

State of Florida



Public Service Commission

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

DATE: October 2, 2008

TO: Office of Commission Clerk (Cole)

FROM: Division of Economic Regulation (Bremar, Hinton, Laux, Slemkewicz)
Office of the General Counsel (Bennett, Brubaker, Young)

RE: Docket No. 080009-EI – Nuclear cost recovery clause.

AGENDA: 10/14/08 – Regular Agenda – Posthearing Decision – Participation is Limited to Commissioners and Staff

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: McMurrian

CRITICAL DATES: None

SPECIAL INSTRUCTIONS: None

FILE NAME AND LOCATION: S:\PSC\ECR\WP\080009.RCM.DOC

Case Background

On February 29, 2008, Progress Energy Florida, Inc. (PEF) filed a petition seeking prudence review and recovery of costs associated with increasing the capacity (uprate) of the existing nuclear generating plant Crystal River Unit 3 (CR3 Uprate) pursuant to Rule 25-6.0423, Florida Administrative Code (F.A.C.), and Section 366.93, Florida Statutes (F.S.). PEF obtained an affirmative need determination for the CR3 Uprate by Order No. PSC-07-0119-FOF-EI.¹ On July 18, 2008, PEF amended its petition to include additional cost recovery associated with the newly proposed nuclear power plant, Levy Units 1 & 2. PEF obtained an affirmative need

¹ PSC-07-0119-FOF-EI, issued February 8, 2007, in Docket No. 060642-EI, In re: Petition for determination of need for expansion of Crystal River 3 nuclear power plant, for exemption from Bid Rule 25-22.082, F.A.C., and for cost recovery through fuel clause, by Progress Energy Florida, Inc.

determination for the Levy Units 1 & 2 project by Order No. PSC-08-0518-FOF-EI.² Completion of these approved projects will add 2,380 MWs of new nuclear base load generation to PEF's system.

On March 3, 2008, Florida Power & Light Company (FPL) filed a petition seeking prudence review and recovery of costs for uprate activities at existing nuclear generating plants, Turkey Point Units 3 & 4 and St. Lucie Units 1 & 2, pursuant to Rule 25-6.0423, F.A.C., and Section 366.93, F.S. Collectively, these uprate activities are known as the extended power uprate project (EPU Project). FPL obtained an affirmative need determination for the EPU Project by Order No. PSC-08-0021-FOF-EI.³ On May 1, 2008, FPL amended its petition to include additional cost recovery associated with the newly proposed nuclear power plant, Turkey Point Units 6 & 7. FPL obtained an affirmative need determination for the Turkey Point Units 6 & 7 project by Order No. PSC-08-0237-FOF-EI.⁴ Completion of these projects will add 2,614 MWs of new nuclear base load generation to FPL's system.

Traditionally, all eligible power plant construction projects have been afforded the same regulatory accounting and ratemaking treatment. That is, once a need for a project has been determined by the Commission, the utility books all expenditures associated with the project into account 107 Construction Work in Progress (CWIP) for that particular project. A monthly allowance-for-funds-used-during-construction (AFUDC) rate is applied to the average balance of this account and the resulting dollar amount is then credited to the account balance. Another accrued carrying cost is a deferred tax adjustment (DTA). A DTA reflects the difference in timing of recognition of certain revenues or expenses for income tax purposes compared with book purposes. This process continues until the completion of the project.

Once construction is completed and the plant is placed in commercial service, the CWIP account balance is transferred to the appropriate plant-in-service account and becomes part of the utility's rate base. The inclusion of the total project cost in a utility's rate base is addressed during a subsequent proceeding wherein the Commission determines whether customer base rate charges should be changed in order to provide the opportunity to recover these costs. This is usually done in the context of a comprehensive rate case where all costs and revenues are evaluated in the determination of compensatory rates.

In 2006 the Florida Legislature enacted Section 366.93, F.S., in order to encourage utility investment in nuclear electric generation by creating an alternative cost recovery mechanism. Section 366.93, F.S., authorized the Commission to allow investor-owned electric utilities to recover certain construction costs in a manner that reduces the overall financial risk associated with building a nuclear power plant. In 2007, Section 366.93, F.S., was amended to include integrated gasification combined cycle plants, and in 2008, the statute was amended to include new, expanded, or relocated transmission lines. The statute required the Commission to adopt

² Issued August 12, 2008, in Docket No. 080148-EI, In re: Petition for determination of need for Levy Units 1 and 2 nuclear power plants, by Progress Energy Florida, Inc.

³ Issued January 7, 2008, in Docket No. 070602-EI, In re: Petition for determination of need for expansion of Turkey Point and St. Lucie nuclear power plants, for exemption from Bid Rule 25-22.082, F.A.C. and for cost recovery through the Commission's Nuclear Power Plant Cost Recovery Rule, Rule 25-6.0423, F.A.C.

⁴ Issued April 11, 2008, in Docket No. 070650-EI, In re: Petition to determine need for Turkey Point Nuclear Units 6 and 7 electrical power plant, by Florida Power & Light Company.

rules that provide for, among other things, annual reviews and cost recovery for nuclear plant construction through the existing capacity cost recovery clause (CCRC). By Order No. PSC-07-0240-FOF-EI, the Commission adopted Rule 25-6.0423, F.A.C., to implement Section 366.93, F.S.⁵

Pursuant to Rule 25-6.0423(4) and (5), F.A.C., once a utility obtains an affirmative need determination for a power plant covered by Section 366.93, F.S., the affected utility may petition for cost recovery using the alternative mechanism. Three types of prudently incurred costs are described in the rule for such consideration.

- Preconstruction costs are those costs incurred after a site is selected through the date site clearing work is completed. (Rule 25-6.0423(2)(g), F.A.C.)
- Construction costs are costs that are expended to construct the nuclear or integrated gasification combined cycle power plant including, but not limited to, the costs of constructing power plant building and all associated permanent structures, equipment and systems. (Rule 25-6.0423(2)(i), F.A.C.)
- Site selection costs are costs incurred prior to the selection of a site. A site is deemed selected upon the filing for a determination of need. (Rule 25-6.0423(2)(e) and (f), F.A.C.)

Pursuant to Rule 25-0423(5)(a), F.A.C., all prudently incurred preconstruction costs will be recovered directly through the CCRC. Additionally, Rule 25-0423(5)(b), F.A.C., provides for recovery of carrying charges on prudently incurred construction costs through the CCRC. Rule 25-6.0423(4), F.A.C., allows a utility to request an alternative cost recovery mechanism for site selection costs. Rule 25-6.0423(2)(h) F.A.C., defines site selection costs to be similar to preconstruction costs.

By Order No. PSC-08-0295-DS-EI, the Commission granted FPL's request for a declaratory statement that "advance payments made prior to the completion of site clearing work are properly characterized as preconstruction costs to be recovered pursuant to the mechanism provided in Rule 25-6.0423, F.A.C."⁶

Rule 25-6.0423(5), F.A.C., sets forth the process by which the Commission is to conduct an annual hearing to determine the recoverable amount that will be included in the CCRC pursuant to Section 366.93, F.S. Docket 080009-EI was opened and established for purposes of addressing the petitions of PEF and FPL.

The Commission granted intervention to the following parties: the Office of Public Counsel (OPC), American Association of Retired Persons (AARP), Florida Industrial Power Users Group (FIPUG), and White Springs Agricultural Chemicals Inc. d/b/a PCS Phosphate –

⁵ Issued March 20, 2007, in Docket No. 060508-EI, In re: Proposed adoption of new rule regarding nuclear power plant cost recovery.

⁶ Issued May 5, 2008, in Docket No. 080083-EI, In Re: Petition for declaratory statement regarding applicability of Rule 25-6.0423, F.A.C., by Florida Power & Light Company.

White Springs (PCS Phosphate). Testimony and associated exhibits were filed by FPL, PEF, OPC and Commission staff. Prehearing statements of the parties were filed on August 22, 2008.

The Commission held its first evidentiary hearing for the Nuclear Cost Recovery Clause (NCRC) docket on September 11 and 12, 2008. OPC, AARP, PCS Phosphate, FIPUG, PEF, and FPL presented two sets of stipulations. One set of stipulations recommended deferral of a prudence review related to the new power plants due to the timing of the Commission's determination of need, which prevented PEF and FPL from filing actual costs for the previous year by March 1, pursuant to Rule 25-6.0423(5)(c), F.A.C. The parties asserted that the shortened timeframe was insufficient to perform a prudence review. Additionally, these stipulations stated that it was reasonable to allow PEF and FPL to begin collecting costs in 2009, pending prudence review, because denial could result in even higher charges to customers in 2010.

The second set of stipulations recommended that utility uprate costs for purposes of the clause be limited to costs that are separate and apart from those which would have been necessary to provide safe and reliable service had there been no uprate project. Pursuant to these stipulations the parties and staff shall collaborate to improve transparency in utility filings related to this matter. The interveners did not challenge the prudence of PEF's and FPL's 2007 uprate project costs with respect to the "separate and apart" issue. The Commission approved the parties' stipulations as a preliminary matter during the September 2008 hearing.

The stipulations are attached to this recommendation. Attachment A consists of all fully stipulated issues, and Attachment B consists of all partially stipulated issues approved by the Commission at the September 2008 hearing. The remaining unresolved issues in this proceeding pertain to implementation policies, the prudence of 2007 actual uprate project costs, the reasonableness of the estimated 2008 and 2009 uprate project costs, and the reasonableness of the 2007 through 2009 costs for the new power plants.

This recommendation first addresses implementation policy matters that arise due to characteristics observed in the utilities' filings. The company-specific issues in this recommendation are grouped by company and similar subject matter, rather than the sequence used in the prehearing order. Staff believes this structure is consistent with the Commission decision to hear the case for each company separately.

Post-hearing briefs were filed on September 15, 2008, and each party's post-hearing position is shown in this recommendation where provided. The notation "(Pre-Hearing)" indicates the party's position in the prehearing order when none were provided in its post-hearing brief. The Commission has jurisdiction over these matters pursuant to Section 366.93, F.S., and other provisions of Chapter 366, F.S.

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Discussion of Issues

NCRC Implementation Policy Issues

Issue 1A: Should Progress Energy Florida, Inc. and Florida Power & Light Company be allowed to recover through the Nuclear Cost Recovery Clause revenue requirements for a phase or portion of a system associated with a power plant, after such phases or portion of the project has been placed into commercial service, or should such phases or portion of the project be recovered through base rates?

Recommendation: PEF and FPL should be allowed to recover through the NCRC associated revenue requirements for a phase or portion of a system placed into commercial service during a projected recovery period. The revenue requirement should be removed from the NCRC at the end of that period. Any difference in recoverable costs due to timing (projected versus actual placement in service) should be reconciled through the true-up provision. (Laux, Bennett, Breman)

Position of the Parties

FPL: Yes. Rule 25-6.0423(7) specifically provide for the appropriate method to recover revenue requirements “as operation units or systems associated with the nuclear power plant and the nuclear power plant itself are placed in commercial service,” allowing for clause recovery until the time that a unit or system enters commercial service.

PEF: PEF agrees with Staff's position, as set forth in its Prehearing Statement. Applying Staff's position to the MUR phase of PEF's CR3 Uprate project would remove \$1,233,443 from PEF's request for 2009 projected costs. This results in PEF requesting a total of \$15,224,693 for its 2009 projected costs for the CR3 Uprate project, and a total of \$418,311,136 to be included in establishing PEF's 2009 Capacity Cost Recovery Clause factor. Pursuant to Section 366.93(4), F.S. and Rule 25-6.0423, F.A.C., PEF shall file a petition for Commission approval of a base rate increase for the remaining portion of the MUR.

AARP: Same as OPC.

FIPUG: (Pre-Hearing) The plants should be moved to base rates at the earliest practicable date.

PCS Phosphate: Supports the position of OPC.

OPC: Once the phase or portion has been placed in commercial service, the utility should recover the costs through base rates.

Staff Analysis: This issue addresses an implementation policy matter concerning whether revenue requirements associated with a phase or portion of a covered project can be recovered through the NCRC after it has been placed into commercial service, and if so, for how long.

Section 366.93(4), F.S., states:

When the nuclear or integrated gasification combined cycle power plant is placed in commercial service, the utility shall be allowed to increase its base rate charges by the projected annual revenue requirements of the nuclear or integrated gasification combined cycle power plant based on the jurisdictional annual revenue requirements of the plant for the first 12 months of operation. The rate of return on capital investments shall be calculated using the utility's rate of return last approved by the commission prior to the commercial in-service date of the nuclear or integrated gasification combined cycle power plant.

Rule 25-6.0423, F.A.C., implementing that provision states:

(7) Commercial Service. As operating units or systems associated with the power plant and the power plant itself are placed in commercial service:

(a) The utility shall file a petition for Commission approval of the base rate increase pursuant to Section 366.93(4), F.S., separate from any cost recovery clause petitions, that includes any and all costs reflected in such increase, whether or not those costs have been previously reviewed by the Commission; provided, however, that any actual costs previously reviewed and determined to be prudent in the Capacity Cost Recovery Clause shall not be subject to disallowance or further prudence review except for fraud, perjury, or intentional withholding of key information.

Each party acknowledges in their position on this issue that once a plant, or portion thereof, is moved into commercial service, it should be moved into base rates. Deciding this issue will provide a vehicle for the movement of items from the NCRC to base rates.

It is appropriate for the Commission to consider this matter at this time because PEF completed a phase of the CR3 Uprate project known as the measurement uncertainty recapture (MUR) in January 2008. (TR 191) In February 2008, PEF began commercial operation of approximately 12 additional megawatts of nuclear generation due to the MUR. (TR 191, 774)

Although this affects only the MUR project in this year's proceeding, in future years any particular project could have several portions going into commercial service at different times during a single year. The Commission could then be considering multiple base rate petitions in a single year.

PEF witness Cross explains that PEF prefers to recover the applicable revenue requirement for the MUR phase through the NCRC until the remaining phases of the CR3 Uprate project are completed. (TR 774, 775) PEF initially proposed this approach due to the relatively small nature of the dollars associated with this phase of the project and for purposes of administrative efficiency. (TR 783, 784) PEF now agrees that the alternative position staff proposes is reasonable and complies with Section 366.93(4), F.S., and Rule 25-6.0423(7), F.A.C. (EXH 2, Tab 5, Nos. 47, 48)

OPC, AARP, and PCS Phosphate maintain that no amount of allowed revenue requirements for projects placed into commercial service can be recovered through the clause. FIPUG's pre-hearing position, while similar, urges clause recovery to cease as early as practical. None of the interveners specifically addressed this issue in their post-hearing briefs.

The regulatory implementation policy is one of timing and therefore how often customers base rates could change. As demonstrated by PEF's MUR project, the construction phasing approach used by both utilities for uprate projects can result in various dates in which commercial operation begins rather than just one. Multiple in-service dates will become more prevalent as transmission projects associated with the new plant construction are completed. For example, PEF anticipates completion of all transmission facilities by 2015 to allow a year's worth of testing before the June 2016 in-service date of Levy Unit 1. (TR 90, 101) If utilities are prohibited from collecting the allowed revenue requirements for these projects through the clause, at least for some period, the Commission may be required to address multiple changes in base rates petitions in any one year.

Rule 25-6.0423(7), F.A.C., which implements Section 366.93(4), F.S., in part states "[a]s operating units or systems associated with the power plant and the power plant itself are placed in commercial service: The utility shall file a petition for Commission approval of the base rate increase pursuant to Section 366.93(4), F.S." Additionally, Rule 25-6.0423(7)(c), F.A.C., states "[a]t such time as the power plant is included in base rates, recovery through the Capacity Cost Recovery Clause will cease, except for the difference between actual and projected construction costs as provided in subparagraph (5)(c)4."

Based on the forgoing, staff recommends the Commission allow utilities to recover through the NCRC revenue requirements for a phase or portion of a system placed into commercial service during the remainder of the year in which it is placed into service. For example, PEF's MUR phase was placed in commercial service in January 2008. Staff's recommendation would allow PEF to recover through the NCRC carrying charges on prudently incurred construction cost for January 2008. For the remainder of 2008, PEF would be allowed to recover through the NCRC the revenue requirement associated with the MUR phase.

Staff believes this approach is consistent with the requirements of Section 366.93, F.S., and incorporates an efficient method on moving projects out of the NCRC and into the utility's rate base as portions become commercially available. Under this recommended approach, the number of changes customers will see in their base rates during the construction period is minimized, while not affecting the level of allowable revenue requirements utilities are entitled to recover pursuant to Section 366.93, F.S.

At this time, only one project is affected by the Commission's decision in this issue. That project is PEF's MUR phase of the CR3 Uprate project. If the Commission agrees with staff's recommended approach on this matter, then the Commission should approve the amounts shown in staff's recommendation for Issues 9G, 11G, and 13. The amounts shown in Issues 11G and 13 already reflect a reduction of \$1,233,443 for the 2009 MUR revenue requirements. However, if the Commission approves the position taken by OPC, AARP, FIPUG, and PCS Phosphate that no amount of allowed revenue requirements for projects placed into commercial service can be

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recovered through the clause, staff's recommended recoverable amounts in Issues 9G and 13 should be reduced by \$1,181,822.

Issue 1B: If recovery of costs for a phase or portion of a system associated with a power plant that is in commercial service continues through the Nuclear Cost Recovery Clause, how should the revenue requirements for that phase or portion be determined?

Recommendation: If cost recovery is allowed in Issue 1A, then the revenue requirements collected through the NCRC should be determined according to current rate setting standards consistent with Section 366.93(4), F.S., and Rule 25-6.0423(7), F.A.C. This issue is moot if, in Issue 1A, the Commission does not allow recovery of costs for a phase or portion of a system associated with a power plant that is in commercial service to occur through the Nuclear Cost Recovery Clause. (Laux, Bennett, Breman)

Position of the Parties

FPL: Rule 25-6.0423(7) specifically provides for the appropriate method to recover revenue requirements “as operating units or systems associated with the nuclear power plant and the nuclear power plant itself are placed in commercial service.” allowing for clause recovery until the time that a unit or system enters commercial service. Revenue requirements should be determined consistent with Rule 25-6.0423.

PEF: The revenue requirements for such phase or portion that is in commercial service but for which recovery will continue through the Nuclear Cost Recovery Clause will and should be calculated consistent with rule 25-6.0423(7)(b), (d), (e).

AARP: Same as OPC.

FIPUG: (Pre-Hearing) The administrative complexity of attempting to match revenues with costs militates in favor of moving the plants to base rates. If the carrying costs continue to be collected through a cost recovery clause, 100% of the base revenue and wholesale sales revenue collected from the nuclear plant sales should be allocated to the recovery clause plus all base rate revenue in excess of the mid point of a utility’s last authorized rate of return.

PCS Phosphate: Supports the position of OPC.

OPC: The revenue requirements should be determined in a manner analogous to the methodology used in a revenue requirements case.

Staff Analysis: This issue addresses an implementation policy matter concerning how revenue requirements should be determined for a phase or portion of a project placed into commercial service but continues to be recovered through the NCRC. Section 366.93(4), F.S., and Rule 25-6.0423(7), F.A.C., are intended to apply to completed projects that begin commercial operation. Staff, FPL, and PEF believes the methodology used to determine the revenue requirement for a completed project should be used for in-service phases as well. OPC, AARP, and PCS Phosphate take a position suggesting use of a methodology analogous to a rate case. However, OPC, AARP, and PCS Phosphate did not address this issue in their post-hearing briefs. Staff believes Section 366.93(4), F.S., and Rule 25-6.0423(7), F.A.C., establish a methodology of determining revenue requirements in a manner analogous to a rate case.

PEF provided, in Attachment A of Exhibits 6 and 8, its revenue requirement calculations for the MUR in-service portion of the CR3 Uprate project for the periods 2008 and 2009. (EXH 2, Tab 5, Nos. 47, 48) PEF asserted its revenue requirement calculations are in accordance with Rule 25-6.0423, F.A.C. (TR 783) No testimony addressing an alternative to PEF's calculations was presented.

FIPUG's pre-hearing position states that "if carrying costs continue to be collected through a cost recovery clause, 100% of the base revenue and wholesale sales revenue collected from the nuclear plant sales should be allocated to the recovery clause plus all base rate revenue in excess of the mid point of a utility's last authorized rate of return." During the hearing, FIPUG questioned witness Cross as to the proper application of AFUDC in PEF's filing. (TR 151-155) FIPUG did not provide a witness nor present any exhibits at hearing that support or address its prehearing position. FIPUG also did not address this issue in its post hearing brief therefore, pursuant to the prehearing order, FIPUG has waived its position on this issue.

