the position of the Office of Public Counsel.

E. STIPULATED ISSUES

None at this time.

F. PENDING MOTIONS OR OTHER MATTERS

None at this time.

G. FIPUG'S REQUESTS FOR CONFIDENTIAL CLASSIFICATION

None at this time.

H. REQUIREMENTS OF PREHEARING ORDER

FIPUG is able to comply with the Prehearing Order at this time.

I. OBJECTIONS TO WITNESSES' QUALIFICATIONS

Only a witness who is tendered as an expert witness, and who expressly identifies his/her field of expertise, should be qualified and treated as an expert witness. If a witness has not been tendered as an expert witness and has not identified his/her area of subject matter expertise, the witness should be treated as a fact witness, not as an expert witness, and FIPUG would object to characterizing such a fact witness as an expert witness.

Respectfully submitted this 23rd day of June, 2015.

/s/Jon C. Moyle _____

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CERTIFICATE OF SERVICE

I **HEREBY CERTIFY** that a true and correct copy of the Florida Industrial Power Users Group's Prehearing Statement has been furnished by electronic mail on this 23rd day of June, 2015, to the following:

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/s/ Jon C. Moyle

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