

**MINUTES OF October 24, 2011
SPECIAL COMMISSION CONFERENCE**

COMMENCED: 9:36 am
RECESSED: 10:46 am
RECONVENED: 10:52 am
RECESSED: 11:38 am
RECONVENED: 11:53 am
ADJOURNED: 12:19 pm

COMMISSIONERS PARTICIPATING: Chairman Graham
Commissioner Edgar
Commissioner Brisé
Commissioner Balbis
Commissioner Brown

Parties were allowed to address the Commission on items designated by double asterisks (**).

1 **Docket No. 110009-EI** – Nuclear cost recovery clause.

Critical Date(s): None

Commissioners Assigned: All Commissioners
Prehearing Officer: Brisé

Staff: ECR: Breman, Dowds, Laux
GCL: Young
RAD: Garl, Ellis

(Participation is Limited to Commissioners and Staff.)

Issue 1: Should any FPL 2010 Nuclear Cost Recovery Clause rate-case type expense be disallowed from recovery?

Recommendation: No 2010 Nuclear Cost Recovery Clause rate-case type expense should be disallowed from recovery.

DECISION: The recommendation was approved.

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Issue 2: Do FPL’s activities through 2010 related to Turkey Point Units 6 & 7 qualify as “siting, design, licensing, and construction” of a nuclear power plant as contemplated by Section 366.93, F.S.? [LEGAL]

Recommendation: Yes. Staff recommends that the Commission find that FPL’s activities related to Turkey Point Units 6 & 7 qualify as “siting, design, licensing, and construction” of a nuclear power plant as contemplated by Section 366.93, F.S, because these activities satisfy the statutory definition of preconstruction costs.

DECISION: The recommendation was approved.

Issue 3: Should the Commission approve what FPL has submitted as its 2010 and 2011 annual detailed analyses of the long-term feasibility of completing the Turkey Point 6 & 7 project, as provided for in Rule 25-6.0423, F.A.C? If not, what action, if any, should the Commission take?

Recommendation: Yes. A preponderance of the evidence shows FPL fully considered the economic, regulatory, technical, funding, and joint ownership considerations impacting the feasibility of the project. While continuing uncertainty exists in virtually all these areas, the Turkey Point 6 & 7 project continues to appear feasible at this time.

DECISION: The recommendation was approved.

Issue 3A: Was FPL’s 2010 decision to continue pursuing a Combined Operating License from the Nuclear Regulatory Commission for Turkey Point Units 6 & 7 reasonable? If not, what action, if any, should the Commission take?

Recommendation: Staff recommends the Commission find that FPL’s continued pursuit of the TP67 COL was reasonable because it affords FPL the opportunity to continue forward with the TP67 project consistent with staff’s recommendation in Issue 3.

DECISION: The recommendation was approved.

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Issue 4: What is the current total estimated all-inclusive cost (including AFUDC and sunk costs) of the proposed Turkey Point Units 6 & 7 nuclear project?

Recommendation: The Commission should accept FPL's estimated range of \$3,483/kW (\$12.9 billion) to \$5,063/kW (\$18.8 billion) as the cost of the Turkey Point 6 & 7 project.

DECISION: The recommendation was approved with oral modification discussed at the Special Commission Conference

Issue 5: What is the current estimated planned commercial operation date of the planned Turkey Point Units 6 & 7 nuclear facility?

Recommendation: The Commission should accept FPL's estimated commercial operations dates of 2022 and 2023 for Turkey Point Units 6 & 7, respectively.

DECISION: The recommendation was approved, as discussed at the Special Commission Conference.

Issue 6: Should the Commission find that for years 2009 and 2010 FPL's project management, contracting, accounting and cost oversight controls were reasonable and prudent for the Turkey Point Units 6 & 7 project?

Recommendation: Yes. Staff recommends the Commission find that project management, contracting, accounting and cost oversight controls employed by FPL during 2009 and 2010 for the TP67 project were reasonable and prudent.

DECISION: The recommendation was approved.

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Issue 7: What system and jurisdictional amounts should the Commission approve as FPL's final 2009 and 2010 prudently incurred costs and final true-up amounts for the Turkey Point Units 6 & 7 project?

Recommendation: For 2009, staff recommends the Commission approve as prudently incurred TP67 project Capital Costs of \$37,731,525 (\$37,599,045 jurisdictional). The final 2009 true-up amount, net of prior recoveries, is negative \$10,648,277 and will be fully refunded during 2011. No further action is required regarding FPL's 2009 incurred costs. For 2010, staff recommends that the Commission approve as prudently incurred TP67 project Capital Costs of \$25,590,147 (\$25,287,720 jurisdictional). The final 2010 true-up amount, net of prior recoveries, is negative \$17,953,665 and should be used in determining the net total 2012 NCRC recovery amount.

DECISION: The recommendation was approved.

Issue 8: What system and jurisdictional amounts should the Commission approve as reasonably estimated 2011 costs and estimated true-up amounts for FPL's Turkey Point Units 6 & 7 project?