Rule 25-6.0423(7)(b), (d) and (e), F.A.C., which implements 366.93(4), F.S., provide the best guidance on this issue. Rule 25-6.0423(7)(b), F.A.C., states:

The utility shall calculate the increase in base rates resulting from the jurisdictional annual base revenue requirements for the power plant in conjunction with the Capacity Cost Recovery Clause projection filing for the year the power plant is projected to achieve commercial operation. The increase in base rates will be based on the annualized base revenue requirements for the power plant for the first 12 months of operations consistent with the cost projections filed in conjunction with the Capacity Cost recovery Clause projection filing.

Rule 25-6.0423(7)(d), F.A.C., states:

The rate of return on capital investments shall be calculated using the utility's most recent actual Commission adjusted basis overall weighted average rate of return as reported by the utility in its most recent Earnings Surveillance Report prior to the filing of a petition as provided in paragraph (7)(a). The return on equity cost rate used shall be the midpoint of the last Commission approved range for return on equity or the last Commission approved return on equity cost rate established for use for all other regulatory purposes, as appropriate.

Finally, Rule 25-6.0423(7)(e), F.A.C., states:

The jurisdictional net book value of any existing generating plant that is retired as a result of operation of the power plant shall be recovered through an increase in base rate charge over a period not to exceed 5 years. At the end of the recovery period, base rates shall be reduced by an amount equal to the increase associated with the recovery of the retired generating plant.

Rule 25-6.0423(7)(b), (d), and (e), F.A.C., outlines how revenue requirements are to be determined for setting base rate changes associated with projects that can be included in the clause, and is consistent with that performed in a normal revenue requirement case. Staff

recommends that revenue requirements for a phase or portion of a system in commercial service be determined as required by these rules. Based on the record, staff believes the recommended approach is consistent with PEF's testimony and the positions taken by all parties except FIPUG. FPL did not provide testimony applicable to this issue.

At this time, only one project is affected by the Commission's decision on this issue. That project is PEF's MUR phase of the CR3 Uprate. The project was completed and placed into commercial service in January of 2008. Staff believes PEF followed Rule 25-6.0423, F.A.C., in calculating the revenue requirements applicable to the MUR phase. This issue is moot if, in Issue 1A, the Commission does not allow recovery of costs for a phase or portion of a system associated with a power plant that is in commercial service to occur through the NCRC.

Issue 1C: How should the completion of site clearing work be determined for purposes of distinguishing between preconstruction and construction costs for recovery under the clause?

Recommendation: In general, site clearing work is complete when the property has been prepared to a condition that can allow the initiation of the first construction activity. Distinguishing between preconstruction and construction costs should be considered on a case-by-case basis. (Laux, Bennett, Breman)

Position of the Parties

FPL: Site clearing work is complete when the property has been prepared to a condition that can allow the initiation of the first construction activity. Generally, this means the removal of existing vegetation and soils to allow for the initiation of engineered civil work activities such as foundations and buried infrastructure. Ultimately, this is a factually specific determination that should be made individually for each site.

PEF: In general, site clearing work will be completed when the types of costs defined as preconstruction costs in Rule 25-6.0423(2)(h) have been completed. At this time, PEF expects site clearing for Levy Units 1 and 2 to be complete when the site is in a condition and ready for the pour of the safety related concrete. For most items associated with the plant, PEF would tie completion to when site clearing is completed for the foundation of the plant. However, it may be reasonable to have a separate site clearing date for certain large associated facilities like a cooling tower or transmission projects.

AARP: Same as OPC.

FIPUG: (Pre-Hearing) A reasonable time for site clearing should be determined in this proceeding after which no construction costs should be collected through the clause.

PCS Phosphate: Supports the position of OPC.

OPC: The determination will be dependent on individual circumstances, and so must be considered on a case-by-case basis. However, OPC believes the determination would be based upon work related to the generating unit, and not related structures (such as transmission).

Staff Analysis: This issue addresses a policy implementation matter concerning Rule 25-6.0423(2)(g) and (i), F.A.C. More specifically, the question is how the completion of site clearing work is to be determined, for the purpose of applying either preconstruction or construction cost recovery treatment within the clause.

Preconstruction costs are defined in Rule 25-6.0423(2)(g), F.A.C., as “costs that are expended after a site has been selected in preparation for the construction of a nuclear...plant, incurred up to and including the date the utility completes site clearing work.” Construction costs are defined in Rule 25-6.0423(2)(i), F.A.C., as “costs that are expended to construct the nuclear...plant including, but not limited to, the costs of constructing power plant buildings and all associated permanent structures, equipment and systems.”

Within the rule, preconstruction activities are time limited by the threshold of site clearing. However, construction costs are not similarly time limited in the rule. This prompts the question of whether any costs can be treated as construction costs for recovery purposes prior to site clearing being completed. The Commission's consideration of this issue could affect Issues 7B, 9B, and 11B, addressing construction costs for PEF.

FIPUG, in its prehearing position, asserted that a reasonable time for site clearing should be determined in this proceeding, after which no construction costs should be collected through the clause. In their post-hearing positions, OPC, AARP, and PCS Phosphate agree that the determination of site clearing completion will be dependent on individual circumstances, and so must be considered on a case-by-case basis. However, OPC believes that determination should be based upon work related to the generating unit, and not related structures such as transmission. The interveners did not address this issue in their briefs.

In its post-hearing position, FPL states that site clearing work is complete when the property has been prepared to a condition that can allow the initiation of the first construction activity. Generally, this means the removal of existing vegetation and soils to allow for the initiation of engineered civil work activities such as foundations and buried infrastructure. FPL states that ultimately this is a factually specific determination that should be made individually for each site. Similarly, PEF states that in general, site clearing work will be completed when the types of costs defined as preconstruction costs in Rule 25-6.0423(2)(h) have been completed. In addition, PEF states that for most items associated with the plant, PEF would tie completion to when site clearing is completed for the foundation of the plant. However, it may be reasonable to have a separate site clearing date for certain large associated facilities like a cooling tower or transmission projects.

Staff agrees with the parties that the completion of site clearing for a project is dependent on individual circumstances, and should therefore be considered on a case-by-case basis. In general, site clearing work is complete when the property has been prepared to a condition that can allow the initiation of the first construction activity. This may necessitate more than one site clearing completion date, based upon the types of construction activities involved with a particular project. Staff recommends the Commission find that the completion of site clearing should be determined on a case-by-case basis.

PEF Issues

PEF Project Management

Issue 3A: Should the Commission find that for the year 2007, PEF's project management, contracting, and oversight controls were reasonable and prudent for Levy Units 1 & 2 project and the Crystal River 3 Uprate project?

Recommendation: Staff recommends the Commission find PEF's 2007 project management, contracting, and oversight controls were reasonable and prudent for the CR3 Uprate project. Consistent with the agreement between OPC and PEF, staff recommends the Commission defer making a determination regarding the prudence of PEF's Levy 1 & 2 2007 project management, contracting, and oversight controls. (Laux, Breman)

Position of the Parties

PEF: (1) PEF Position for CR3 Uprate Project.

Yes, pursuant to the stipulation reached between PEF, OPC, AARP, PCS Phosphate and staff, as fully reflected in the Prehearing Order.

(2) PEF Position for Levy Nuclear Project

Yes, pursuant to the stipulation reached between PEF, OPC, AARP, PCS Phosphate and staff, as fully reflected in the Prehearing Order.

AARP: Same as OPC.

FIPUG:

PCS Phosphate: Supports the position of OPC.

OPC: (Pre-Hearing)

(1) CR3 Uprate Project

OPC and PEF stipulate that as it applies to nuclear uprate projects, the NCRC should be limited to those costs that are separate and apart from nuclear costs that would have been necessary to provide safe and reliable service had there been no uprate project. OPC and PEF will work with PSC Staff to develop an NFR form for use in the 2009 hearing cycle that specifies the information that a utility will provide in support of its request, that the uprate costs in its NCRC filing are separate and apart from costs that would have been necessary to provide safe and reliable service without the uprate. For the purposes of the 2008 NCRC hearings, OPC will not challenge the prudence of PEF's 2006 and 2007 CR3 Uprate costs on the "separate and apart" issue. OPC's position for the 2006 and 2007 CR3 Uprate costs, however, does not prevent OPC from raising the "separate and apart" issue for any CR3 Uprate costs incurred subsequent to 2007.

(2) Levy Nuclear Project

OPC and PEF agree that the following categories of costs: O&M, return on accumulated deferred tax asset (liability), site selection, pre-construction, construction, and calculation of the carrying costs in PEF's NFRs, may be included in the calculation of the nuclear cost recovery amount to be recovered through the 2009 capacity cost recovery factor

subject to the deferral of any finding as to the prudence of those costs until the 2009 nuclear cost recovery cycle, notwithstanding the language of subsection 25-6.0423(5)(c)3 of the Rule that such costs “shall not be subject to disallowance or further prudence review.” OPC and PEF further agree that PEF’s site selection costs will be recovered through the nuclear cost recovery clause in the same manner as pre-construction costs are recovered in Rule 25-6.0423(5)(a).

Staff Analysis: This issue addresses the reasonableness and prudence of 2007 project management, contracting, and oversight controls incorporated by PEF as part of its Levy and CR3 projects. OPC, PEF, AARP and PCS Phosphate reached an agreement on the procedural posture of this case. FIPUG did not join in the agreement but took no post-hearing position on any of the issues identified in this hearing. The agreement reached by OPC, PEF, AARP and PCS Phosphate was to have the Commission consider the prudence of the 2007 costs for CR3 only. In considering the prudence of the 2007 costs, the parties stipulated that OPC would not challenge the prudence of PEF’s 2006 and 2007 CR3 Uprate costs on the “separate and apart” issue, Issue 7H, but would instead work with PEF, staff and the parties to develop NFRs reflecting more information showing costs to be “separate and apart.”

The agreement also addressed the 2007 costs for the Levy Units 1 & 2 project. OPC, PEF, AARP and PCS Phosphate agreed that the prudence review of PEF’s 2007 costs associated with the Levy Units 1 & 2 project would occur in the Commission’s 2009 proceeding. The current review would only address the reasonableness of PEF’s Levy project costs. Further, the parties agree that PEF may recover site selection costs in the same manner as preconstruction costs, and the issue of valuing land held for future use will be deferred until the 2009 proceeding. This agreement affects Issues 5B, 7B, 7C, and 7D.

Issues 3A and 3B are affected by the agreement in that the Commission may determine the prudence of PEF regarding CR3 Uprate project management (Issue 3A) and accounting management (Issue 3B). Finally, the stipulation affects Issues 7E, and 7F because OPC agreed not to challenge the prudence of those 2007 CR3 costs regarding the “separate and apart” issue raised in Issue 7H. Staff’s analysis and recommendations on all Issues include the agreements of the parties.

In reaching a recommendation, staff reviewed the record and the parties’ post hearing statements. The parties were requested to provide post hearing position statements and briefs. In its post hearing position statement brief, OPC stated that it participated in several full and partial stipulations but litigated only one issue – whether FPL followed its internal guidelines of using competitive bids. OPC’s brief, and staff’s analysis of this issue, appear on page 49 of this recommendation within Issue 2A. (OPC BR 1) OPC provided positions on all issues not fully stipulated. (OPC BR 2, 3-18)

PCS Phosphate confined its brief to discussion of PEF and asserted that the Commission must scrutinize the nuclear project cost and scheduling information. It urged the Commission to fully assess all material cost and schedule variations and take a hard look going forward as to the feasibility of each project. PCS Phosphate stated it supported the stipulations between OPC and

PEF on Issue 1D. In all other aspects, PCS adopted OPC's positions. (PCS Phosphate BR 1) AARP also adopted the positions of OPC. (AARP BR 1)

FIPUG provided a post hearing brief and statement of positions in which it takes a position that PEF's proposed Levy plant exceeds the needs of customers. (FIPUG BR 1) FIPUG's position also stated that the resultant rates are unfair and unreasonably excessive. (FIPUG BR 2) FIPUG argued that to alleviate rate shock the Commission should require better proof from PEF of its projected expenses. FIPUG argues that the Commission should disallow \$150 million until better proof of the projections is provided using the new forms and procedures parties stipulated to in Issue 5A. (FIPUG BR 3) FIPUG did not offer post hearing position statements for any of the issues identified in the prehearing order for this proceeding. On those issues for which FIPUG had a prehearing position, but took no post hearing position, FIPUG has waived its position (Order No. PSC-08-0581-PHO-EI, issued September 8, 2008).

In PEF's post hearing statement of issues and positions, it submits that the record conclusively demonstrates that PEF has met both statutory and rule requirements regarding recovery of costs for its CR3 Uprate and Levy projects. (PEF BR 1) PEF noted in its position that the parties stipulated to a reasonableness review of the costs of its Levy Nuclear Project and prudence review of its CR3 2006 and 2007 actual costs. (PEF BR 8) PEF argued that competent substantial evidence in the record support a Commission finding of prudence for its 2006 and 2007 costs for the CR3 Uprate project. According to PEF, the record also supports a finding of reasonableness for the remainder of CR3 costs, and all of the 2007, 2008 and 2009 Levy Nuclear Project costs. (PEF BR 8-9)

In his direct testimony, PEF witness Roderick describes the company's project management and cost control policies and procedures. (TR 222 – 229, 275 - 282) He concludes his testimony in this area by asserting that PEF's project management and cost control policies and procedures are consistent with best practices for capital project management in the industry. (TR 230) Witness Roderick was not cross-examined on this issue during the hearing.

OPC witness Jacobs provided direct testimony outlining his review of PEF's project management and cost control activities. (TR 312) In his testimony, Witness Jacobs did not offer an opinion concerning the prudence of PEF's project management, contracting and oversight control. Witness Jacobs was not cross-examined on this issue.

Staff witnesses Vinson and Fisher sponsored testimony that included the results of their management audit report. The focus of this report was an examination of internal control procedures established by PEF to track and manage construction schedules and costs for PEF's two projects. (TR 348; EXH 19)

In their audit report witnesses Vinson and Fisher state, "We believe that even more extensive and detailed examinations of internal controls and project management controls should be performed to fully substantiate their adequacy and effectiveness." (TR 349) During cross examination on this issue, witness Vinson further clarified this opinion by stating that PEF's project management and internal cost controls are currently adequate, but PEF should continue fine tuning the process as the projects evolve. (TR 356) Staff will explore any fine tuning activities as part of its on-going discussions with the parties in this docket.

Based on the information in the record, including the management audits prepared by Mr. Vinson and Mr. Fisher, staff recommends that the Commission find PEF's 2007 project management, contracting, and oversight controls to be reasonable and prudent for the CR3 Uprate project. In addition, consistent with the approved partial stipulation and agreement between the parties, the Commission should find that the Levy project management is reasonable but defer making a determination on prudence until a future NCRC proceeding.

Issue 3B: Should the Commission find that for the year 2007, PEF's accounting and costs oversight controls were reasonable and prudent for the Levy Units 1 & 2 project and the Crystal River 3 Uprate project?

Recommendation: Staff recommends the Commission find PEF's 2007 accounting and costs oversight controls were reasonable and prudent for the CR3 Uprate project. Pursuant to the approved partial stipulations, staff recommends the Commission defer making a determination of prudence for PEF's Levy 1 & 2 2007 accounting and costs oversight controls. A determination on the appropriate method for valuing land held for future use at Levy Units 1 & 2 will be a part of the 2009 NCRC proceeding. (Laux, Breman)

Position of the Parties

PEF: (1) PEF Position for CR3 Uprate Project.

Yes, pursuant to the stipulation reached between PEF, OPC, AARP, PCS Phosphate and staff, as fully reflected in the Prehearing Order.

(2) PEF Position for Levy Nuclear Project

PARTIAL STIPULATION: Yes, pursuant to the stipulation reached between PEF, OPC, AARP, PCS Phosphate and staff, as fully reflected in the Prehearing Order, and pursuant to the partial stipulation reached between all the parties as to the Lybass parcel, also fully reflected in the Prehearing Order.

AARP: Same as OPC.

FIPUG:

PCS Phosphate: Supports the position of OPC.

OPC: (Pre-Hearing)

(1) CR3 Uprate Project

OPC and PEF stipulate that as it applies to nuclear uprate projects, the NCRC should be limited to those costs that are separate and apart from nuclear costs that would have been necessary to provide safe and reliable service had there been no uprate project. OPC and PEF will work with PSC Staff to develop an NFR form for use in the 2009 hearing cycle that specifies the information that a utility will provide in support of its request, that the uprate costs in its NCRC filing are separate and apart from costs that would have been necessary to provide safe and reliable service without the uprate. For the purposes of the 2008 NCRC hearings, OPC will not challenge the prudence of PEF's 2006 and 2007 CR3 Uprate costs on the "separate and apart" issue. OPC's position for the 2006 and 2007 CR3 Uprate costs, however, does not prevent OPC from raising the "separate and apart" issue for any CR3 Uprate costs incurred subsequent to 2007.

(2) Levy Nuclear Project

OPC and PEF agree that the following categories of costs: O&M, return on accumulated deferred tax asset (liability), site selection, pre-construction, and construction, in PEF's NFRs, may be included in the calculation of the nuclear cost recovery amount to be recovered through the 2009 capacity cost recovery factor subject to the deferral of any finding as to the prudence of those costs until the 2009 nuclear cost recovery cycle,

notwithstanding the language of subsection 25-6.0423(5)(c)3 of the Rule that such costs “shall not be subject to disallowance or further prudence review.” OPC and PEF further agree that PEF’s site selection costs will be recovered through the nuclear cost recovery clause in the same manner as pre-construction costs are recovered in Rule 25-6.0423(5)(a).

Agrees with staff’s position regarding witness Jeffery Small.

Staff Analysis: This issue addresses the reasonableness and prudence of 2007 accounting and costs oversight controls incorporated by PEF in the Levy and CR3 projects. Two issues were identified prior to hearing concerning PEF’s accounting and cost control oversight. These include concerns on incremental construction costs for the CR3 Uprate project and the methodology that should be used to value land held for future use at Levy Units 1 & 2.

OPC witness Jacobs raised a general issue in his testimony concerning incremental, or separate and apart, construction type activities that may impact uprate project costs currently under construction by PEF and FPL. (TR 313) His concern as stated is,

As I understand the Nuclear Plant Cost Recovery rule, it is not intended to apply to the normal maintenance or replacement of equipment off existing nuclear units. Therefore, where such items would have been necessary in the absence of an uprate project, I believe that only the incremental costs required for the EPU projects – those over and above what would have been spent anyway – should be recoverable under the rule.

(TR 313)

Witness Jacobs provided an example in his testimony of a cost, which in his opinion, would not be considered incremental. (TR 314) However, a complete review of his testimony did not reveal any instance where he identified that PEF was requesting recovery of non-incremental costs for the CR3 Uprate project. (TR 314) PEF witness Roderick asserts in his rebuttal testimony that only items (costs) associated with the CR3 Uprate project are being requested. (TR 237) He further asserts that PEF implemented procedures and evaluations to exclude costs for regular maintenance from its petition. (TR 236)

Witness Small raised the second concern addressed in this issue. Witness Small’s testimony included his findings from the three audits he performed on PEF’s 2006 and 2007 nuclear costs. (TR 339-340; EXH 16, 17, and 18) Witness Small testified that PEF agreed to correct and true-up the cost impacts identified in his audit findings, except for audit finding number 1. (TR 340) Finding number 1 concerned the method of valuing land held for future use associated with land purchase for the Levy Unit 1 & 2 project.

In acquiring land for Levy Units 1 & 2, PEF made two purchases. These purchases included the Rayonier property and the Lybass property. In its filing, PEF indicated that all of the Rayonier property would be used at the Levy site, but only 314 acres of the 2,159 acres which make-up the Lybass property will be immediately needed for the Levy units. (TR 175 – 181, 292, 361, 119) The remaining 1,845 acres will be classified as land held for future use. Witness Small, in his testimony, questioned the method used by PEF to determine the market

value of the land being held for future use (TR 119). In PEF witness Garrett's rebuttal testimony, he took exception to witness Small's finding. (TR 366) During the hearing, the Commission accepted a partial stipulation between OPC and PEF in which the parties agree to address this issue in the next recovery cycle. (TR 39)

Based on the information in the record including the financial audits prepared by witness Small, staff recommends the Commission find PEF's year 2007 accounting and costs oversight controls were reasonable and prudent for the CR3 Uprate project. Consistent with the stipulation and agreement between the parties, staff recommends that the Commission defer making a determination regarding the prudence of 2007 accounting and costs oversight controls associated with PEF's Levy Units 1 & 2. In addition, the Commission should defer making a determination on the appropriate method for valuing land held for future used associated with land purchases for Levy Units 1 & 2 until the 2009 proceeding.

PEF's CR3 Uprate Project

Issue 7E: What amount should the Commission approve as PEF's final 2007 true-up of prudently incurred construction costs for the Crystal River 3 Uprate project?

Recommendation: The Commission should approve as prudent an amount of \$38,520,916 (gross system) as final 2007 CR3 Uprate project construction costs. The amount net of participant credits is \$34,278,183 system (\$33,136,826 jurisdictional). (Laux, Breman)

Position of the Parties

PEF: \$38,520,916 gross of joint owner billings.

AARP: Same as OPC.

FIPUG:

PCS Phosphate: PCS Phosphate agrees with and adopts the position of the OPC.

OPC: Subject to the stipulation in Issue 7H, OPC does not recommend a specific adjustment.

Staff Analysis: This issue addresses PEF's request for final 2007 true-up of construction cost for the CR3 Uprate project. PEF witness Garrett provided support as to the amounts and method used to determine the requested construction costs. (TR 111 – 113) Witness Roderick provided descriptions of the construction activities that are associated with the costs requested for the 2007 period. (TR 202) No party suggested adjustments to PEF's requested amount for this period.

Staff reviewed PEF's calculations and supporting information and recommends that the Commission, consistent with the agreement and stipulation of the parties identified in Issues 3A and 3B, approve as prudent an amount of \$38,520,916 (gross system) for 2007 CR3 Uprate project construction costs. The amount, net of \$4,242,733 participant credits and other adjustments, is \$34,278,183 system (\$33,136,826 jurisdictional). (EX 3, 4)

Issue 7F: What amount should the Commission approve as carrying charges on PEF's prudently incurred 2007 construction costs for the Crystal River 3 Uprate project?

Recommendation: The Commission should approve the amount of \$925,842 as the carrying charges on prudently incurred 2007 construction costs for the CR3 Uprate project. (Laux, Breman)

Position of the Parties

PEF: \$925,842

AARP: Same as OPC.

FIPUG:

PCS Phosphate: PCS Phosphate agrees with and adopts the position of the OPC.

OPC: Subject to the stipulation in Issue 7H, OPC does not recommend a specific adjustment.

Staff Analysis: This issue addresses PEF's request for carrying charges on 2007 construction cost for the CR3 Uprate project. PEF witness Garrett provided support as to the amount and method used in determining the requested carrying charges for the period. (TR 111) No party suggested adjustment to PEF's requested amount for this period.

Staff reviewed PEF's calculation and supporting information and believes them to be consistent with the requirements of Rule 25-6.0423, F.A.C. The applicable carrying charge amount is the AFUDC accrued on 2007 construction costs for the CR3 Uprate project. Absent any adjustments, the AFUDC amount is \$925,842. (EX 3) Staff recommends, consistent with the agreement and stipulation between the parties identified in Issues 3A and 3B, that the Commission approve an amount of \$925,842 as carrying charges on prudently incurred 2007 construction cost for the CR3 Uprate Project.

Issue 7G: What total amount should the Commission approve as PEF's final 2007 true-up to be recovered for the Crystal River 3 Uprate project?

Recommendation: The Commission should approve as prudent the amount of \$928,896 as final 2007 true-up to be recovered for the CR3 Uprate project. (Laux, Breman)

Position of the Parties

PEF: \$928,896

AARP: Same as OPC.

FIPUG:

PCS Phosphate: PCS Phosphate agrees with and adopts the position of the OPC.

OPC: Subject to the stipulation in Issue 7H, OPC does not recommend a specific adjustment.

Staff Analysis: This issue addresses PEF's request for the total 2007 final cost true-up to be recovered for the CR3 Uprate project. PEF witness Garrett provided support as to the amount and method used in determining construction and carrying costs, including deferred tax adjustment (DTA), requested for the period. (TR 111 - 113) A DTA reflects the difference in timing of recognition of certain revenues or expenses for income tax purposes compared with book purposes. Witness Roderick provided descriptions of the construction activities that are associated with the costs requested to be recovered for the 2007 period. (TR 202)

This is a summary issue based on staff's recommendations on Issues 3A, 3B, 7E, and 7F. No party suggested adjustments to PEF's requested amount for this period. PEF's cumulative carrying costs through 2007 includes the AFUDC amount approved in Issue 7F, as well as the DTA carrying costs on the construction costs approved in Issue 7E. Absent adjustments in prior issues, the DTA amount is \$3,053 and the total amount is \$928,896. (EX 3) Staff recommends the Commission approve as prudent an amount of \$928,896 as 2007 total final true-up for the CR3 Uprate project.

Issue 9E: What amount should the Commission approve as PEF's 2008 actual and estimated construction costs for the Crystal River 3 Uprate project?

Recommendation: The Commission should approve as reasonable an amount of \$67,615,770 (gross system) as 2008 actual and estimated construction costs for the CR3 Uprate project. The amount net of participant credits and other adjustments is \$63,157,440 system (\$49,836,695 jurisdictional). (Laux, Breman)

Position of the Parties

PEF: \$67,615,770

AARP: Same as OPC.

FIPUG:

PCS Phosphate: PCS Phosphate agrees with and adopts the position of the OPC.

OPC: OPC does not recommend a specific adjustment, subject to stipulation in 7H, and subject to a prudence review in the NCRC hearings in 2009.

Staff Analysis: This issue addresses PEF's request for 2008 actual and estimated construction costs for the CR3 Uprate project. In her direct testimony PEF witness Cross identified the amounts and method used in determining the requested construction costs for the 2008 period. (TR 774) Witness Roderick provided descriptions of the construction activities that are associated with the costs requested for the 2008 period. (TR 189) No party suggested adjustment to PEF's requested amount for this period.

Staff reviewed PEF's calculations and supporting information and believe them to be reasonable. Staff recommends, consistent with the agreements and stipulation of the parties identified in Issues 3A and 3B, that the Commission should approve as reasonable an amount of \$67,615,770 (gross system) as 2008 actual and estimated construction costs for the CR3 Uprate project. The amount, net of \$14,458,331 participant credits and other adjustments, is \$63,157,440 system (\$49,836,695 jurisdictional). (EX 8)

Issue 9F: What amount should the Commission approve as carrying charges on PEF's 2008 actual and estimated construction costs for the Crystal River 3 Uprate project?

Recommendation: The Commission should approve as reasonable an amount of \$6,006,106 as carrying charges on 2008 actual and estimated construction costs for the CR3 Uprate project. (Laux, Breman)

Position of the Parties

PEF: \$6,006,160

AARP: Same as OPC.

FIPUG:

PCS Phosphate: PCS Phosphate agrees with and adopts the position of the OPC.

OPC: OPC does not recommend a specific adjustment, subject to stipulation in 7H, and subject to a prudence review in the NCRC hearing in 2009.

Staff Analysis: This issue addresses PEF's request for carrying charges on 2008 actual and estimated construction costs for the CR3 Uprate project. PEF witness Cross provided support as to the amount and method used in determining the requested carrying charges for the 2008 period. (TR 776) FIPUG, in its prehearing statement, presented a position concerning the calculation of carrying costs. However, FIPUG did not address the issue in its posthearing statement. (FIPUG BR 2)

Staff reviewed PEF's calculations and supporting information and believe them to be reasonable. AARP, PCS Phosphate, and OPC did not recommend any specific adjustments to the amount requested by PEF for this period. The applicable carrying charge amount is the AFUDC accrued on 2008 actual and estimated construction costs. Absent any adjustments, the AFUDC amount is \$6,006,106. (EX 8) Staff recommends, consistent with the agreements and stipulation of the parties identified in Issues 3A and 3B, that the Commission approve as reasonable an amount of \$6,006,106 as carrying charges on 2008 actual construction cost for the CR3 Uprate project.

Issue 9G: What total amount should the Commission approve as PEF's 2008 actual and estimated costs to be recovered for the Crystal River 3 Uprate project?

Recommendation: The Commission should approve as reasonable an amount of \$7,512,933 as 2008 recoverable actual and estimated costs for the CR3 Uprate project. However, if the Commission does not approve staff's recommendation on Issue 1A, the jurisdictional amount should be reduced by \$1,181,823 for a total of \$6,331,110. (Laux, Breman)

Position of the Parties

PEF: \$7,512,933

AARP: Same as OPC.

FIPUG:

PCS Phosphate: PCS Phosphate agrees with and adopts the position of the OPC.

OPC: OPC does not recommend a specific adjustment, subject to stipulation in 7H, and subject to a prudence review in the NCRC hearing in 2009.

Staff Analysis: This issue addresses PEF's 2008 recoverable actual and estimated costs for the CR3 Uprate project. PEF witness Cross provided support as to the amount and method used in determining construction costs and carrying charges (including DTA) requested for the period. (TR 776) Witness Roderick provided descriptions of the construction activities that are associated with the costs requested to be recovered for the 2008 period. (TR 189)

This is a summary issue based on staff's recommendations on Issues 9E and 9F. Staff reviewed PEF's calculations and supporting information and recommends that the Commission approve as reasonable an amount of \$7,512,933 for 2008 total actual and estimated recoverable costs for the CR3 Uprate project.

	2008 CR3 Uprate Project Recoverable <u>Amount</u>
Issue 9F	\$ 6,006,160
O&M	\$ 261,632
MUR Rev. Req.	\$ 1,181,823
<u>DTA Carrying Costs</u>	<u>\$ 63,318</u>
Total 2008 Amount	\$ 7,512,933

The recommended amount includes \$6,006,160 associated with AFUDC, \$63,318 for DTA, \$261,632 in Operating & Maintenance (O&M) expenses, and \$1,181,823 for MUR revenue requirements. (EX 8) However, if the Commission does not approve staff's recommendation on Issue 1A the revenue requirement for MUR should be removed and the amount approved for recovery for this period should be reduced by \$1,181,823 for a total of \$6,331,110.

Issue 11E: What amount should the Commission approve as PEF's 2009 projected construction costs for the Crystal River 3 Uprate project?

Recommendation: The Commission should approve as reasonable an amount of \$107,067,528 (gross system) as projected 2009 construction costs for the CR3 Uprate project. The amount net of participant credits and other adjustments is \$95,232,688 system (\$89,283,502 jurisdictional). (Laux, Breman)

Position of the Parties

PEF: \$107,067,528

AARP: Same as OPC.

FIPUG:

PCS Phosphate: PCS Phosphate agrees with and adopts the position of the OPC.

OPC: OPC does not recommend a specific adjustment, subject to stipulation in 7H, and subject to a prudence review in the NCRC hearings in 2010.

Staff Analysis: This issue addresses PEF's requested projected 2009 recoverable construction cost for the CR3 Uprate project. PEF witness Cross in her direct testimony identified the amounts and method used in determining the requested projected construction costs for the 2009 period. (TR 783) Witness Roderick provided descriptions of projected construction activities that are associated with the costs requested to be recovered for the 2009 period. (TR 190) No party suggested adjustments to PEF's requested amount for this period. Staff reviewed PEF's calculations and supporting information and believes the projections to be reasonable.

Staff recommends, all projected 2009 costs associated with the CR3 project will be available for further Commission review during future NCRC proceedings. The Commission should approve as reasonable an amount of \$107,067,528 (gross system) as 2009 projected construction cost for the CR3 Uprate project. The amount, net of \$11,834,840 participant credits and other adjustments, is \$95,232,688 system (\$89,283,502 jurisdictional). (EX 6) Participant credits address joint-ownership obligations. (TR 44, 283)

Issue 11F: What amount should the Commission approve as carrying charges on PEF's 2009 projected construction costs for the Crystal River 3 Uprate project?

Recommendation: The Commission should approve as reasonable an amount of \$14,587,810 as carrying charges on projected 2009 construction cost for the CR3 Uprate project. (Laux, Breman)

Position of the Parties

PEF: \$14,587,810

AARP: Same as OPC.

FIPUG:

PCS Phosphate: PCS Phosphate agrees with and adopts the position of the OPC.

OPC: OPC does not recommend a specific adjustment, subject to stipulation in 7H, and subject to a prudence review in the NCRC hearings in 2010.

Staff Analysis: This issue addresses PEF's request for carrying charges on projected 2009 construction costs to be recovered for the CR3 Uprate project. PEF witness Cross provided support as to the amount and method used in determining the requested carrying charges for the 2009 period. (TR 774 - 785) FIPUG, in its prehearing statement, presented a position concerning the calculation of carrying costs. However, FIPUG did not address the issue in its post hearing statement.

AARP, PCS Phosphate, and OPC did not recommend any specific adjustments to the amount requested by PEF for this period. Staff reviewed PEF's calculations and supporting information and believes the projections to be reasonable. The applicable carrying charge amount is the AFUDC accrued on 2009 projected construction costs. Absent any adjustments in Issue 11E, the AFUDC amount is \$14,587,810. (EX 6)

All projected 2009 costs associated with the CR3 project will be available for further Commission review during future NCRC proceedings. Staff recommends that the Commission approve as reasonable an amount of \$14,587,810 as carrying charges on projected 2009 construction cost for the CR3 Uprate project.

Issue 11G: What total amount should the Commission approve as PEF's 2009 projected costs to be recovered for the Crystal River 3 Uprate project?

Recommendation: The Commission should approve as reasonable a total amount of \$15,224,693 for projected 2009 recoverable costs for the CR3 Uprate project. (Laux, Breman)

Position of the Parties

PEF: If the Commission approves Staff's and PEF's positions as set forth in Issue 1A, the total amount for the 2009 projected CR3 Uprate costs should be \$15,224,693. If the Commission does not approve these positions, then the Commission should approve \$16,458,136 as the total amount for PEF's 2009 projected costs for the CR3 Uprate project.

AARP: Same as OPC.

FIPUG:

PCS Phosphate: PCS Phosphate agrees with and adopts the position of the OPC.

OPC: OPC does not recommend a specific adjustment, subject to stipulation in 7H, and subject to a prudence review in the NCRC hearings in 2010.

Staff Analysis: This issue addresses PEF's total projected 2009 costs to be recovered for the CR3 Uprate project. PEF witness Cross provided support as to the amount and method used in determining construction costs, carrying charges (including DTA), and O & M expenses requested for the period. (TR 786) Witness Roderick provided descriptions of the construction activities that are associated with the costs requested for the 2009 period. (TR 190)

This is a summary issue based on staff's recommendation in Issues 11E and 11F. No party suggested adjustments to PEF's requested amount for the period. Staff reviewed PEF's calculations and supporting information and believes the projections to be reasonable.

	2009 CR3 Uprate Project Recoverable <u>Amount</u>
Issue 11F	\$14,587,810
O&M	\$ 304,128
MUR Rev. Req.	\$ 0
<u>DTA Carrying Costs</u>	<u>\$ 332,755</u>
Total 2009 Amount	\$15,224,693

All projected 2009 costs associated with the CR3 project will be available for further Commission review during future NCRC proceedings. Staff recommends that the Commission approve as reasonable an amount of \$15,224,693 as the 2009 total projected recoverable amount for the CR3 Uprate project. The recommended amount includes \$14,587,810 associated with AFUDC, \$332,755 for DTA and \$304,128 in O&M expenses. (EX 6)

PEF's Levy Units 1 & 2 Project

Issue 5B: What amount should the Commission approve as PEF's final 2007 true-up of prudently incurred site selection costs for the Levy Units 1 & 2 Project?

Recommendation: The Commission should approve as reasonable an amount of \$18,069,252 as final true-up of 2007 site selection costs for the Levy Units 1 & 2 project. A determination of prudence should be deferred until the 2009 nuclear cost recovery cycle consistent with the agreement and stipulation of the parties. (Laux, Breman)

Position of the Parties

PEF: Subject to the stipulation on Issue 5A, that prudence of these costs will be deferred consistent with that stipulation, the Commission should approve \$18,069,252 as reasonable.

AARP: Same as OPC.

FIPUG:

PCS Phosphate: Subject to the stipulation on Issue 5A, PCS takes no position on this issue.

OPC: Subject to the stipulation on Issue 5A, OPC takes no position on 5B.

Staff Analysis: This issue addresses PEF's request for final true up of the 2007 site selection costs for the Levy Units 1 & 2 project. PEF witnesses Garrett and Cross provided support as to the amounts and method used to determine the requested site selection costs. (TR 117 – 119, 128) PEF witnesses Roderick, Garrett, and Oliver provided descriptions of the site selection activities that are associated with the costs (TR 254 – 257, 182, 66 – 68) requested for the 2007 period.

Parties agreed through stipulation (Issue 3A and 3B), that PEF can recover site selection costs in the same manner as preconstruction costs. No party suggested adjustment to PEF's requested amount for the period.

PEF's requested recoverable site selection costs through 2007 include \$16,267,257 in expenses, \$1,260,692 in AFUDC carrying charges, (\$6,170) in DTA carrying costs, and O&M expenses of \$547,473 for a total of \$18,069,252. (EX 11, 12) Staff reviewed these calculations and supporting information and believes them to be reasonable. Staff recommends that the Commission approve as reasonable an amount of \$18,069,252 as the final true-up of 2007 site selection costs for the Levy Units 1 & 2 project. A determination of prudence should be deferred until the 2009 nuclear cost recovery cycle consistent with the agreement and stipulation of the parties identified in Issues 3A and 3B.

Issue 7B: What amount should the Commission approve as PEF's final 2007 true-up of prudently incurred construction costs for the Levy Units 1 & 2 project?

Recommendation: The Commission should approve as reasonable an amount of \$61,471,684 system (\$55,651,072 jurisdictional) as final true-up of 2007 construction costs for the Levy Units 1 & 2 project. A determination of prudence should be deferred until the 2009 nuclear cost recovery cycle consistent with the agreement and stipulation of the parties. (Laux, Breman)

Position of the Parties

PEF: Subject to the stipulation on Issue 5A, that prudence of these costs will be deferred consistent, with that stipulation, the Commission should approve \$61,471,684 as reasonable.

AARP: Same as OPC.

FIPUG:

PCS Phosphate: Subject to the stipulation on Issue 5A, PCS takes no position on this issue.

OPC: Subject to the stipulation on Issue 5A, OPC takes no position on 7B.

Staff Analysis: This issue addresses PEF's request for final true up of 2007 construction cost for the Levy Units 1 & 2 project. PEF witnesses Garrett and Cross provided support as to the amounts and method used to determine the requested construction costs. (TR 117 – 119, 128) Witnesses Roderick, Garrett, and Oliver provided descriptions of the construction activities that are associated with the costs requested for the 2007 period. (TR 66 – 68, 182, 254 - 257.) FIPUG in its prehearing statement presented the position that they “stipulate as to the principles concerning the application of the money, but demand strict proof of the amount of money.”

Schedule T-6, in Exhibit 3, shows PEF incurred \$52,530,259 (\$49,248,694 jurisdictional) in real estate acquisition expenses for the Levy site and \$8,941,425 (\$6,312,378 jurisdictional) in real estate acquisition expenses for related transmission activities in the last half of 2007. As discussed in Issue 1C, a utility is not prohibited by Rule 25-6.0423, F.A.C., from incurring construction costs during a period prior to site clearing work being completed. Staff agrees with PEF that the items contained on Schedule T-6 should be classified as construction costs for purpose of the NCRC. In addition, as addressed in Issue 3B the approved stipulation, staff supports deferral of any adjustment to PEF's real estate acquisition expenses until the 2009 NCRC proceeding. The total amount PEF is requesting for the 2007 period is \$61,471,684 (\$55,651,072 jurisdictional).

No party suggested adjustment to PEF's requested amount for the period. Staff reviewed all of the information in the record concerning these issues and believes that the information is adequate for making a determination of reasonableness. Staff recommends, consistent with the agreement and stipulation of the parties identified in Issue 3A and 3B, that the Commission approve as reasonable an amount of \$61,471,684 system (\$55,651,072 jurisdictional) as final true-up of 2007 construction costs for the Levy Units 1 & 2 project.

Issue 7C: What amount should the Commission approve as carrying charges on PEF's prudently incurred 2007 construction costs for the Levy Units 1 & 2 project?

Recommendation: The Commission should approve as reasonable an amount of \$1,713,284 for carrying charges on 2007 construction costs for the Levy Units 1 & 2 project. A determination of prudence should be deferred until the 2009 nuclear cost recovery cycle consistent with the agreement and stipulation of the parties. (Laux, Breman)

Position of the Parties

PEF: Subject to the stipulation on Issue 5A, that prudence of these costs will be deferred consistent, with that stipulation, the Commission should approve \$1,713,284 as reasonable.

AARP: Same as OPC.

FIPUG:

PCS Phosphate: Subject to the stipulation on Issue 5A, PCS takes no position on this issue.

OPC: Subject to the stipulation on Issue 5A, OPC takes no position on 7C.

Staff Analysis: This issue addresses PEF's request for carrying charges on 2007 construction cost for the Levy Units 1 & 2 project. PEF witness Garrett provided support as to the amount and method used in determining the requested carrying charges for the period. (TR 117) Witness Garrett was not cross-examined on this issue.