Recommendation: Staff recommends that the Commission approve as reasonably estimated 2011 TP67 project Capital Costs of \$37,955,536 (\$37,506,973 jurisdictional). The estimated 2011 true-up amount of \$5,383,897, net of prior recoveries, should be used in determining the net total 2012 NCRC recovery amount.

DECISION: The recommendation was approved with oral modification discussed at the Special Commission Conference.

Issue 9: What system and jurisdictional amounts should the Commission approve as reasonably projected 2012 costs for FPL's Turkey Point Units 6 & 7 project?

Recommendation: Staff recommends that the Commission approve as reasonably projected 2012 TP67 project Capital Costs of \$31,393,088 (\$31,022,080 jurisdictional). The projected 2012 amount of \$36,823,261 should be used in determining the net NCRC recovery amount.

DECISION: The recommendation was approved.

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Issue 10: Should the Commission approve what FPL has submitted as its 2010 and 2011 annual detailed analyses of the long-term feasibility of completing the EPU project, as provided for in Rule 25-6.0423, F.A.C? If not, what action, if any, should the Commission take?

Recommendation: Yes. The EPU project is estimated to save \$155 million to \$1,508 million.

DECISION: The recommendation was approved.

Issue 11: Should the Commission find that for the years 2009 and 2010 FPL's project management, contracting, accounting and cost oversight controls were reasonable and prudent for the EPU project?

Recommendation: Yes. Staff recommends the Commission find that project management, contracting, accounting and cost oversight controls employed by FPL during 2009 and 2010 for the EPU project were reasonable and prudent. The Commission should also find that FPL's fast track management decisions were prudent. Additionally, staff recommends the Commission not adopt OPC witnesses Smith and Jacobs' breakeven analysis for purposes of setting rate base.

DECISION: The recommendation was approved.

Issue 12: What system and jurisdictional amounts should the Commission approve as FPL's final 2009 and 2010 prudently incurred costs and final true-up amounts for the EPU project?

Recommendation: For 2009, staff recommends that the Commission approve as prudently incurred, EPU project capital costs of \$237,677,629 (\$236,605,950 jurisdictional net of joint owners and other adjustments) and O&M costs of \$498,077 (\$480,934 jurisdictional net of joint owners). The final 2009 true-up amount, net of prior recoveries, is negative \$3,971,698, and will be fully refunded during 2011. No further action should be required regarding FPL's 2009 incurred costs.

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For 2010, staff recommends that the Commission approve as prudently incurred EPU project capital costs of \$309,982,999 (\$289,147,514 jurisdictional net of joint owners and other adjustments) and O&M costs of \$7,176,395 (\$7,061,419 jurisdictional net of joint owners). The recommended final 2010 true-up amount, net of prior recoveries, is \$1,531,532, and should be used in determining the net total 2012 NCRC recovery amount.

DECISION: The recommendation was approved with oral modification discussed at the Special Commission Conference

Issue 13: What system and jurisdictional amounts should the Commission approve as reasonably estimated 2011 costs and estimated true-up amounts for FPL's EPU project?

Recommendation: Staff recommends that the Commission approve as reasonable estimates of 2011 costs of \$587,845,328 (\$558,520,431 jurisdictional) for EPU project Capital Costs, and \$12,721,405 (\$12,263,818 jurisdictional net of joint owner and other adjustments) for O&M Costs. The estimated 2011 true-up amount of \$17,387,377 should be used in determining the net total 2012 NCRC recovery amount.

DECISION: The recommendation was approved with oral modification discussed at the Special Commission Conference

Issue 14: What system and jurisdictional amounts should the Commission approve as reasonably projected 2012 costs for FPL's EPU project?

Recommendation: Staff recommends that the Commission approve as reasonably projected 2012 costs of \$736,198,427 (\$701,018,839 jurisdictional) for EPU project Capital Costs, and \$5,626,844 (\$5,461,197 jurisdictional net of joint owner and other adjustments) for O&M Costs. The projected 2012 amount of \$152,916,422 should be used in determining the net total 2012 NCRC recovery amount.

DECISION: The recommendation was approved.

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Issue 15A: Did FPL willfully withhold information concerning the estimated capital costs of its EPU project and its related long-term study of the feasibility of the EPU project that is required by Rule 25-6.0423, F.A.C., and that the Commission needed to make an informed decision at the time of the September 2009 hearing in Docket No. 090009-EI?

Recommendation: No. Staff recommends that the Commission find that FPL did not willfully withhold information concerning the estimated capital costs and its related long-term feasibility of the EPU project that is required by Rule 25-6.0423, F.A.C., and that no information was withheld that the Commission needed to make informed decisions at the time of the September 2009 hearing. Staff recommends that FPL continue to provide to the Commission validated, reliable updates of total project cost estimates as they are available.

DECISION: The recommendation was approved.

Issue 15B: If the answer is yes, does the Commission possess statutory and regulatory authority with which to address FPL's withholding of information?