FIPUG presented a position in its prehearing statement that the actual calculation of carrying costs should be changed after December 31, 2010. During the hearing, FIPUG only questioned witness Cross as to the proper application of AFUDC in PEF's filing for 2007-2009. (TR 151 – 155) FIPUG did not provide a witness nor present any exhibits at hearing supporting its prehearing position. In any event, none of the 2007 through 2009 amounts requested by PEF in this docket would be affected by changes effective after December 31, 2010. Notwithstanding FIPUG's prehearing position, FIPUG's post hearing brief did not address the issue. Therefore, pursuant to the prehearing order FIPUG has waived its position on this issue.

Schedule T-3, in Exhibit 3, shows PEF's calculations of the 2007 carrying charges on Levy Units 1 & 2 construction costs. PEF is requesting an amount of \$1,713,284 as carrying charges for the 2007 period.

OPC, AARP and PCS Phosphate did not recommend any specific adjustments to the amount requested by PEF for this period. Staff reviewed PEF's calculations and supporting information and believes them to be reasonable. Staff recommends, consistent with the agreement and stipulation of the parties identified in Issue 3A and 3B, that the Commission approve as reasonable an amount of \$1,713,284 for carrying charges on 2007 construction costs for the Levy Units 1 & 2 project.

Issue 7D: What total amount should the Commission approve as PEF's final 2007 true-up to be recovered for the Levy Units 1 & 2 project?

Recommendation: The Commission should approve as reasonable an amount of \$1,711,443 as final 2007 true-up amount for the Levy Units 1 & 2 project. A determination of prudence should be deferred until the 2009 nuclear cost recovery cycle consistent with the agreement and stipulation of the parties. (Laux, Breman)

Position of the Parties

PEF: Subject to the stipulation on Issue 5A, that prudence of these costs will be deferred consistent, with that stipulation, the Commission should approve \$1,711,443 as reasonable.

AARP: Same as OPC.

FIPUG:

PCS Phosphate: Subject to the stipulation on Issue 5A, PCS takes no position on this issue.

OPC: Subject to the stipulation on Issue 5A, OPC takes no position on 7D.

Staff Analysis: This issue addresses PEF's request for the final 2007 cost true-up to be recovered for the Levy Units 1 & 2 project. PEF witnesses Garrett and Cross provided support as to the amounts and method used to determine the requested construction and carrying costs. (TR 117 – 119, 128) Witnesses Roderick, Garrett and Oliver provided descriptions of the construction activities that are associated with the costs requested for the 2007 period. (TR 66 – 68, 182, 254 – 257)

This is a summary issue. The total includes the amounts approved in Issue 7C, as well as the DTA carrying costs associated with the construction costs approved in Issue 7B. Staff did not recommend any adjustments in prior issues. Absent adjustments, the DTA amount of (\$1,841) is reasonable. (EX 3) The total recoverable amount requested by PEF as final 2007 true-up amount for the Levy Units 1 & 2 project is \$1,711,443 (\$1,711,443=\$1,713,284 - \$1,841).

	2007 Levy Project
	Recoverable
	<u>Amount</u>
Issue 7A (Stipulated)	\$ 0
Issues 7C	\$ 1,713,284
<u>DTA Carrying Costs</u>	<u>\$ (1,841)</u>
Total 2008 Amount	\$ 1,711,443

No party suggested adjustment PEF's requested amount for the period. Staff recommends, consistent with the agreement and stipulation of the parties identified in Issue 3A and 3B, that the Commission approve as reasonable an amount of \$1,711,443 as 2007 final true-up amount for the Levy Units 1 & 2 project.

Issue 5C: What amount should the Commission approve as PEF's actual 2008 site selection costs for the Levy Units 1 & 2 Project?

Recommendation: The Commission should approve as reasonable an amount of \$19,819,137 as actual 2008 site selection costs for the Levy Units 1 & 2 project. A determination of prudence should be deferred until the 2009 nuclear cost recovery cycle consistent with the agreement and stipulation of the parties. (Laux, Breman)

Position of the Parties

PEF: Subject to the stipulation on Issue 5A, that prudence of these costs will be deferred consistent, with that stipulation, the Commission should approve \$19,819,137 as reasonable.

AARP: Same as OPC.

FIPUG:

PCS Phosphate: Subject to the stipulation on Issue 5A, PCS takes no position on this issue.

OPC: (Pre-Hearing) Subject to the stipulation on Issue 5A, OPC takes no position on 5C.

Staff Analysis: This issue addresses the total recoverable 2008 site selection cost for PEF's Levy Units 1 & 2 project. PEF witness Cross provided support as to the amounts and method used to determine the requested site selection costs for the period. (TR 134) Witnesses Roderick and Oliver provided descriptions of the site selection activities that are associated with the costs requested for the 2008 period. (TR 72 – 75, 241 – 247)

PEF's requested 2008 site selection costs include \$15,870,478 in expenses, \$3,850,524 in AFUDC, (\$26,349) in DTA, and O&M expenses of \$124,485 for a total of \$19,819,137, rounded to the nearest dollar. (EX 13)

No party suggested adjustments to PEF's requested amount for the period. Staff reviewed PEF's calculations and supporting information and believes PEF's amount to be reasonable. Staff recommends that the Commission approve as reasonable an amount of \$19,819,137 as actual 2008 site selection costs for the Levy Units 1 & 2 project. A determination of prudence should be deferred until the 2009 nuclear cost recovery cycle consistent with the agreement and stipulation of the parties as found in Issue 3A and 3B.

Issue 9A: What amount should the Commission approve as PEF's 2008 actual and estimated preconstruction costs for the Levy Units 1 & 2 project?

Recommendation: The Commission should approve as reasonable an amount of \$213,870,278 (gross system) as actual and estimated 2008 preconstruction costs for the Levy Units 1 & 2 project. The amount net of non-cash adjustments is \$201,571,563 (\$186,571,563 jurisdictional). A determination of prudence should be deferred until the 2009 nuclear cost recovery cycle consistent with the agreement and stipulation of the parties as identified in Issues 3A and 3B. (Laux, Breman)

Position of the Parties

PEF: \$213,870,278

AARP: Same as OPC.

FIPUG:

PCS Phosphate: PCS Phosphate agrees with and adopts the position of the OPC.

OPC: OPC does not recommend a specific adjustment, subject to a prudence review in the NCRC hearings in 2009.

Staff Analysis: This issue addresses the actual and estimated 2008 preconstruction costs for PEF's Levy Units 1 & 2 project. PEF witness Cross provided support as to the amounts and method used to determine the requested actual and estimated preconstruction costs for the period. (TR 134) Witnesses Roderick and Oliver provided descriptions of the preconstruction activities that are associated with the costs requested for the 2008 period. (TR 72 – 75, 80 – 91, 241 – 247, 261 - 275)

PEF reported \$200,524,845 in generation related preconstruction cost, of which 84% was engineering and procurement. (EX 9) PEF reported transmission related preconstruction costs total \$13,345,433, of which 92% was engineering. (EX 9) PEF's 2008 actual and estimated preconstruction costs total \$213,870,278 (gross system). The amount net of non-cash adjustments is \$201,571,563 system (\$186,571,563 jurisdictional). (EX 9)

No party suggested adjustments to PEF's requested amount for the period. Staff reviewed PEF's calculations and supporting information and believes the projected amounts to be reasonable. Staff recommends, consistent with the agreement and stipulation of the parties identified in Issue 3A and 3B, that the Commission approve as reasonable an amount of \$213,870,278 (gross system) as actual and estimated 2008 preconstruction costs for the Levy Units 1 & 2 project.

Issue 9B: What amount should the Commission approve as PEF's 2008 actual and estimated construction costs for the Levy Units 1 & 2 project?

Recommendation: The Commission should approve as reasonable an amount of \$13,987,139 (gross system) as actual and estimated 2008 construction cost for the Levy Units 1 & 2 project. The amount net of non-cash adjustments is \$8,626,151 system (\$7,361,929 jurisdictional). A determination of prudence should be deferred until the 2009 nuclear cost recovery clause proceeding consistent with the agreement and stipulation of the parties. (Laux, Breman)

Position of the Parties

PEF: \$13,987,139

AARP: Same as OPC.

FIPUG:

PCS Phosphate: PCS Phosphate agrees with and adopts the position of the OPC.

OPC: OPC does not recommend a specific adjustment, subject to a prudence review in the NCRC hearings in 2009.

Staff Analysis: This issue addresses the actual and estimated 2008 construction cost amount for PEF's Levy Units 1 & 2 project. PEF witness Cross provided support as to the amounts and method used to determine the requested actual and estimated construction costs for the period. (TR 134 - 137) Witnesses Roderick and Oliver provided descriptions of the construction activities that are associated with the costs requested for the 2008 period. (TR 72 - 75, 80 - 91, 241 - 247, 261 - 275)

PEF reported \$5,493,718 generation related construction cost, 90% of which was real estate. (EX 9) Transmission related construction costs totals \$8,366,200, 90% of which was engineering and construction. (EX 9) PEF's 2008 construction costs total \$13,987,139 (gross system). The amount net of non-cash adjustments is \$8,626,151 system (\$7,361,929 jurisdictional). (EX 9)

No party suggested adjustments to PEF's requested amount for the period. Staff reviewed PEF's calculations and supporting information and believes the projections to be reasonable. Staff recommends, consistent with the agreement and stipulation of the parties identified in Issue 3A and 3B, that the Commission approve as reasonable an amount of \$13,987,139 (gross system) for actual and estimated 2008 construction cost for Levy Units 1 & 2. The amount net of non-cash adjustments is \$8,626,151 system (\$7,361,929 jurisdictional).

Issue 9C: What amount should the Commission approve as carrying charges on PEF's 2008 actual and estimated construction costs for the Levy Units 1 & 2 project?

Recommendation: The Commission should approve as reasonable an amount of \$7,551,759 as carrying charges on actual and estimated 2008 construction cost for the Levy Units 1 & 2 project. A determination of prudence should be deferred until the 2009 nuclear cost recovery cycle consistent with the agreement and stipulation of the parties. (Laux, Breman)

Position of the Parties

PEF: \$7,551,759

AARP: Same as OPC.

FIPUG:

PCS Phosphate: PCS Phosphate agrees with and adopts the position of the OPC.

OPC: OPC does not recommend a specific adjustment, subject to a prudence review in the NCRC hearings in 2009.

Staff Analysis: This issue addresses PEF's request for carrying charges on actual and estimated 2008 construction costs for the Levy Units 1 & 2 project. PEF witness Cross provided support as to the amounts and method used to determine the requested carrying charges for the period. (TR 135, 136) Witness Cross was not cross-examined on this issue.

FIPUG presented a position in its prehearing statement that the actual calculation of carrying costs should be changed after December 31, 2010. During the hearing, FIPUG only questioned witness Cross as to the proper application of AFUDC in PEF's filing for 2007-2009. (TR 151 – 155) FIPUG did not provide a witness nor present any exhibits at hearing supporting its prehearing position. In any event, none of the 2007 through 2009 amounts requested by PEF in this docket would be affected by changes effective after December 31, 2010. Notwithstanding FIPUG's prehearing position, FIPUG's post hearing brief did not address the issue. Therefore, pursuant to the prehearing order FIPUG has waived its position on this issue.

The amount of carrying charges on PEF's 2008 actual and estimated construction costs stems from the Levy Units 1 & 2 project construction costs approved in Issue 9B. Absent adjustments in prior issues, the AFUDC amount is \$7,551,759. (EX 9)

AARP, PCS Phosphate, and OPC did not recommend any specific adjustments to the amount requested by PEF for this period. Staff reviewed PEF's calculations and exhibits supporting the request and found them to be reasonable. Staff recommends, consistent with the agreement and stipulation of the parties identified in Issue 3A and 3B, that the Commission approve as reasonable an amount of \$7,551,759 as carrying charges on actual and estimated 2008 construction cost for the Levy Units 1 & 2 project.

Issue 9D: What total amount should the Commission approve as PEF's 2008 actual and estimated costs to be recovered for the Levy Units 1 & 2 project?

Recommendation: The Commission should approve as reasonable an amount of \$207,137,326 as the total actual and estimated 2008 recoverable costs for the Levy Units 1 & 2 project. A determination of prudence should be deferred until the 2009 nuclear cost recovery cycle consistent with the agreement and stipulation of the parties. (Laux, Breman)

Position of the Parties

PEF: \$207,137,326

AARP: Same as OPC.

FIPUG:

PCS Phosphate: PCS Phosphate agrees with and adopts the position of the OPC.

OPC: OPC does not recommend a specific adjustment, subject to a prudence review in the NCRC hearings in 2009.

Staff Analysis: This is a summary issue based on staff's recommendation on Issues 9A, 9B and 9C. This issue addresses the total 2008 recoverable amount for PEF Levy Units 1 & 2 project. PEF witness Cross provided support as to the amounts and method used to determine the total actual and estimated costs requested for the period. (TR 134 - 137) Witnesses Roderick and Oliver provided descriptions of construction activities that are associated with the costs requested for the 2008 period. (TR 72 - 75, 80 - 91, 241 - 247, 261 - 275)

The requested total includes the amount approved in Issue 9C and the DTA carrying costs associated with the preconstruction and construction costs approved in Issues 9A and 9B. The 2008 site selection costs associated with the Levy site was address in Issue 5C. Staff did not recommend any adjustments in prior issues. No party suggested adjustment to PEF's requested amount for the period. Staff reviewed PEF's calculations and supporting information and believe them to be reasonable. Absent adjustments, the DTA amount of (\$137,271) and O&M expense of \$1,355,147 appear reasonable. (EX 9) The resultant total is \$207,137,326.

	2008 Levy Project Recoverable Amount
Issue 9A	\$198,367,692
Issue 9C	\$ 7,511,759
O&M	\$ 1,355,147
<u>DTA Carrying Costs</u>	<u>\$ (137,271)</u>
Total 2008 Amount	\$ 207,137,326
(Total does not sum due to rounding)	

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Staff recommends, consistent with the agreement and stipulation of the parties identified in Issue 3A and 3B, that the Commission approve as reasonable an amount of \$207,137,326 as the total actual and estimated 2008 recoverable costs for the Levy Units 1 & 2 project.

Issue 11A: What amount should the Commission approve as PEF's 2009 projected preconstruction costs for the Levy Units 1 & 2 project?

Recommendation: The Commission should approve as reasonable an amount of \$118,751,900 (gross system) as projected 2009 preconstruction cost for the Levy Units 1 & 2 project. The amount net of non-cash adjustments is \$111,414,704 system (\$97,084,049 jurisdictional). (Laux, Breman)

Position of the Parties

PEF: \$118,751,900

AARP: Same as OPC.

FIPUG:

PCS Phosphate: PCS Phosphate agrees with and adopts the position of the OPC.

OPC: OPC does not recommend a specific adjustment, subject to the subsequent actual/estimated filing by PEF and its reasonableness review in 2009, and subject to the subsequent true-up filing and its prudence review in 2010.

Staff Analysis: This issue addresses the projected 2009 preconstruction cost amount for the Levy Units 1 & 2 project. PEF witness Cross provided support as to the amounts and method used to determine the requested projected preconstruction costs for the period. (TR 143 - 144) Witnesses Roderick and Oliver provided descriptions of the preconstruction activities that are associated with the costs requested for the 2009 period. (TR 75 - 76, 80 - 91, 247 - 249, 261 - 275)

PEF projected \$86,025,000 in generation related preconstruction cost, 55% of which is for site clearing and on-site facilities. (EX 10) PEF projected transmission related preconstruction costs of \$32,726,900, of which 80% is projected for engineering activities. (EX 9) PEF's projected 2009 preconstruction costs total \$118,751,900 (gross system). The amount net of non-cash adjustments is \$111,414,704 system (\$97,084,049 jurisdictional). (EX 10)

No party suggested adjustments to PEF's projected 2009 preconstruction costs for the Levy Units 1 & 2 project. Staff reviewed PEF's calculations and supporting information and believe the projections to be reasonable. Staff recommends that the Commission approve as reasonable an amount of \$118,751,900 (gross system) as projected preconstruction costs for the Levy Units 1 & 2 project. The amount net of non-cash adjustments is \$111,414,704 system (\$97,084,049 jurisdictional). All projected 2009 costs associated with Levy Units 1 & 2 will be available for further Commission review during future NCRC proceedings.

Issue 11B: What amount should the Commission approve as PEF's 2009 projected construction costs for the Levy Units 1 & 2 project?

Recommendation: The Commission should approve as reasonable an amount of \$565,605,000 (gross system) as projected 2009 construction cost for the Levy Units 1 & 2 project. The amount net of non-cash adjustments is \$470,254,055 system (\$412,101,692 jurisdictional). (Laux, Breman)

Position of the Parties

PEF: \$565,605,600

AARP: Same as OPC.

FIPUG:

PCS Phosphate: PCS Phosphate agrees with and adopts the position of the OPC.

OPC: OPC does not recommend a specific adjustment, subject to the subsequent actual/estimated filing by PEF and its reasonableness review in 2009, and subject to the subsequent true-up filing and its prudence review in 2010.

Staff Analysis: This issue addresses the projected 2009 construction costs for PEF's Levy Units 1 & 2 project. PEF witness Cross provided support as the amounts and method used to determine the requested projected construction costs for the period. (TR 143- 144) Witnesses Roderick and Oliver provided descriptions of the construction activities that are associated with the costs requested for the 2009 period. (TR 75 – 76, 80 – 91, 247 – 249, 261 - 275)

PEF projected \$425,565,000 in generation related construction cost, of which 83% is for power block engineering and procurement. (EX 10) PEF projected transmission related construction costs of \$140,040,000, 66% of which is for real estate and construction activities. (EX 9) PEF's projected 2009 construction costs total \$565,605,000 (gross system). The amount net of non-cash adjustments is \$470,254,055 system (\$412,101,692 jurisdictional). (EX 10)

No party suggested adjustments to PEF's projected 2009 construction costs for the Levy Units 1 & 2 project. Staff reviewed PEF's calculations and supporting information and believe the projections to be reasonable. Staff recommends that the Commission approve as reasonable an amount of \$565,605,000 (gross system) as projected 2009 construction costs for the Levy Units 1 & 2 project. The amount net of non-cash adjustments is \$470,254,055 system (\$412,101,692 jurisdictional). All projected 2009 costs associated with Levy Units 1 & 2 will be available for further Commission review during future NCRC proceedings.

Issue 11C: What amount should the Commission approve as carrying charges on PEF's 2009 projected construction costs for the Levy Units 1 & 2 project?

Recommendation: The Commission should approve as reasonable an amount of \$30,217,903 for carrying charges on projected 2009 construction costs for the Levy Units 1 & 2 project. (Laux, Breman)

Position of the Parties

PEF: \$30,217,903

AARP: Same as OPC.

FIPUG:

PCS Phosphate: PCS Phosphate agrees with and adopts the position of the OPC.

OPC: OPC does not recommend a specific adjustment, subject to the subsequent actual/estimated filing by PEF and its reasonableness review in 2009, and subject to the subsequent true-up filing and its prudence review in 2010.

Staff Analysis: This issue addresses PEF's request for carrying charges on projected 2009 construction costs for the Levy Units 1 & 2 project. PEF witness Cross provided support as to the amounts and method used to determine the requested carrying charges on projected 2009 construction costs. (TR 144)

The amount of carrying charges on PEF's projected 2009 construction costs is based on the Levy Units 1 & 2 projected construction costs approved in Issue 11B. Absent adjustments in prior issues, PEF calculated the AFUDC amount to be \$30,217,903. (EX 10)

No party suggested adjustments to PEF's requested carrying charges costs for the Levy Units 1 & 2 project for this period. Staff reviewed PEF's calculations and supporting information and believes the projections to be reasonable. Staff recommends that the Commission approve as reasonable an amount of \$30,217,903 for carrying charges on projected 2009 construction costs for the Levy Units 1 & 2 project. All projected 2009 costs associated with Levy Units 1 & 2 will be available for further Commission review during future NCRC proceedings.

Issue 11D: What total amount should the Commission approve as PEF's 2009 projected costs to be recovered for the Levy Units 1 & 2 project?

Recommendation: The Commission should approve as reasonable an amount of \$147,907,456 as total projected 2009 costs to be recovered for the Levy Units 1 & 2 project. (Laux, Breman)

Position of the Parties

PEF: \$147,907,456

AARP: Same as OPC.

FIPUG:

PCS Phosphate: PCS Phosphate agrees with and adopts the position of the OPC.

OPC: OPC does not recommend a specific adjustment, subject to the subsequent actual/estimated filing by PEF and its reasonableness review in 2009, and subject to the subsequent true-up filing and its prudence review in 2010.

Staff Analysis: This is a fall-out issue. This issue addresses the total 2009 recoverable amount for PEF's Levy Units 1 & 2 project. PEF witness Cross provided support as to the amounts and method used to determine the total projected costs requested for the period. (TR 143 - 146) Witnesses Roderick and Oliver provided descriptions of construction activities that are associated with the costs requested for the 2009 period. (TR 75 - 76, 80 - 91, 247 - 249, 261 - 275)

The total includes the amount approved in Issue 11C, as well as the DTA carrying costs associated with the projected preconstruction and construction costs approved in Issues 11A and 11B. Staff did not recommend any adjustments in prior issues. No party suggested adjustments to PEF's projected 2009 costs to be recovered for the Levy Units 1 & 2 project. Absent adjustments, the DTA amount of \$7,165,740 and O&M expense of \$1,243,114 are reasonable. (EX 10) The resultant total is \$147,907,456.

	2009 Levy Project Recoverable <u>Amount</u>
Issue 11A	\$109,280,698
Issue 11C	\$ 30,217,903
O&M	\$ 1,243,114
<u>DTA Carrying Costs</u>	<u>\$ 7,165,740</u>
Total 2009 Amount	\$147,907,456
(Total does not sum due to rounding)	

Staff reviewed PEF's calculations and supporting information and believes the projections to be reasonable. Staff recommends that the Commission approve as reasonable an

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amount of \$147,907,456 as total projected 2009 costs to be recovered for the Levy Units 1 & 2 project. All projected 2009 costs associated with Levy Units 1 & 2 will be available for further Commission review during future NCRC proceedings.

Issue 13: What total amount should the Commission approve for the Nuclear Cost Recovery Clause to be included in establishing PEF's 2009 Capacity Cost Recovery Clause factor?

Recommendation: The Commission should approve \$418,311,136 as the total amount to be included in establishing PEF's 2009 Capacity Cost Recovery Clause factor. If the Commission approves the positions presented by the interveners in Issue 1A the amount should be \$417,129,313. (Laux, Breman)

Position of the Parties

PEF: If the Commission approves Staff's and PEF's positions as forth in Issue 1A above, the total amount to be included in establishing PEF's 2009 Capacity Cost Recovery Clause factor should be \$418,311,136. If the Commission does not approve these positions, then the Commission should approve \$419,544,579 as the total amount to be included in establishing PEF's 2009 Capacity Cost Recovery Clause factor.

AARP: Same as OPC.

FIPUG: It will not violate the legislative intent of 366.93 for the Commission to require better proof of the projected expenditures for the rest of the year and the next year before shocking the customers with the bill. FIPUG recommends that the Commission disallow \$150 million of the \$308 million sought until better proof of the projections is in hand using the new forms and procedures PEF, the Commission staff and OPC have agreed to in their stipulations to Issue 5A in the prehearing order.

PCS Phosphate: PCS Phosphate agrees with and adopts the position of the OPC.

OPC: Subject to the stipulations on Issues 5A and 7H and to the prudence reviews in 2009 and 2010, OPC does not recommend a specific adjustment to PEF's filing at this time.

Staff Analysis: This is a summary issue. Based on staff's recommendations in all other issues, staff recommends the Commission approve \$418,311,137 as the total amount to be included in establishing PEF's 2009 Capacity Cost Recovery Clause factor. The following table is a summary of the amounts by activity.

Project	Total Amount	Issues
Crystal River 3 Uprate Project-Carrying Costs on Construction Costs	\$23,666,524	7G, 9G, 11G
Levy Units 1 & 2 Site Selection Costs and Carrying Costs	\$37,888,390	5B, 5C
Levy Units 1 & 2 Preconstruction costs, Construction costs and Carrying Costs	\$356,756,225	7D, 9D, 11D
Total for PEF's 2009 Capacity Cost Recovery Clause Factor*	\$418,311,136	13

*Total does not sum due to rounding.

FIPUG, through its post-hearing brief, asserts that \$307,648,390 of PEF's request is comprised of \$198 million in 2008 pass through costs and \$109 million projected expenditures for 2009 that are not carrying costs. (FIPUG BR 2) FIPUG also believes the "Commissioners may have little 'wiggle room' to avoid what undersigned believes to be an unfair and unreasonable excessive rate increase to give to PEF guaranteed cost recovery through a surcharge on its customers bills, but the need to avoid unanticipated rate shock is great." (FIPUG BR 2) FIPUG then asks that the Commission disallow approximately half of the amount until additional forms and procedures are developed.

Staff believes that FIPUG's arguments go against the reasoning presented by FIPUG, OPC, AARP, and PCS Phosphate in their stipulation regarding FPL's Turkey Point Unit 6 & 7 site selection costs in Issues 4A and 6A. The stipulation in part reads: "To refuse to allow FPL to begin collecting these costs in 2009 could result in even higher charges to customers in 2010. . . ." Simply deferring some of PEF's preconstruction costs will not achieve FIPUG's asserted goal of rate mitigation because when construction cost amounts are held subject to refund, as FIPUG suggests, AFUDC is accrued on the unrecovered balance, and thus increasing the amount to be recovered instead of reducing it. FIPUG does not show how the development of new forms and procedures will result in PEF not recovering approximately half of PEF's 2008 and 2009 preconstruction costs. Consequently, FIPUG's position fails to achieve the intended goal of rate mitigation.

Staff recommends that the Commission approve an amount of \$418,311,136 as the total NCRC costs to be used in part in establishing PEF's 2009 Capacity Cost Recovery Clause factor. However, if the Commission approves the positions presented by the interveners in Issue 1A this amount should be reduced by \$1,181,823 for a total of \$417,129,313.

FPL Issues

FPL Project Management

Issue 2A: Should the Commission find that for the year 2007, FPL's project management, contracting, and oversight controls were reasonable and prudent for the Turkey Point 6 & 7 project and for the Extended Power Uprate (EPU) project?

Recommendation: Staff recommends the Commission find FPL's 2007 project management, contracting, and oversight controls were reasonable and prudent for the EPU project. Pursuant to the approved partial stipulations, staff recommends the Commission not make a finding regarding the prudence of FPL's 2007 project management, contracting, and oversight controls for the Turkey Point 6 & 7 project. Prospectively, FPL should increase its documentation and support for single source and sole source contracts for the EPU project and the Turkey Point 6 & 7 project. (Breman, Laux)

Position of the Parties

FPL: Yes. The Commission should find that FPL's project management, contracting, and oversight control for the EPU project were reasonable and prudent. Subject to the approved partial stipulation below, the Commission should find that FPL's project management, contracting, and oversight controls for the Turkey Point 6 & 7 project were reasonable. The controls employed by FPL are proven and have resulted in the successful completion of major nuclear projects in the past that were completed on schedule, and under budget. Additionally, these controls have been reviewed and deemed appropriate by Concentric Energy Advisors and the Commission's Audit Staff.

AARP: Same as OPC.

FIPUG: No position.

OPC: FPL frequently relied on single source or sole source contracts instead of competitive bidding, without sufficient justification. FPL also failed to demonstrate the resulting costs were reasonable. The Commission should disallow the return that FPL seeks to earn on the single largest such contract. Alternatively, the Commission should retain jurisdiction over the costs of the contract's costs and require FPL to demonstrate the costs were reasonable. At a minimum, the Commission should place FPL on notice that the Commission will require a more rigorous demonstration that competitive bidding is infeasible, and that the costs of a single or sole source contract are reasonable.

Staff Analysis: Staff reviewed the post-hearing positions of the parties, the briefs, and the record. In its post-hearing brief, FIPUG states that it did not take issue with the petition of FPL. (FIPUG BR 1) PCS Phosphate confined its Post-hearing Statement of Issues and Positions to issues involving PEF. (PCS Phosphate BR 1) AARP adopted both the post-hearing positions and brief filed by OPC.

In this proceeding, OPC presented a concern regarding the adequacy of FPL's documents to support its decision to issue sole source and single source contracts. A sole source contract is one in which the utility regards the contractor as the only available provider of that service. (TR 312, 567) A single source contract is one in which other providers are available, but the utility decides that a particular contractor should be selected without first soliciting competitive bids. (TR 312, 567) Use of a sole or single source contract eliminates competitive bidding as a means of ensuring reasonable costs. (TR 326)

FPL used sole source and single source contracts extensively in both the EPU and the Turkey Point 6 & 7 projects. (TR 325, 567) OPC witness Jacobs proposes that FPL's internal justification memoranda are the principal instruments on which senior management bases the decision to require or not require bids. (TR 568, 604) OPC witness Jacobs asserts FPL's documentation was inadequate to prove the costs of a contract entered into without bids are reasonable. (TR 325, 569) Witness Jacobs suggests FPL did not rigorously follow the applicable standards, and that FPL's preparation of the justification memoranda was a matter of rote rather than a specific, individual analysis. (TR 323-324) OPC witness Jacobs noted:

It didn't seem like it was given the importance that it should have been given. And perhaps -- one thing we asked for was all the material that the vice president who would be approving it would see, and we didn't receive any additional information. I think he's looking at this one-page justification. So, you know, I would say they need to do a better job of using competitive bidding when its available and don't just assume that, well, there's not anybody else here that can do it, because there may be other folks out there and they're [sic] want to get in the business of doing it. And ultimately, there would be a number of factors. That's just one of them. There would be a number of factors in selecting the contractor. But I would say they need to do a better job of following their own corporate guidance to use competitive bidding whenever possible.

(TR 589)

OPC's Post-Hearing Statement of Positions and Brief focused on the one issue it litigated in the hearing -- whether FPL followed its competitive bidding standards. (OPC BR 1) In its post-hearing brief OPC asserts that this issue is applicable to the Commission's decisions in Issues 2A, 6A, 6B, 8A, 8B, 10A, 10B and 10C. (OPC BR 2) OPC argues that FPL's management policies explicitly declare competitive bidding as FPL's preferred method of procurement. (OPC BR 3) According to OPC, FPL's policy statements delineate the requirements that FPL employees must follow to deviate from the standard. OPC asserts that FPL's procedure requires that the vice president in charge of procuring the item or service must approve the deviation prior to single or sole sourcing procurement. OPC states that a justification memorandum is the vehicle that FPL must use to persuade the vice president that deviation from competitive bidding is warranted. (OPC BR 3)

OPC witness Jacobs asserts FPL departed from its single source and sole source contract justification requirements because FPL's justification memoranda rely on schedule pressure, appear casual, and rely on "back of the envelope" type of analysis. (TR 317-321, 323, 568, 569) Witness Jacobs recommended three options: (a) disallow FPL's return on the equity portion of

the investment associated with the low pressure rotor contract, (b) withhold a portion of the requested carrying charges associated with the low pressure turbine contract until FPL can demonstrate the costs are reasonable in the next hearing cycle, or (c) place FPL on notice that the Commission requires a rigorous and detailed justification for any departure from the competitive bidding process. (TR 570) Staff notes that no party provided estimates of the amounts associated with the first two options proposed by OPC witness Jacobs. OPC contends that witness Jacobs reviewed the procurement activities in which FPL engaged, and found numerous instances in which the justification memoranda were insufficient to comply with FPL's internal management criteria. OPC argues that instead of specific analysis, the memoranda contained "stock" phrases. OPC concludes that use of those stock phrases indicates that FPL employees prepared the justification memoranda casually and by rote. (OPC BR 4)

FPL's internal sole source and single source justification memoranda

In its brief, OPC criticized the rebuttal testimony filed by FPL stating that the testimony was insufficient to avert the conclusion that FPL violated its policy to require competitive bids. (OPC BR 5) OPC argues that FPL's reliance on schedule considerations are insufficient to depart from the competitive bidding standard. (OPC BR 5) OPC asserts that, as witness Jacobs testified, the utility has the obligation to plan its affairs so that it has time to solicit and score bids before awarding a contract. OPC concludes that the competitive bidding process can include considerations on whether a contractor can adhere to the utility's schedule. (OPC BR 6)

Central to OPC's presentation is a view that FPL's internal justification memoranda are stand-alone documents containing all information necessary to make a decision to award a contract without bidding. Witness Jacobs appears to conclude that the document was the only material FPL management reviewed. (TR 589) If true, then staff believes FPL does not adequately support the awarding of its sole source or single source contracts.

However, on cross examination OPC witness Jacobs appeared to agree that FPL's internal justification documents are summary presentations based on other information. For example, witness Jacobs agreed that a relevant factor in selecting a company would be that a company had performed all of the current licensing basis analyses; the company had previously done the same scope of work in the past; that no other company in the world has the right to use certain proprietary information which FPL is asking be used for its project; and efficiencies exist because the company was using its own design and engineering analysis or its own design basis in performing the scope of work for FPL. (TR 576, 575, 595) Additionally, witness Jacobs agreed that there is a schedule that needs to be met. (TR 583, 595) Witness Jacobs agreed that all these factors appeared in FPL's single and sole source justification document. (TR 574, 607, 595) Finally, witness Jacobs agreed that the company considered in FPL's justification memoranda would have a price advantage. (TR 576)

FPL rebuttal witness Scroggs described his use and application of the justification memoranda as part of an exchange between informed managers. (TR 730-731) The exchange between FPL rebuttal witness Scroggs in response to questions from OPC follows:

Answer: I believe the, the single source justification portion of the procedure requires the party to explain why it's not in the best interest. That's the requirement in the procedure. To elaborate on that a little bit, realize these documents are internal controls documents that are meant to go to senior managers that have years of experience in this arena and are knowledgeable of the marketplace themselves. So we're having the team present memos and documentation to a knowledgeable reviewer. So they're not meant to be stand-alone, highly specific exhibit type memos. They're meant to be a communication from a knowledgeable project team to a knowledgeable reviewer.

Question: A knowledgeable reviewer who bases a decision upon the facts or evidence presented by the requesting managers; correct?

Answer: Both the facts and evidence presented by the requesting manager, that person's knowledge and any amplifying discussions that that manager would want to have with the person presenting the request.

Question: And with respect to the assurance that the cost is reasonable, which is one of the, one of the fundamental inputs to the decision to depart from competitive bidding, would that be documented in the course of asking for authority to enter a single source or sole source contract?

Answer: Again, in the process that, in meeting our compliance with our code or our requirements, no specific documentation is mandated. In general, the requirement that we demonstrate reasonableness of costs through an explanation is there and is contained in the single source justifications that we provide.

Question: So you regard the justification memo itself as, as the vehicle, as the document that contains the assurance that is the, that is required by the procedure?

Answer: Yes, sir, I do.

(TR 730-731)

Staff notes FPL rebuttal witness Scroggs' description of his use and reliance on the internal memoranda is consistent with audit findings by Staff witnesses Vinson and Fisher, who concluded that FPL had supporting justification for the reviewed sole source procurements in accordance with FPL's internal procedures. (TR 639, 644-648, 654) Furthermore, Staff witnesses Vinson and Fisher concluded that FPL followed its contractor selection procedures and that FPL's use of sole source contractors was in keeping with reasonable business practices. (TR 644-648)

FPL responded to OPC's criticisms in its post-hearing brief. FPL asserts that it utilized a proven process to solicit, qualify, negotiate, select and manage service providers, and approaches this process with an understanding of the key players in each specialty field. FPL states that it does maintain a preference for competitive bidding but that single and sole source contracting is and will continue to be a necessary procurement method for successful completion

of the projects. (FPL BR 9, 11) FPL concludes that it expects to bid a large majority of the costs (over a billion dollars) for the EPU projects. (FPL BR 9)

In its brief FPL references justifications for several of its sole source and single source contracts. Both in its brief and in testimony, FPL explains in depth why Westinghouse, Shaw Stone and Webster, Areva, Siemens, McNabb, and Black & Veatch were selected as sole or single source contractors, rather than being selected after competitive bids. (FPL BR 18-21, 26) According to FPL, Westinghouse was chosen because of scheduling, because it was the original manufacturer of the nuclear steam supply system, and because of its proven record with FPL Group. Further, Westinghouse had proprietary information that would make selecting a different vendor cost prohibitive. Finally, FPL compared the contracted amount to other recent contracts for the reasonableness of the Westinghouse contract price. (FPL BR 18, 19)

According to FPL, Shaw Stone and Webster were chosen because they are leaders in the industry and had a proven track record with FPL Group. FPL considered it valuable to have access to an experienced vendor. FPL determined the reasonableness of the contract costs based on FPL's experience and also based on a recent bidding process. (FPL BR 19, 20)

FPL asserts that it chose Areva as a sole source vendor because of scheduling demands to support the NRC licensing. FPL contends that Areva was also selected because it was the original equipment manufacturer for St. Lucie Unit 1 fuel. According to FPL, the St. Lucie plant uses fuel designed by Areva, and to change fuels for a different competitor would extend the time for completion of the EPU project several years. (FPL BR 20, 21)

According to FPL, Siemens was selected because FPL needed to reserve equipment manufacturing space at the Siemens facilities. FPL contends the necessity of immediate reservation was to ensure that Siemens can deliver in time to support the uprate implementation schedule. FPL asserts that Siemens was also selected because it is the original turbine generator equipment supplier, and the only vendor that could manufacturer the equipment needed. (FPL BR 21)

FPL asserts that it chose McNabb for permitting activities related to the underground injection controls (UIC) system at Turkey point because of McNabb's expertise with the UIC permitting process and because McNabb's costs were below market price. FPL states that Black & Veatch was retained because of its unique technical expertise, combined with real world experiences in developing large scale projects. FPL argues that furthermore, Black & Veatch had worked successfully with FPL before on the construction of several generating facilities in Florida. FPL concludes by stating that in determining the reasonableness of the costs of Black & Veatch, it benchmarked the proposed costs to ensure they were reasonable for the services provided. (FPL BR 26)

FPL rebuttal witness Reed, a consultant with Concentric Energy Advisors, Inc., reviewed the processes and procedures used by FPL to manage the development and implementation of the EPU project and the new nuclear projects at Turkey Point. (TR 556) Within the cost estimation and budgeting process, he concluded that FPL had complied with those procedures in developing its estimates. (TR 557)

OPC was critical of FPL's justification regarding proprietary information. OPC asserts that witness Jacobs debunked the notion of giving a contractor preference because it held proprietary information, by stating that other contractors could perform the same needed service with alternative proprietary data or processes. Additionally, OPC believes FPL witness Labbe stated upon cross examination that FPL contractually agrees that it will acquire proprietary confidential information from a vendor in the event a contractor cannot reach terms for the next service to be provided. (OPC BR 7)

OPC also was critical of FPL's use of contractor experience in justifying the use of that contractor as a sole or single source. OPC stated that experience is another bidding specification that can be built into a request for proposal. (OPC BR 6) OPC also disagreed with FPL's assertion that a small pool of providers is sufficient reason for FPL to avoid competitively bidding work. (OPC BR 7) And finally, in its brief, OPC stated that FPL's assertion that it stays abreast of industry billing rates and costs is insufficient to justify deviation from competitive bidding. OPC concludes that if FPL's argument is correct, then it would never have to engage in competitive bidding. (OPC BR 9)

OPC recognizes that FPL had given significant consideration to information not explicitly found in FPL's justification memoranda. (OPC BR 8) Staff also believes FPL's internal justification memoranda do not necessarily convey or memorialize all information relied upon in awarding single and sole source contracts. Based on the record evidence, staff believes that FPL did not violate its own internal procedures regarding sole source and single source contract justification requirements.

Additionally, staff believes a utility's internal sole source and single source justification memoranda are not intended to be used as a stand-alone document for purposes of fully justifying utility management decisions to the Commission. FPL did not rebut OPC witness Jacobs' observation that documents in addition to internal justification memoranda were not provided, or that substantive documents memorializing the utility's analyses were not provided. Thus, OPC witness Jacobs appropriately represented that FPL's summary justification memoranda, as stand-alone documents, are not an adequate basis to make informed decisions on awarding single or sole source contracts and that FPL's processes do not result in sufficient documentation of such decisions for purposes of the NCRC. Staff recommends that prospectively, FPL should increase its documentation and support for single source and sole source contracts for projects included in the NCRC.

The Prudence of FPL

Based on his review of FPL's internal justification memoranda, OPC witness Jacobs concluded FPL was not reasonable in demonstrating that the costs were reasonable, specifically those pertaining to a Siemens contract for low-pressure rotors. (TR 599) That contract pertains to FPL's EPU activities at St. Lucie. (TR 569, 683) FPL rebuttal witness Labbe describes the scope of the Siemens contract at issue:

[I]t's a replacement of the high pressure turbine, low pressure turbines at St. Lucie, the main generator rotor, it's a stator rewind and an exciter replacement.

Those are all Siemens, Siemens documents. Siemens manufactures the equipment and they've installed it. And we did do a competitive bidding at Point Beach for those components, and there's an analysis that was performed on, it would be the turbine overspeed analysis. There's analysis that would be required for the uprate and we'd have to take that analysis and submit it into the LAR. That's part of the document that we'd get approval from the NRC. In order to use another vendor we would still need that analysis from Siemens; say it was another vendor for the turbine. We do use as, you know, owners and operators of that equipment rights to take that analysis and transfer it to a successful bidder that could use that analysis as it relates to the LAR. (TR 683)

While OPC witness Jacobs appeared to argue that FPL was imprudent, he also appeared to say he was not sure. For example, in response to questions from the Commission, OPC witness Jacobs clarified his testimony by stating, "we're not saying that they ended up with the wrong contractor per se. It's probably the right contractor but they didn't follow their process, and because they didn't follow their process, you don't know for sure that it couldn't have been done by someone else as well for less cost." (TR 596) OPC stated its conclusion of the primary difference between OPC and FPL: "Dr. Jacobs advocates competitive bidding, because the utility doesn't know it has the best deal unless the utility asks while FPL too frequently has sidestepped its own competitive bidding requirements, because FPL's view is that it knows without having to ask." (OPC BR 12)

In contrast to the testimony of OPC witness Jacobs, other testimony based on management audits assert FPL was reasonable and followed reasonable business practices. This is significant because the standard for determining prudence is consideration of what a reasonable utility manager would have done in light of conditions and circumstances, which were known or reasonably should have been known at the time the decision was made. As previously addressed, staff does not believe a utility's internal justification memoranda adequately present all relevant facts utility managers use in their decisions. Consequently, staff believes the testimony of OPC witness Jacobs is insufficient to establish that FPL was imprudent because the testimony of witness Jacobs is directed at whether FPL complied with its internal procedures, and does not address the pertinent facts which were known or should have been known at the time decisions were made. Additionally, OPC witness Jacobs does not demonstrate FPL managers made the wrong decisions. (TR 596)

Staff witnesses Vinson and Fisher sponsored testimony and an audit report examining the internal control procedures by which FPL manages and tracks the costs and the schedules of FPL's two projects. (TR 647) Staff witnesses Vinson and Fisher concluded FPL had adequate project management and internal controls in place to move forward, subject to further improvements and audits. (TR 356, 637, 639, 643-646, 648, 649; EXH 40) FPL's use of sole source selections for the uprate project and the new units to date is in keeping with reasonable business practices. (TR 639, 645, 646; EXH 40 p 20, p38) Staff witnesses Vinson and Fisher concluded that, in their review, FPL had supporting justification for the reviewed sole source procurements in accordance to FPL's internal procedures. (TR 654) As noted above, FPL rebuttal witness Reed also reviewed FPL's processes and procedures, and concluded that FPL had complied with those procedures in developing its estimates. (TR 557)

Based on the record, staff believes that FPL's decisions and actions were in keeping with reasonable business practices, and were prudent. Staff's will explore FPL's fine tuning activities as part of on-going discussions with the parties in this docket.

Conclusion

Staff recommends the Commission find FPL's 2007 project management, contracting, and oversight controls were reasonable and prudent for the EPU project. Pursuant to the approved partial stipulations, staff recommends the Commission not make a finding regarding the prudence of FPL's 2007 project management, contracting, and oversight controls for the Turkey Point 6 & 7 project. Prospectively, FPL should increase its documentation and support for single source and sole source contracts for the EPU project and the Turkey Point 6 & 7 project for future filings in the NCRC.

Issue 2B: Should the Commission find that for the year 2007, FPL's accounting and costs oversight controls were reasonable and prudent for the Turkey Point 6 & 7 project and for the EPU project?

Recommendation: Staff recommends the Commission find FPL's 2007 accounting and cost oversight controls were reasonable and prudent for the EPU project. Pursuant to the approved partial stipulations, staff recommends the Commission not make a finding regarding the prudence of FPL's 2007 accounting and costs oversight controls for the Turkey Point 6 & 7 project. (Breman, Laux)

Position of the Parties

FPL: Yes. The Commission should find that FPL's accounting and cost oversight controls were reasonable and prudent for the EPU project. Subject to the approved partial stipulation below, the Commission should find that FPL's accounting and cost oversight controls for the Turkey Point 6 & 7 project were reasonable. The Company utilizes comprehensive and overlapping controls for incurring costs and recording transactions.

AARP: Same as OPC.

FIPUG: No position.

OPC: (1) EPU Project

No position.

Staff Analysis: Staff witness Welch provided stipulated testimony describing accounting audits of FPL's 2007 expenditures. FPL agreed to enter corrections in response to witness Welch's audit findings numbers 1 and 4. (TR 624, 626) These adjustments are to be reflected in FPL's final true-up for the 2008 period. (TR 624, 626)

In response to discovery, FPL noted potential disagreement with audit findings numbers 3 and 5. (EXH 2, Tab 8, No. 41) In audit finding number 3, staff witness Welch stated a need for FPL to establish a method for recording retirements and cost of removal associated with existing facilities that are or will be replaced. (TR 626) Audit Finding No. 5 discloses that St. Lucie Units 1 and 2 main transformers may have needed to be replaced even if FPL had not proceeded with the uprate project. (TR 628) FPL agreed to enter corrections in response to witness Welch audit finding numbers 1 and 4 for calendar year 2007. (TR 624, 626) These adjustments are to be reflected in FPL's final true-up filings for the 2008 period. (TR 624, 626)

Staff notes that action on these specific audit findings are within the scope of a stipulation the Commission approved at the September 2008 hearing. The stipulation was joined by AARP and FIPUG. The stipulation reads:

OPC and FPL stipulate that as it applies to nuclear uprate projects, the NCRC should be limited to those costs that are separate and apart from nuclear costs that would have been necessary to provide safe and reliable service had there been no

uprate project. OPC and FPL will work with PSC staff to develop an NFR form for use in the 2009 hearing cycle that specifies the information that a utility will provide in support of its request, that the uprate costs in its NCRC filing are separate and apart from the costs that would have been necessary to provide safe and reliable service without the uprate. For purposes of the 2008 NCRC hearings, OPC will not challenge the prudence of FPL's 2007 uprate costs on the "separate and apart" issue. OPC's position for the 2007 uprate costs, however, does not prevent OPC from raising the "separate and apart" issue for any FPL uprate costs incurred subsequent to 2007.

By FPL agreeing to this stipulation and implementing adjustments, staff believes FPL has appropriately responded to the concerns raised by staff witness Welch. Staff notes that other audit findings pertaining to FPL's EPU project do not require further action or monitoring. None of the intervenors post-hearing briefs address this issue.

Based on the forgoing analysis, staff recommends the Commission find FPL's 2007 accounting and cost oversight controls were reasonable and prudent for the EPU project. Pursuant to the approved partial stipulations, staff recommends the Commission not make a finding regarding the prudence of FPL's 2007 accounting and costs oversight controls for the Turkey Point 6 & 7 project.

FPL's EPU Project

Issue 6C: What amount should the Commission approve as FPL's final 2007 true-up of prudently incurred construction costs for the EPU project?

Recommendation: The Commission should approve as prudent the amount of \$8,624,516 (gross system) as final 2007 construction costs for the EPU project. The amount net of participant credits and non-cash adjustments is \$8,271,172 system (\$8,236,653 jurisdictional). (Breman, Laux)

Position of the Parties

FPL: The Commission should approve the amount of \$8,236,653 as FPL's final 2007 true-up of prudently incurred construction costs for the EPU project. These construction costs, including those associated with single or sole source contracts, were incurred in full compliance with FPL's management, procurement, and cost controls, and are reasonable.

AARP: Same as OPC.

FIPUG: No position.

OPC: The amount approved should reflect the Commission's decision on the alternative remedies proposed by OPC's witness with respect to FPL's overreliance on single source and sole source contracts.

Staff Analysis: This issue addresses FPL's final 2007 construction costs for the EPU project. Should the Commission find that FPL was not prudent pursuant to Issues 2A and 2B, the Commission can adjust FPL's final 2007 construction costs accordingly.

FPL's 2007 EPU project construction costs total \$8,624,516 gross system, of which \$5,700,529 (67%) is due to engineering and design work and \$1,631,924 (19%) is due to power block procurement and related expenses. (EX 20) Staff noted in Issue 2B that FPL agreed to enter corrections in response to witness Welch audit findings numbers 1 and 4. (TR 624, 626) These adjustments are to be reflected in FPL's final true-up for the 2008 period. (TR 624, 626) No other testimony specifically addressed FPL's 2007 EPU construction costs.

As addressed in Issues 2A and 2B, staff does not believe any party presented persuasive testimony demonstrating FPL was imprudent regarding the implementation of its procedures. Consequently, staff does not believe adjustments to FPL's final 2007 construction costs for the EPU project are warranted. Presumably, OPC's position addresses adjustments to the amount of carrying charges FPL is able to recover through the clause, as suggested by OPC witness Jacobs. However, carrying cost adjustments do not impact projected construction costs. Staff's analysis in Issue 2A considers the testimony of witness Jacobs and recommends that FPL increase its documentation and support for single source and sole source contracts for the EPU project and the Turkey Point 6 & 7 project. No party presented testimony recommending an adjustment to FPL's final 2007 construction costs that is not already addressed in Issues 2A and 2B.

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Staff reviewed FPL's calculations and recommends the Commission approve the 2007 EPU construction cost amount of \$8,624,516 (gross system) as prudently incurred consistent with staff's recommendations in Issues 2A and 2B. The net amount \$8,271,172 system (\$8,236,653 jurisdictional) is adjusted for participant credits and non-cash adjustments totaling \$353,344. (EX 20)

Issue 6D: What amount should the Commission approve as carrying charges on FPL's prudently incurred 2007 construction costs for the EPU project?

Recommendation: The Commission should approve \$0 as the carrying charge amount on FPL's prudently incurred 2007 construction costs for the EPU project. FPL did not accrue carrying charges for the EPU project during 2007. (Breman, Laux)

Position of the Parties

FPL: FPL did not accrue carrying charges on its prudently incurred construction costs for the EPU project during fiscal year 2007 due to pending approval from the Commission. Accordingly, this amount should be zero.

AARP: Same as OPC.

FIPUG: No position.

OPC: No. position.

Staff Analysis: FPL began accruing carrying charges applicable to the EPU project after the Commission issued Order No. PSC-08-0021-FOF-EI, on January 7, 2008, affirming FPL's need for the EPU project. (TR 413-414, 425-426) Therefore, FPL did not accrue any carrying charges associated with the EPU project during 2007. (TR 413-414)

In its pre-hearing statement FIPUG proposed an alternative method of determining the carrying charges to be applied after 2010, but did not cross any witness concerning FPL's carrying charges. FIPUG did not provide a post-hearing statement on this issue. Pursuant to the prehearing order FIPUG's position concerning the issue is waived.

No party opposes FPL's petitioned amount. Staff recommends the Commission approve \$0 as the carrying charge amount on FPL's prudently incurred 2007 construction costs for the EPU project.

Issue 8C: What amount should the Commission approve as FPL's 2008 actual and estimated construction costs for the EPU project?

Recommendation: The Commission should approve as reasonable the amount of \$79,030,565 (gross system) as 2008 actual and estimated construction costs for the EPU project. The amount net of participant credits and non-cash adjustments is \$74,879,154 system (\$74,566,646 jurisdictional). (Breman, Laux)

Position of the Parties

FPL: The Commission should approve \$74,566,646 as FPL's reasonable 2008 actual and estimated construction costs for the EPU project, which will be the basis for the calculation of carrying charges to be collected in 2009. These costs, including those associated single or sole source contracts, were incurred or developed in full compliance with FPL's management, procurement, and cost controls and are reasonable.

AARP: Same as OPC.

FIPUG: No position.

OPC: The amount should reflect any disallowance or adjustment made in consideration of the alternative remedies proposed by OPC's witness.

Staff Analysis: This issue addresses FPL's actual and estimated 2008 construction costs for the EPU project. Should the Commission find that FPL was not prudent pursuant to Issues 2A and 2B, the Commission can adjust FPL's actual and estimated 2008 EPU construction costs accordingly.

FPL's actual and estimated 2008 EPU project construction costs total \$79,030,565 (gross system), of which \$34,012,730 (43%) is due to license application and \$22,534,388 (29%) is due to power block procurement and related expenses. (EX 21) The actual and estimated costs were developed using FPL's planning and budgetary project management system and procedures. (TR 444)

As addressed in Issues 2A and 2B, staff does not believe any party presented persuasive testimony demonstrating FPL was unreasonable regarding the implementation of its procedures. Consequently, staff does not believe adjustments to FPL's 2008 actual and estimated construction costs for the EPU project are warranted. Staff believes OPC's position addresses adjustments to the amount of carrying charges FPL is able to recover through the clause, as suggested by OPC witness Jacobs. However, carrying cost adjustments do not impact projected construction costs. Staff's analysis in Issue 2A considers the testimony of witness Jacobs and recommends FPL increase its documentation and support for single source and sole source contracts for the EPU project and the Turkey Point 6 & 7 project. No party presented testimony recommending an adjustment to FPL's 2008 actual and estimated construction costs.

Accordingly, staff does not recommend any adjustments to FPL's 2008 construction costs for the EPU project. Staff reviewed FPL's calculations and recommends the Commission

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approve the estimated 2008 construction cost amount of \$79,030,565 (gross system). The adjustments, including participant credits and non-cash accruals, total \$4,151,411. The net amount is \$74,879,154 system (\$74,566,646 jurisdictional). (EX 21, p17)

Issue 8D: What amount should the Commission approve as carrying charges on FPL's 2008 actual and estimated construction costs for the EPU project?

Recommendation: The Commission should approve as reasonable an amount of \$3,740,411 as carrying charges on 2008 actual and estimated construction costs for the EPU project. (Breman, Laux)

Position of the Parties

FPL: The Commission should approve \$3,733,003 as reasonable carrying charges on FPL's 2007 actual and 2008 actual and estimated construction costs for the EPU project for collection during 2009. These costs, including those associated with single or sole source contracts, have been shown to be reasonable.

AARP: Same as OPC.

FIPUG: No position.

OPC: The amount should reflect any disallowance or adjustment made in consideration of the alternative remedies proposed by OPC's witness.

Staff Analysis: This issue addresses FPL's carrying charge amount pursuant to the Commission's decision in Issue 8C. Additionally, should the Commission find that FPL was not prudent pursuant to Issues 2A and 2B, the Commission can adjust the carrying charge amount on FPL's 2008 actual and estimated EPU project construction costs accordingly. As addressed in Issues 2A and 2B, staff does not believe any party presented persuasive testimony demonstrating FPL was imprudent. Consequently, staff does not recommend adjustments.

OPC's position on this issue covers the same subject matter as prior issues (See Issue 2A and 6C). Staff believes its recommendations on prior issues have thoroughly addressed the matter and there is no need to repeat the analysis again. Staff recommends that decisions on prior issues regarding OPC's arguments be consistently implemented.

In its pre-hearing statement FIPUG proposed an alternative method of determining the carrying charges to be applied after 2010, but did not cross any witness concerning FPL's carrying charges. FIPUG did not provide a post-hearing statement on this issue. Pursuant to the prehearing order FIPUG's position concerning the issue is waived.

Staff reviewed FPL's calculations. The applicable carrying charge amount of \$3,740,411 is the AFUDC accrued during 2008 on construction costs. (EX 21) FPL's position presents the total carrying costs of \$3,733,004, which includes an accrued AFUDC amount of \$3,740,411 and an accrued DTA of (\$7,407). (EX 21) FPL's total carrying costs for 2008 for the EPU project are addressed in Issue 8E. Staff recommends the Commission approve as reasonable the carrying charge amount of \$3,740,411 on FPL's 2008 actual and estimated construction cost for the EPU project.

Issue 8E: What total amount should the Commission approve as FPL's 2008 actual and estimated costs to be recovered for the EPU project?

Recommendation: The Commission should approve as reasonable the amount of \$3,733,003 as the total 2008 actual and estimated costs for the EPU project. (Breman, Laux)

Position of the Parties

FPL: The Commission should approve \$3,733,003 as reasonable carrying charges on FPL's 2007 actual and 2008 actual and estimated construction costs for the EPU project for collection during 2009.

AARP: Same as OPC.

FIPUG: No position.

OPC: The amount should reflect any disallowance or adjustment made in consideration of the alternative remedies proposed by OPC's witness.

Staff Analysis: This issue is a fall-out issue. Adjustments to FPL's total 2008 recoverable amount for the EPU project should include any adjustments the Commission determines with respect to Issue 8C and 8D. Analysis of OPC's position is addressed in Issues 2A and 6C. Staff did not recommend any adjustments in prior issues.

	2008 EPU Project Recoverable Amount
Carrying Costs (AFUDC)	\$ 3,740,411
<u>DTA Carrying Costs</u>	<u>\$ (7,407)</u>
Total 2008 Amount	\$ 3,733,003

(Total does not sum due to rounding)

Staff reviewed FPL's calculations and recommends the Commission approve as reasonable the amount of \$3,733,003 as FPL's 2008 total actual and estimated recoverable amount. This amount includes \$3,740,411 associated with AFUDC and (\$7,047) associated with DTA. (EX 21)

Issue 10C: What amount should the Commission approve as FPL's 2009 projected construction costs for the EPU project?

Recommendation: The Commission should approve as reasonable the amount of \$240,845,910 (gross system) as projected 2009 construction costs for the EPU project. The amount net of participant credits and non-cash adjustments is \$234,272,148 system (\$233,294,413 jurisdictional). (Breman, Laux)

Position of the Parties

FPL: The Commission should approve \$233,294,413 as FPL's reasonable 2009 projected construction costs for the EPU project during 2009. These costs, including those associated with single or sole source contracts, were developed in full compliance with FPL's management, procurement, and cost controls, and are reasonable.

AARP: Same as OPC.

FIPUG: No position.

OPC: FPL frequently relied on single source or sole source contracts instead of competitive bidding, without sufficient justification. FPL also failed to demonstrate the resulting costs were reasonable. The Commission should disallow the return that FPL seeks to earn on the single largest such contract. Alternatively, the Commission should retain jurisdiction over the costs of the contract's costs and require FPL to demonstrate the costs were reasonable. At a minimum, the Commission should place FPL on notice that the Commission will require a more rigorous demonstration that competitive bidding is infeasible, and that the costs of a single or sole source contract are reasonable.

Staff Analysis: This issue addresses FPL's projected 2009 construction costs for the EPU project. Should the Commission find that FPL was not prudent pursuant to Issues 2A and 2B, the Commission can adjust FPL's projected construction costs accordingly.

FPL projects 2009 constructions costs of \$240,845,910 (gross system). (EX 21) The amount of \$179,061,123, or 74% of the totals is for power block engineering and procurement. (TR 434; EX 21) The amount net of participant credits and non-cash adjustments is \$234,272,148 system (\$233,294,413 jurisdictional). (EX 21) The projected costs were made using FPL's planning and budgetary project management system and procedures. (TR 444)

As addressed in Issues 2A and 2B, staff does not believe any party presented persuasive testimony demonstrating FPL was imprudent regarding the implementation of its procedures. Consequently, staff does not believe adjustments to FPL's projected 2009 construction costs for the EPU are warranted. Staff believes OPC's position addresses adjustments to the amount of carrying charges FPL is able to recover through the clause, as suggested by OPC witness Jacobs. However, carrying cost adjustments do not impact projected construction costs. Staff's analysis in Issue 2A considers the testimony of witness Jacobs and recommends FPL increase its documentation and support for single source and sole source contracts for the EPU project and the Turkey Point 6 & 7 project. No party presented testimony recommending an adjustment to

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FPL's 2009 projected construction costs. No party cross-examined FPL's witness on the reasonableness of FPL's 2009 projected construction costs.

Staff reviewed FPL's calculations and recommends the Commission approve FPL's projected 2009 construction costs of \$240,845,910 (gross system). The amount \$234,272,148 system (\$233,294,413 jurisdictional) is net of participant credits and non-cash adjustments. (EX 21)

Issue 10D: What amount should the Commission approve as carrying charges on FPL's 2009 projected construction costs for the EPU project?

Recommendation: The Commission should approve as reasonable the carrying charge amount of \$16,564,497 on projected 2009 construction costs for the EPU project. (Breman, Laux)

Position of the Parties

FPL: The Commission should approve \$16,553,019 as reasonable carrying charges on FPL's 2009 projected construction costs for the EPU project for collection during 2009. These costs, including single or sole source contracts, have been shown to be reasonable.

AARP: Same as OPC.

FIPUG: No position.

OPC: The amount should reflect any disallowance or adjustment made in consideration of the alternative remedies proposed by OPC's witness.

Staff Analysis: This issue addresses FPL's projected carrying charges on 2009 EPU project construction costs. Should the Commission find that FPL was not prudent pursuant to Issues 2A and 2B, the Commission can adjust FPL's projected construction costs accordingly. As addressed in Issues 2A and 2B, staff does not believe any party presented persuasive testimony demonstrating FPL was unreasonable. Consequently, staff does not recommend adjustments.

OPC's position on this issue covers the same subject matter as prior issues (See Issues 2A and 6C). Staff believes its recommendations on prior issues have thoroughly addressed the matter and there is no need to repeat the analysis again. Staff recommends that decisions on prior issues regarding OPC's arguments be consistently implemented.

In its pre-hearing statement FIPUG proposed an alternative method of determining the carrying charges to be applied after 2010, but did not cross any witness concerning FPL's carrying charges. FIPUG did not provide a post-hearing statement on this issue. Pursuant to the prehearing order FIPUG's position concerning the issue is waived.

Staff reviewed FPL's calculations and believes the calculated carrying cost amount is consistent with the construction cost amount recommended in Issue 10C. Staff recommends the Commission approve the carrying charge amount of \$16,564,497 for the EPU project. (EX 21)

Issue 10E: What total amount should the Commission approve as FPL's 2009 projected costs to be recovered for the EPU project?

Recommendation: The Commission should approve as reasonable the amount of \$16,553,019 as total 2009 projected costs for the EPU project. (Breman, Laux)

Position of the Parties

FPL: The Commission should approve \$20,286,022 as reasonable carrying charges on FPL's 2007 actual, 2008 actual and estimated and 2009 projected construction costs for the EPU project for collection during 2009.

AARP: Same as OPC.

FIPUG: No position.

OPC: The decision should take into consideration OPC's assertions regarding contracting practices.

Staff Analysis: This fall-out issue only addresses the total carrying costs for FPL's EPU project for calendar year 2009. The amount of the carrying costs is dependent on the amount of construction costs approved in Issue 10C and the carrying charges approved in Issue 10D. Staff did not recommend any adjustments in the prior issues.

OPC's position on this issue covers the same subject matter as prior issues. Staff believes its recommendations on prior issues have thoroughly addressed the matter and there is no need to repeat the analysis again. Staff recommends that decisions on prior issues regarding OPC's arguments be consistently implemented.

FPL's position statement addresses all years 2007 through 2009. Consequently, FPL adds amounts for 2007 and 2008, already addressed in Issues 6D and 8E, to the amount for 2009 in order to arrive at the total shown in FPL's position statement (\$20,286,022 = \$0 + \$3,733,003 + \$16,553,019).

	2009 EPU Project Recoverable <u>Amount</u>
Carrying Costs (AFUDC)	\$16,564,497
<u>DTA Carrying Costs</u>	<u>\$ (11,478)</u>
Total 2008 Amount	\$16,553,019

Staff reviewed FPL's calculations and recommends the Commission approve as reasonable a 2009 total projected amount for FPL's EPU project of \$16,533,019. This amount includes \$16,564,497 associated with AFUDC and (\$11,478) associated with DTA carrying costs. (EX 21)

FPL's Turkey Point Units 6 & 7 Project

Issue 4B: What amount should the Commission approve as FPL's final 2007 true-up of prudently incurred site selection costs for the Turkey Point Units 6 & 7 project?

Recommendation: The Commission should approve as reasonable the amount of \$6,539,167 as final 2007 site selection costs for the Turkey Point Units 6 & 7 project. Any finding of prudence should be deferred until the 2009 nuclear cost recovery cycle consistent with the parties' stipulation. (Breman. Laux)

Position of the Parties

FPL: Subject to the stipulation on Issue 4A, that prudence of these costs will be deferred, the Commission should approve \$6,397,310 and related carrying charges of \$141,857 (total \$6,539,167) as FPL's reasonable site selection costs for the Turkey Point 6 & 7 project. These site selection costs were incurred in full compliance with FPL's management, procurement, and cost controls and are reasonable.

AARP: Same as OPC.

FIPUG: No position.

OPC: Subject to the stipulation in 4A, OPC takes no position on 4B.

Staff Analysis: Pursuant to the stated positions approved by the Commission at the September 2008 hearing, AARP, FIPUG, and OPC take no position regarding FPL's 2007 site selection cost amounts. The stipulation in Issue 4A discusses FPL's site selection issues.

The timing of the Turkey Point 6 & 7 need determination order prevented FPL from filing for recovery of site selection costs and preconstruction costs for that project by March 1, as contemplated for previous year true-ups under Rule 25-6.0423, F.A.C. To refuse to allow FPL to begin collecting these costs in 2009 could result in even higher charges to customers in 2010; however, the post March 1 filing date shortens the time available for OPC and other parties to review and analyze the site selection and preconstruction costs in this proceeding that is envisioned by the rule, and shortens the time available to the Commission to conduct the prudence review set forth in subsections 25-6.0423(b)(c)(2) and (3) of the above rule. To resolve the issues created by the timing of FPL's request, OPC and FPL agree that FPL may include those site selection and preconstruction costs in the calculation of the nuclear cost recovery amount that is to be recovered through the 2009 capacity cost recovery factor, and further agree that any finding as to the prudence of the costs and/or determination that certain costs should be disallowed will be deferred until the 2009 nuclear cost recovery cycle. (emphases added)

In Issue 2B, staff addresses audit results of FPL's 2007 site selection costs. FPL's 2007 site selection costs include \$6,397,310 in expenses, \$141,951 in AFUDC carrying charges and (\$94) in DTA carrying costs, for a total of \$6,539,167. (EX 23, p 29, 31)

	2009 Turkey Point Units 6 & 7 Site Selection Recoverable <u>Amount</u>
Preconstruction	\$ 6,397,310
Carrying charges (AFUDC)	\$ 141,951
<u>DTA Carrying Costs</u>	<u>\$ (94)</u>
Total 2007 Amount	\$ 6,539,167

Staff reviewed FPL's calculations and recommends the Commission approve as reasonable the amount \$6,539,167 as FPL's 2007 site selection costs for the Turkey Point Units 6 & 7. A finding of prudence should be deferred until the 2009 NCRC proceeding.

Issue 6A: What amount should the Commission approve as FPL's final 2007 true-up of prudently incurred preconstruction costs for the Turkey Point Units 6 & 7 project?

Recommendation: The Commission should approve as reasonable the amount of \$ 2,533,265 gross system (\$2,522,692 jurisdictional) as final 2007 preconstruction costs for the Turkey Point Units 6 & 7 project. The amount net of non-cash adjustments is \$1,960,481 system (\$1,952,300 jurisdictional). Any finding of prudence should be deferred until the 2009 nuclear cost recovery cycle consistent with the parties' stipulation. (Breman, Laux)

Position of the Parties

FPL: Subject to the approved partial stipulation below deferring a Commission determination on prudence, the Commission should approve preconstruction costs for the Turkey Point 6 & 7 project of \$2,522,692 and related carrying charges of \$20,547 as FPL's reasonable 2007 preconstruction costs for the Turkey Point 6 & 7 project. These costs were incurred in the full compliance with FPL's management, procurement, and cost controls and are reasonable.

AARP: Same as OPC.

FIPUG: No position.

OPC: FPL frequently relied on single source or sole source contracts instead of competitive bidding, without sufficient justification. FPL also failed to demonstrate the resulting costs were reasonable. The Commission should disallow the return that FPL seeks to earn on the single largest such contract. Alternatively, the Commission should retain jurisdiction over the costs of the contract's costs and require FPL to demonstrate the costs were reasonable. At a minimum, the Commission should place FPL on notice that the Commission will require a more rigorous demonstration that competitive bidding is infeasible, and that the costs of a single or sole source contract are reasonable.

Staff Analysis: The parties' stipulation in Issue 4A discusses FPL's preconstruction costs for the Turkey Point Units 6 & 7 project. The Commission approved the following stipulation at the September 2008 hearing:

The timing of the Turkey Point 6 & 7 need determination order prevented FPL from filing for recovery of site selection costs and preconstruction costs for that project by March 1, as contemplated for previous year true-ups under Rule 25-6.0423, F.A.C. To refuse to allow FPL to begin collecting these costs in 2009 could result in even higher charges to customers in 2010; however, the post March 1 filing date shortens the time available for OPC and other parties to review and analyze the site selection and preconstruction costs in this proceeding that is envisioned by the rule, and shortens the time available to the Commission to conduct the prudence review set forth in subsections 25-6.0423(b)(c)(2) and (3) of the above rule. To resolve the issues created by the timing of FPL's request, OPC and FPL agree that FPL may include those site selection and preconstruction costs in the calculation of the nuclear cost recovery amount that is to be recovered

through the 2009 capacity cost recovery factor, and further agree that any finding as to the prudence of the costs and/or determination that certain costs should be disallowed will be deferred until the 2009 nuclear cost recovery cycle. (emphasis added)

Staff believes OPC's position on this issue addresses adjustments to the amount of carrying charges FPL is able to recover through the clause, as suggested by OPC witness Jacobs. As discussed in Issue 2A, Witness Jacobs recommended three options: (a) disallow FPL's return on the equity portion of the investment associated with the low pressure rotor contract, (b) withhold a portion of the requested carrying charges associated with the low pressure turbine contract until FPL can demonstrate the costs are reasonable in the next hearing cycle, or (c) place FPL on notice that the Commission requires a rigorous and detailed justification for any departure from the competitive bidding process. (TR 570) Staff notes that no party provided estimates of the amounts associated with the first two options proposed by OPC witness Jacobs. Moreover, OPC witness Jacobs' recommendation is to adjust FPL's carrying costs on a St. Lucie uprate project contract. (TR 569, 583, 599) Thus, the carrying cost adjustments proposed by OPC witness Jacobs do not apply to FPL's new power plant project. In Issue 2A, staff recommends the Commission implement the last option suggested by OPC witness Jacobs to require more detailed support for departure from the competitive bidding process.

FPL's position statement includes an amount for carrying costs. FPL's carrying costs for the 2007 period for the power plant are addressed in Issue 6B. Staff has reviewed FPL's preconstruction cost calculations. The gross system preconstruction amount of \$2,533,265 (\$2,522,692 jurisdictional) is for licensing and permitting. The amount net of non-cash adjustments is \$1,960,481 system (\$1,952,300 jurisdictional.) (EX 22 p 6, 8, 17)

Staff recommends the Commission approve as reasonable the amount of \$2,533,265 system (\$2,522,692 jurisdictional) as FPL's 2007 preconstruction costs for the Turkey Point Units 6 & 7 project. The amount net of non-cash adjustments is \$1,960,481 system (\$1,952,300 jurisdictional). Any finding of prudence should be deferred until the 2009 nuclear cost recovery cycle consistent with the parties' stipulation.

Issue 6B: What total amount should the Commission approve as FPL's final 2007 true-up to be recovered for the Turkey Point Units 6 & 7 project?

Recommendation: The Commission should approve as reasonable the amount of \$9,082,406 as the final 2007 true-up amount for the Turkey Point Units 6 & 7 project. Any finding of prudence should be deferred until the 2009 nuclear cost recovery cycle consistent with the parties' stipulation. (Breman, Laux)

Position of the Parties

FPL: Subject to the approved partial stipulation below deferring a Commission determination of prudence, the Commission should approve site selection costs of \$6,367,310, site selection related carrying charges of \$141,857, preconstruction costs of \$2,522,692 and preconstruction related carrying charges of \$20,547 (total \$9,082,406), as FPL's reasonable 2007 costs for Turkey Point 6 & 7. These costs have been demonstrated by FPL to be reasonable.

AARP: Same as OPC.

FIPUG: No position.

OPC: FPL frequently relied on single source or sole source contracts instead of competitive bidding, without sufficient justification. FPL also failed to demonstrate the resulting costs were reasonable. The Commission should disallow the return that FPL seeks to earn on the single largest such contract. Alternatively, the Commission should retain jurisdiction over the costs of the contract's costs and require FPL to demonstrate the costs were reasonable. At a minimum, the Commission should place FPL on notice that the Commission will require a more rigorous demonstration that competitive bidding is infeasible, and that the costs of a single or sole source contract are reasonable.

Staff Analysis: This issue is a summary issue addressing the appropriate recoverable amount for FPL's 2007 Turkey Point Units 6 & 7 project. The parties' stipulation in Issue 4A discusses treatment of the amount FPL is requesting. The Commission approved the following stipulation at the September 2008 hearing:

The timing of the Turkey Point 6 & 7 need determination order prevented FPL from filing for recovery of site selection costs and preconstruction costs for that project by March 1, as contemplated for previous year true-ups under Rule 25-6.0423, F.A.C. To refuse to allow FPL to begin collecting these costs in 2009 could result in even higher charges to customers in 2010; however, the post March 1 filing date shortens the time available for OPC and other parties to review and analyze the site selection and preconstruction costs in this proceeding that is envisioned by the rule, and shortens the time available to the Commission to conduct the prudence review set forth in subsections 25-6.0423(b)(c)(2) and (3) of the above rule. To resolve the issues created by the timing of FPL's request, OPC and FPL agree that FPL may include those site selection and preconstruction costs in the calculation of the nuclear cost recovery amount that is to be recovered

through the 2009 capacity cost recovery factor, and further agree that any finding as to the prudence of the costs and/or determination that certain costs should be disallowed will be deferred until the 2009 nuclear cost recovery cycle. (emphasis added)

OPC's position on this issue covers the same subject matter as prior issues. Staff believes its recommendations on prior issues have thoroughly addressed the matter and there is no need to repeat the analysis again (See Issues 2A, 6A, and 6C). Staff recommends that decisions on prior issues regarding OPC's arguments regarding the Turkey Point Units 6 & 7 project be consistently implemented.

The recoverable 2007 amount for FPL's Turkey Point Unit 6 & 7 project includes the amount approved in Issue 4B, the amount approved in Issue 6A, and the carrying costs associated with the approved amounts. The AFUDC amount associated with staff's recommendation in Issue 6A is \$20,555 and the DTA carrying costs are (\$8), for a total carrying cost amount of \$20,547. Thus, the total recoverable amount, consistent with staff's recommendations in prior issues is \$9,082,406.

	2007 Turkey Point Unit 6 & 7 Project Recoverable <u>Amount</u>
Issue 4B	\$ 6,539,167
Issue 6A	\$ 2,522,692
<u>Carrying Costs</u>	\$ 20,547
Total 2007 Amount	\$ 9,082,406

Staff recommends the Commission approve as reasonable the amount of \$9,082,406 as FPL's total 2007 costs for the Turkey Point Units 6 & 7 project. Any finding of prudence should be deferred until the 2009 nuclear cost recovery cycle consistent with the parties' stipulation.

Issue 8A: What amount should the Commission approve as FPL's 2008 actual and estimated preconstruction costs for the Turkey Point Units 6 & 7 project?

Recommendation: The Commission should approve as reasonable the amount of \$70,000,000 system (\$67,707,855 jurisdictional) as 2008 actual and estimated preconstruction costs for the Turkey Point Units 6 & 7 project. (Breman, Laux)

Position of the Parties

FPL: The Commission should approve \$69,707,855 as FPL's reasonable 2008 actual and estimated pre-construction costs for the Turkey point Units 6 & 7 project. These costs, including those associated with single or sole source contracts, were incurred, or developed in the full compliance with FPL's management, procurement, and cost controls and are reasonable.

AARP: Same as OPC.

FIPUG: No position.

OPC: FPL frequently relied on single source or sole source contracts instead of competitive bidding, without sufficient justification. FPL also failed to demonstrate the resulting costs were reasonable. The Commission should disallow the return that FPL seeks to earn on the single largest such contract. Alternatively, the Commission should retain jurisdiction over the costs of the contract's costs and require FPL to demonstrate the costs were reasonable. At a minimum, the Commission should place FPL on notice that the Commission will require a more rigorous demonstration that competitive bidding is infeasible, and that the costs of a single or sole source contract are reasonable.

Staff Analysis: The parties' stipulation in Issue 4A discusses FPL's preconstruction costs. The Commission approved the following stipulation at the September 2008 hearing:

The timing of the Turkey Point 6 & 7 need determination order prevented FPL from filing for recovery of site selection costs and preconstruction costs for that project by March 1, as contemplated for previous year true-ups under Rule 25-6.0423, F.A.C. To refuse to allow FPL to begin collecting these costs in 2009 could result in even higher charges to customers in 2010; however, the post March 1 filing date shortens the time available for OPC and other parties to review and analyze the site selection and preconstruction costs in this proceeding that is envisioned by the rule, and shortens the time available to the Commission to conduct the prudence review set forth in subsections 25-6.0423(b)(c)(2) and (3) of the above rule. To resolve the issues created by the timing of FPL's request, OPC and FPL agree that FPL may include those site selection and pre-construction costs in the calculation of the nuclear cost recovery amount that is to be recovered through the 2009 capacity cost recovery factor, and further agree that any finding as to the prudence of the costs and/or determination that certain costs should be disallowed will be deferred until the 2009 nuclear cost recovery cycle. (emphasis added)

OPC's position on this issue covers the same subject matter as prior issues. Staff believes the recommendations on prior issues have thoroughly addressed the matter and there is no need to repeat the same analysis again (See Issues 2A, 6A, and 6C). Staff recommends that decisions on prior issues regarding OPC's arguments regarding the Turkey Point Units 6 & 7 project be consistently implemented.

FPL developed its projected costs using its planning and budgetary project management system and procedures. (TR 444) At hearing FPL confirmed a \$35,000,000 reduction in its preconstruction expense in the last quarter of 2008. (TR 44, 376, 389, 416, 485, 487) FPL clarified that the long lead time payments were now determined to be required at a later date than previously anticipated. (TR 418, 485, 487) This change reduces FPL's system preconstruction expenses from \$105,000,000 (\$104, 561,783 jurisdictional) to \$70,000,000 (\$67,707,855 jurisdictional). (TR 418, 485, 487; EXH 22 p 42) The amount net of non-cash adjustments in \$103,642,667 system (\$103,210,113 jurisdictional). (EX 22) Staff verified these calculations using Exhibit 22.

Based on the forgoing, staff recommends the Commission approve as reasonable the amount of \$67,707,855 jurisdictional, as FPL's 2008 actual and estimated preconstruction costs for the Turkey Point Units 6 & 7 project.

Issue 8B: What total amount should the Commission approve as FPL's 2008 actual and estimated costs to be recovered for the Turkey Point Units 6 & 7 project?

Recommendation: The Commission should approve as reasonable the amount of \$73,766,037 as total 2008 actual and estimated costs to be recovered for the Turkey Point Units 6 & 7 project. (Breman, Laux)

Position of the Parties

FPL: The Commission should approve site selection related carrying costs of \$723,484, pre-construction costs of \$69,707,855, and pre-construction related carrying costs of \$3,334,698 (total \$73,766,037) as FPL's reasonable 2008 actual and estimated costs the Turkey Point 6 & 7 project. These costs, including those associated with single or sole source contracts, have been shown to be reasonable.

AARP: Same as OPC.

FIPUG: No position.

OPC: FPL frequently relied on single source or sole source contracts instead of competitive bidding, without sufficient justification. FPL also failed to demonstrate the resulting costs were reasonable. The Commission should disallow the return that FPL seeks to earn on the single largest such contract. Alternatively, the Commission should retain jurisdiction over the costs of the contract's costs and require FPL to demonstrate the costs were reasonable. At a minimum, the Commission should place FPL on notice that the Commission will require a more rigorous demonstration that competitive bidding is infeasible, and that the costs of a single or sole source contract are reasonable.

Staff Analysis: This issue is a summary issue addressing the appropriate recoverable amount for FPL's 2008 Turkey Point Units 6 & 7 project. The parties' stipulation in Issue 4A discusses treatment of FPL's petition. The Commission approved the following stipulation at the September 2008 hearing:

The timing of the Turkey Point 6 & 7 need determination order prevented FPL from filing for recovery of site selection costs and preconstruction costs for that project by March 1, as contemplated for previous year true-ups under Rule 25-6.0423, F.A.C. To refuse to allow FPL to begin collecting these costs in 2009 could result in even higher charges to customers in 2010; however, the post March 1 filing date shortens the time available for OPC and other parties to review and analyze the site selection and preconstruction costs in this proceeding that is envisioned by the rule, and shortens the time available to the Commission to conduct the prudence review set forth in subsections 25-6.0423(b)(c)(2) and (3) of the above rule. To resolve the issues created by the timing of FPL's request, OPC and FPL agree that FPL may include those site selection and preconstruction costs in the calculation of the nuclear cost recovery amount that is to be recovered through the 2009 capacity cost recovery factor, and further agree that any finding

as to the prudence of the costs and/or determination that certain costs should be disallowed will be deferred until the 2009 nuclear cost recovery cycle.

OPC's position on this issue covers the same subject matter as prior issues. Staff believes the recommendations on prior issues have thoroughly addressed the matter and there is no need to repeat the analysis again (See Issues 2A, 6A, and 6C). Staff recommends that decisions on prior issues regarding OPC's arguments regarding the Turkey Point Units 6 & 7 project be consistently implemented.

As discussed in Issue 8A, at hearing FPL confirmed a \$35,000,000 reduction in its preconstruction expense in the last quarter of 2008. The reduction in preconstruction expense results in a decrease of the carrying charges and an increase in the DTA carrying costs. The net jurisdictional change is a reduction of \$35,314,151 for 2008. The amount shown for site selection is accrued AFUDC on the unrecovered site selection costs for 2007. Staff performed these calculations using Exhibits 22, 23, and 43. The following table is a summary of all 2008 Turkey Point Units 6 & 7 recoverable amounts, including site selection amounts.

	Revised Pre-Filed	Updated	Change
Preconstruction Expense	\$104,561,783	\$69,707,855	-\$34,853,928
Carrying charges- AFUDC	\$3,801,152	\$3,340,680	-\$460,472
Carrying Costs-DTA	-\$6,231	-\$5,982	\$249
Site Selection-AFUDC	\$723,485	\$723,484	0
Total*	\$109,080,188	\$73,766,037	\$35,314,151

*Totals do not sum due to rounding to the nearest dollar.

Based on the forgoing, staff recommends the Commission approve as reasonable the amount of \$73,766,037 as FPL's 2008 actual and estimated total costs for the Turkey Point Units 6 & 7 project, including site selection expenses.

Issue 10A: What amount should the Commission approve as FPL's 2009 projected preconstruction costs for the Turkey Point Units 6 & 7 project?

Recommendation: The Commission should approve as reasonable the amount of \$110,000,000 system (\$109,540,915 jurisdictional) as 2009 projected preconstruction costs for the Turkey Point Units 6 & 7 project. FPL did not project non-cash adjustments for 2009 preconstruction costs. (Breman, Laux)

Position of the Parties

FPL: The Commission should approve \$109,540,915 as FPL's reasonable 2009 projected preconstruction costs for the Turkey Point Units 6 & 7 project for collection during 2009. These costs, including those associated with single or sole source contracts, were incurred, or developed in the full compliance with FPL's management, procurement, and cost controls and are reasonable.

AARP: Same as OPC.

FIPUG: No position.

OPC: FPL frequently relied on single source or sole source contracts instead of competitive bidding, without sufficient justification. FPL also failed to demonstrate the resulting costs were reasonable. The Commission should disallow the return that FPL seeks to earn on the single largest such contract. Alternatively, the Commission should retain jurisdiction over the costs of the contract's costs and require FPL to demonstrate the costs were reasonable. At a minimum, the Commission should place FPL on notice that the Commission will require a more rigorous demonstration that competitive bidding is infeasible, and that the costs of a single or sole source contract are reasonable.

Staff Analysis: The parties' stipulation in Issue 4A discusses FPL's preconstruction costs. The Commission approved the following stipulation at the September 2008 hearing:

The timing of the Turkey Point 6 & 7 need determination order prevented FPL from filing for recovery of site selection costs and preconstruction costs for that project by March 1, as contemplated for previous year true-ups under Rule 25-6.0423, F.A.C. To refuse to allow FPL to begin collecting these costs in 2009 could result in even higher charges to customers in 2010; however, the post March 1 filing date shortens the time available for OPC and other parties to review and analyze the site selection and preconstruction costs in this proceeding that is envisioned by the rule, and shortens the time available to the Commission to conduct the prudence review set forth in subsections 25-6.0423(b)(c)(2) and (3) of the above rule. To resolve the issues created by the timing of FPL's request, OPC and FPL agree that FPL may include those site selection and preconstruction costs in the calculation of the nuclear cost recovery amount that is to be recovered through the 2009 capacity cost recovery factor, and further agree that any finding as to the prudence of the costs and/or determination that certain

costs should be disallowed will be deferred until the 2009 nuclear cost recovery cycle. (emphasis added)

OPC's position on this issue covers the same subject matter as prior issues. Staff believes recommendations on prior issues have thoroughly addressed the matter and there is no need to repeat the analysis again (See Issues 2A, 6A, and 6C). Staff recommends that decisions on prior issues regarding OPC's arguments regarding the Turkey Point Units 6 & 7 project be consistently implemented.

FPL's projected 2009 preconstruction expenses are \$110,000,000 system (\$109,540,915 jurisdictional). (EX 22) FPL did not project non-cash adjustments for 2009 preconstruction costs. The projected costs were made using FPL's planning and budgetary project management system and procedures. (TR 444)

Based on the forgoing, staff recommends the Commission approve as reasonable the amount of \$110,000,000 system (\$109,540,915 jurisdictional) as FPL's 2009 projected preconstruction costs for the Turkey Point Units 6 & 7 project.

Issue 10B: What total amount should the Commission approve as FPL's 2009 projected costs to be recovered for the Turkey Point Units 6 & 7 project?

Recommendation: The Commission should approve as reasonable the amount of \$117,394,778 as the total 2009 projected costs to be recovered for the Turkey Point Units 6 & 7 project. (Breman, Laux)

Position of the Parties

FPL: The Commission should approve reasonable site selection related carrying costs of \$509,050, pre-construction costs of \$109,540,915 and pre-construction related carrying costs of \$7,344,813 (total \$117,394,778) as the total amount of FPL's 2009 projected costs for the Turkey Point Units 6 & 7 project to be recovered during 2009. These costs, including single or sole source contracts, have been shown to be reasonable.

AARP: Same as OPC.

FIPUG: No position.

OPC: FPL frequently relied on single source or sole source contracts instead of competitive bidding, without sufficient justification. FPL also failed to demonstrate the resulting costs were reasonable. The Commission should disallow the return that FPL seeks to earn on the single largest such contract. Alternatively, the Commission should retain jurisdiction over the costs of the contract's costs and require FPL to demonstrate the costs were reasonable. At a minimum, the Commission should place FPL on notice that the Commission will require a more rigorous demonstration that competitive bidding is infeasible, and that the costs of a single or sole source contract are reasonable.

Staff Analysis: This issue is a summary issue addressing the appropriate recoverable amount for FPL's 2009 Turkey Point Units 6 & 7 project. The parties' stipulation in Issue 4A discusses treatment of FPL's petition. The Commission approved the following stipulation at the September 2008 hearing:

The timing of the Turkey Point 6 & 7 need determination order prevented FPL from filing for recovery of site selection costs and preconstruction costs for that project by March 1, as contemplated for previous year true-ups under Rule 25-6.0423, F.A.C. To refuse to allow FPL to begin collecting these costs in 2009 could result in even higher charges to customers in 2010; however, the post March 1 filing date shortens the time available for OPC and other parties to review and analyze the site selection and preconstruction costs in this proceeding that is envisioned by the rule, and shortens the time available to the Commission to conduct the prudence review set forth in subsections 25-6.0423(b)(c)(2) and (3) of the above rule. To resolve the issues created by the timing of FPL's request, OPC and FPL agree that FPL may include those site selection and preconstruction costs in the calculation of the nuclear cost recovery amount that is to be recovered through the 2009 capacity cost recovery factor, and further agree that any finding

as to the prudence of the costs and/or determination that certain costs should be disallowed will be deferred until the 2009 nuclear cost recovery cycle.

OPC's position on this issue covers the same subject matter as prior issues. Staff believes the recommendations on prior issues have thoroughly addressed the matter and there is no need to repeat the analysis again (See Issues 2A, 6A, and 6C). Staff recommends that decisions on prior issues regarding OPC's arguments regarding the Turkey Point Units 6 & 7 project be consistently implemented.

As discussed in Issues 8A and 8B, at hearing FPL confirmed a \$35,000,000 reduction in its preconstruction expense in the last quarter of 2008. The reduction in 2008 preconstruction expense results in a decrease of the 2009 carrying charges for AFUDC and a decrease in the DTA carrying costs. These carrying costs are calculated using the unrecovered preconstruction balance from the prior year. The change is a reduction of \$2,562,791 for 2009. As stated in Issue 8B, site selection AFUDC carrying charges accrue because site selection costs were not yet recovered. Staff performed these calculations using Exhibit 22, 23, and 43. The following table is a summary of all recoverable amounts for 2009 for the Turkey Point Units 6 & 7 project.

	Pre-Filed	Updated	Change
Preconstruction Expense	\$109,540,915	\$109,540,915	\$0
Carrying charges-AFUDC	\$5,832,149	\$3,975,003	\$-1,857,146
Carrying costs -DTA	\$4,075,455	3,369,810	\$-705,645
Site Selection-AFUDC	\$509,050	\$509,050	0
Total	\$119,957,569	\$117,394,778	\$-2,562,791

Based on the forgoing, staff recommends the Commission approve as reasonable the amount of \$117,394,778 as FPL's total 2009 total costs for the Turkey Point Units 6 & 7 project.

Issue 12: What total amount should the Commission approve for the Nuclear Cost Recovery Clause to be included in establishing FPL’s 2009 Capacity Cost Recovery Clause factor?

Recommendation: The Commission should approve \$220,529,243 as the total amount to be included in establishing FPL’s 2009 Capacity Cost Recovery Clause factor. A determination of prudence should be deferred until the 2009 nuclear cost recovery cycle consistent with the parties’ stipulation. (Breman, Laux)

Position of the Parties

FPL: The Commission should approve the total amount of \$220,529,243 for the Nuclear Cost Recovery Clause to be included in establishing FPL’s 2009 Capacity Cost Recovery Clause Factor.

AARP: Same as OPC.

FIPUG: No position.

OPC: The amount should reflect adjustments made in consideration of OPC’s assertions regarding contracting practices.

Staff Analysis: This is a summary issue based on the resolution of all other issues. Based on staff’s recommendations in all other issues, staff recommends the Commission approve \$220,529,243 as FPL’s total amount to be included in establishing FPL’s 2009 Capacity Cost Recovery Clause factor. The following table is a summary of the amounts by activity:

Activity	Total Amount	Issues
EPU Project-Carrying charges on Construction Costs	\$20,286,023	6E, 8E, 10E
Turkey Point 6 & 7-Site Selection Costs and Carrying charges	\$7,771,698	4B, 8B, 10B
Turkey Point 6 & 7-Preconstruction Expenses and Carrying charges	\$192,471,520	6B, 8B, 10B
Total for FPL’s 2009 Capacity Cost Recovery Clause Factor*	\$220,529,243	12

*Totals do not sum due to rounding.

FULLY STIPULATED ISSUES

ISSUE 1D: Should a utility be required to inform the Commission of any change in ownership or control of any asset which was afforded cost recovery under the Nuclear Cost Recovery Clause?

FULLY STIPULATED POSITION: Yes, timely notification to the Commission and parties to the NCRC docket at the time of filing the notice will allow the Commission to make any required adjustments within or outside of the Nuclear Cost Recovery Clause. Staff will conduct workshops on the administrative procedures to be used by the Commission to make such adjustments.

ISSUE 4A: Should the Commission grant FPL's request to include the review and approval for recovery through the Nuclear Cost Recovery Clause of prudently incurred site selection costs for the Turkey Point Unit 6 & 7 project?

FULLY STIPULATED POSITION: Yes. The timing of the Turkey Point 6 & 7 need determination order prevented FPL from filing for recovery of 2007 site selection costs and preconstruction costs for that project by March 1, as contemplated for previous year true-ups under Rule 25-6.0423, F.A.C. To refuse to allow FPL to begin collecting these costs in 2009 could result in even higher charges to customers in 2010; however, the post March 1 filing date shortens the time available for OPC and other parties to review and analyze the site selection and preconstruction costs in this proceeding that is envisioned by the rule, and shortens the time available to the Commission to conduct the prudence review set forth in subsections 25-6.0423(b)(c)(2) and (3) of the above rule. To resolve the issues created by the timing of FPL's request, OPC and FPL agree that FPL may include those site selection and preconstruction costs in the calculation of the nuclear cost recovery amount that is to be recovered through the 2009 capacity cost recovery factor, and further agree that any finding as to the prudence of the costs and/or determination that certain costs should be disallowed will be deferred until the 2009 nuclear cost recovery cycle.

ISSUE 5A: Should the Commission grant PEF's request to include the review and approval for recovery through the Nuclear Cost Recovery Clause of prudently incurred site selection costs for the Levy Units 1 & 2 project?

FULLY STIPULATED POSITION: Yes. OPC and PEF agree that the following categories of costs: O&M, return on accumulated deferred tax asset (liability), site selection, pre-construction, construction, and calculation of carrying costs in PEF's NFRs, may be included in the calculation of the nuclear cost recovery amount to be recovered through the 2009 capacity cost recovery factor subject to the deferral of any finding as to the prudence of those costs until the 2009 nuclear cost recovery cycle, notwithstanding the language of subsection 25-6.0423(5)(c)3 of the Rule that such costs "shall not be subject to disallowance or further prudence review." OPC and PEF further agree that PEF's site selection costs will be recovered through the nuclear cost recovery clause in the same manner as pre-construction costs are recovered in Rule 25-6.0423(5)(a)Issue 5A

ISSUE 6E: What total amount should the Commission approve as FPL's final 2007 true-up to be recovered for the EPU project?

FULLY STIPULATED POSITION: As stated in its position on Issue 6D, FPL did not accrue carrying charges on construction costs during 2007. Therefore, there are no costs to be recovered.

ISSUE 6F: Has FPL demonstrated that the uprate costs it seeks to recover in this docket are separate and apart from those it would incur in conjunction with providing safe and reliable service, had there been no uprate project?

FULLY STIPULATED POSITION: OPC and FPL stipulate that as it applies to nuclear uprate projects, the NCRC should be limited to those costs that are separate and apart from nuclear costs that would have been necessary to provide safe and reliable service had there been no uprate project. OPC and FPL will work with PSC Staff to develop an NFR form for use in the 2009 hearing cycle that specifies the information that a utility will provide in support of its request, that the uprate costs in its NCRC filing are separate and apart from costs that would have been necessary to provide safe and reliable service without the uprate. For the purposes of the 2008 NCRC hearings, OPC will not challenge the prudence of FPL's 2007 uprate costs on the "separate and apart" issue. OPC's position for the 2007 uprate costs, however, does not prevent OPC from raising the "separate and apart" issue for any FPL uprate costs incurred subsequent to 2007.

ISSUE 7A: What amount should the Commission approve as PEF's final 2007 true-up of prudently incurred preconstruction costs for the Levy Units 1 & 2 project?

FULLY STIPULATED POSITION: There are no 2007 preconstruction costs for PEF's Levy Units 1 & 2 project.

ISSUE 7H: Has PEF demonstrated that the uprate costs it seeks to recover in this docket are separate and apart from those it would incur in conjunction with providing safe and reliable service, had there been no uprate project?

FULLY STIPULATED POSITION: OPC and PEF stipulate that as it applies to nuclear uprate projects, the NCRC should be limited to those costs that are separate and apart from nuclear costs that would have been necessary to provide safe and reliable service had there been no uprate project. OPC and PEF will work with PSC Staff to develop an NFR form for use in the 2009 hearing cycle that specifies the information that a utility will provide in support of its request, that the uprate costs in its NCRC filing are separate and apart from costs that would have been necessary to provide safe and reliable service without the uprate. For the purposes of the 2008 NCRC hearings OPC will not challenge the prudence of PEF's 2006 and 2007 CR3 Uprate costs on the "separate and apart" issue. OPC's position for the 2006 and 2007 CR3 Uprate costs, however, does not prevent OPC from raising the "separate and apart" issue for any CR3 Uprate costs incurred subsequent to 2007.

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Attachment A
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ISSUE 14: Should Docket No. 080149-EI, be closed?

FULLY STIPULATED POSITION: Yes.

PARTIALLY STIPULATED ISSUES

ISSUE 2A: Should the Commission find that for the year 2007, FPL's project management, contracting, and oversight controls were reasonable and prudent for the Turkey Point 6 & 7 project and for the Extended Power Uprate (EPU) project?

PARTIALLY STIPULATED POSITION: The timing of the Turkey Point 6 & 7 need determination order prevented FPL from filing for recovery of 2007 site selection costs and preconstruction costs for that project by March 1, as contemplated for previous year true-ups under Rule 25-6.0423, F.A.C. To refuse to allow FPL to begin collecting these costs in 2009 could result in even higher charges to customers in 2010; however, the post March 1 filing date shortens the time available for OPC and other parties to review and analyze the site selection and preconstruction costs in this proceeding that is envisioned by the rule, and shortens the time available to the Commission to conduct the prudence review set forth in subsections 25-6.0423(b)(c)(2) and (3) of the above rule. To resolve the issues created by the timing of FPL's request, OPC and FPL agree that FPL may include those site selection and preconstruction costs in the calculation of the nuclear cost recovery amount that is to be recovered through the 2009 capacity cost recovery factor, and further agree that any finding as to the prudence of the costs and/or determination that certain costs should be disallowed will be deferred until the 2009 nuclear cost recovery cycle.

ISSUE 2B: Should the Commission find that for the year 2007, FPL's accounting and costs oversight controls were reasonable and prudent for the Turkey Point 6 & 7 project and for the EPU project?

PARTIALLY STIPULATED POSITION: The timing of the Turkey Point 6 & 7 need determination order prevented FPL from filing for recovery of 2007 site selection costs and preconstruction costs for that project by March 1, as contemplated for previous year true-ups under Rule 25-6.0423, F.A.C. To refuse to allow FPL to begin collecting these costs in 2009 could result in even higher charges to customers in 2010; however, the post March 1 filing date shortens the time available for OPC and other parties to review and analyze the site selection and preconstruction costs in this proceeding that is envisioned by the rule, and shortens the time available to the Commission to conduct the prudence review set forth in subsections 25-6.0423(b)(c)(2) and (3) of the above rule. To resolve the issues created by the timing of FPL's request, OPC and FPL agree that FPL may include those site selection and preconstruction costs in the calculation of the nuclear cost recovery amount that is to be recovered through the 2009 capacity cost recovery factor, and further agree that any finding as to the prudence of the costs and/or determination that certain costs should be disallowed will be deferred until the 2009 nuclear cost recovery cycle.

ISSUE 3B: Should the Commission find that for the year 2007, PEF's accounting and costs oversight controls were reasonable and prudent for Levy Units 1 & 2 project and the Crystal River 3 Uprate project?

PARTIALLY STIPULATED POSITION: Commission staff witness Jeffery Small provided testimony offering alternatives to the method PEF witness Will Garrett used in valuing the Lybass parcel of land used for Levy Units 1 & 2. Staff and PEF agree that the consideration of alternative methods is appropriately considered during a prudence review. If the Commission approves the stipulation between PEF and OPC then the testimony of witness Jeffery Small should also be considered at the time of the prudence review. The Commission may include the costs as calculated by Will Garrett as reasonable in the 2008 proceeding. PEF agrees that should the Commission find that PEF's method for valuing the Lybass parcel used for Levy Units 1 & 2 is imprudent, then PEF will refund that amount deemed imprudent.

ISSUE 6A: What amount should the Commission approve as FPL's final 2007 true-up of prudently incurred preconstruction costs for the Turkey Point Units 6 & 7 project?

PARTIALLY STIPULATED POSITION: The timing of the Turkey Point 6 & 7 need determination order prevented FPL from filing for recovery of 2007 site selection costs and preconstruction costs for that project by March 1, as contemplated for previous year true-ups under Rule 25-6.0423, F.A.C. To refuse to allow FPL to begin collecting these costs in 2009 could result in even higher charges to customers in 2010; however, the post March 1 filing date shortens the time available for OPC and other parties to review and analyze the site selection and preconstruction costs in this proceeding that is envisioned by the rule, and shortens the time available to the Commission to conduct the prudence review set forth in subsections 25-6.0423(b)(c)(2) and (3) of the above rule. To resolve the issues created by the timing of FPL's request, OPC and FPL agree that FPL may include those site selection and preconstruction costs in the calculation of the nuclear cost recovery amount that is to be recovered through the 2009 capacity cost recovery factor, and further agree that any finding as to the prudence of the costs and/or determination that certain costs should be disallowed will be deferred until the 2009 nuclear cost recovery cycle.

ISSUE 6B: What total amount should the Commission approve as FPL's final 2007 true-up to be recovered for the Turkey Point Units 6 & 7 project?

PARTIALLY STIPULATED POSITION: The timing of the Turkey Point 6 & 7 need determination order prevented FPL from filing for recovery of 2007 site selection costs and preconstruction costs for that project by March 1, as contemplated for previous year true-ups under Rule 25-6.0423, F.A.C. To refuse to allow FPL to begin collecting these costs in 2009 could result in even higher charges to customers in 2010; however, the post March 1 filing date shortens the time available for OPC and other parties to review and analyze the site selection and preconstruction costs in this proceeding that is envisioned by the rule, and shortens the time available to the Commission to conduct the prudence review set forth in subsections 25-6.0423(b)(c)(2) and (3) of the above rule. To resolve the issues created by the timing of FPL's request, OPC and FPL agree that FPL may include those site selection and preconstruction costs in the calculation of the nuclear cost recovery amount that is to be recovered through the 2009

capacity cost recovery factor, and further agree that any finding as to the prudence of the costs and/or determination that certain costs should be disallowed will be deferred until the 2009 nuclear cost recovery cycle.