Recommendation: This is a fallout issue. Based on staff's recommendation on Issue 15A, this issue is moot.

DECISION: There was no vote on this issue. Since Issue No. 15A was approved, this issue is moot.

Issue 15C: In light of the determinations in Issues 15A and 15B, what action, if any, should the Commission take?

Recommendation: This is a fallout issue. Based on staff's recommendation on Issue 15A and 15B, this issue is moot.

DECISION: There was no vote on this issue. Since Issue No. 15A was approved, this issue is moot.

Issue 19: What is the total jurisdictional amount to be included in establishing FPL's 2012 Capacity Cost Recovery Clause factor?

Recommendation: Staff recommends the Commission approve a total jurisdictional amount of \$196,088,824 for the net total 2012 NCRC recovery amount. This amount should be used in establishing FPL's 2012 Capacity Cost Recovery Clause factor.

DECISION: The recommendation was approved.

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Issue 20: Should the Commission approve what PEF has submitted as its 2011 annual detailed analysis of the long-term feasibility of completing the Levy Units 1 & 2 project, as provided for in Rule 25-6.0423, F.A.C? If not, what action, if any, should the Commission take?

Recommendation: Yes. PEF presented evidence that it examined economic, regulatory, and technical factors impacting the long-term feasibility of the LNP that demonstrates that the project remains feasible. In addition, PEF provided updated fuel and environmental forecasts, as well as an updated project cost estimate requested by the Commission.

DECISION: The recommendation was approved.

Issue 21: What is the total estimated all-inclusive cost (including AFUDC and sunk costs) of the proposed Levy Units 1 & 2 nuclear project?

Recommendation: The Commission should accept PEF's estimated cost of approximately \$22.5 billion (\$7,675/kW), for the LNP.

DECISION: The recommendation was approved.

Issue 22: What is the estimated planned commercial operation date of the planned Levy Units 1 & 2 nuclear facility?

Recommendation: The Commission should accept PEF's estimated commercial operation date of 2021 and 2022 for LNP, respectively.

DECISION: The recommendation was approved.

Issue 23: Do PEF's activities to date related to Levy Units 1 & 2 qualify as "siting, design, licensing, and construction" of a nuclear power plant as contemplated by Section 366.93, F.S.?

Recommendation: Yes. Staff recommends the Commission find PEF's activities to date continue to demonstrate PEF's intent to build the LNP as contemplated by Section 366.93, F.S.

DECISION: The recommendation was approved.

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Issue 24: Should the Commission find that for the year 2010, PEF's project management, contracting, accounting and cost oversight controls were reasonable and prudent for the Levy Units 1 & 2 project? If not, what action, if any, should the Commission take?

Recommendation: Yes. Staff recommends the Commission find that project management, contracting, accounting and cost oversight controls employed by PEF for the LNP during 2010 were reasonable and prudent.

DECISION: The recommendation was approved.

Issue 25: What system and jurisdictional amounts should the Commission approve as PEF's final 2010 prudently incurred costs and final true-up amounts for the Levy Units 1 & 2 project?

Recommendation: Staff recommends the Commission approve the following amounts as prudently incurred 2010 LNP costs: Capital Costs of \$ [REDACTED] (\$79,917,103 jurisdictional), O&M expenses of \$2,877,079 (\$2,496,726 jurisdictional), Carrying Costs of \$49,280,391, and a credit to other adjustments in the amount of \$5,302. The resulting final 2010 true-up amount of negative \$60,743,424 should be used in determining the 2012 NCRC recovery amount.

DECISION: The recommendation was approved.

Issue 27A: Is it reasonable for PEF to incur any estimated 2011 costs not necessary for receipt of the combined operating license (COL), and if not, what action, if any, should the Commission take?

Recommendation: Yes. Staff recommends the Commission find that it is reasonable for PEF to incur estimated 2011 LNP costs which are not directly necessary for receipt of the combined operating license for the LNP.

DECISION: The recommendation was approved.

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Issue 27B: What system and jurisdictional amounts should the Commission approve as reasonable actual/estimated 2011 costs and estimated true-up amounts for PEF's Levy Units 1 & 2 project?

Recommendation: Staff recommends the Commission approve as reasonable the following LNP actual/estimated 2011 costs: Capital Costs of \$ [REDACTED] (\$72,747,008 jurisdictional), O&M Costs of \$1,557,765 (\$1,414,573 jurisdictional) and Carrying Costs of \$48,372,525. The Commission should also approve as reasonable an estimated true-up of 2011 LNP costs of a \$5,775,217 under-recovery for use in determining the 2012 NCRC recovery amount.

DECISION: The recommendation was approved.

Issue 28A: Is it reasonable for PEF to incur any projected 2012 costs not necessary for receipt of the combined operating license (COL), and if not, what action, if any, should the Commission take?

Recommendation: Yes. Staff recommends the Commission find it is reasonable for PEF to incur projected 2012 LNP costs which are not directly necessary for receipt of the combined operating license for the Levy project.

DECISION: The recommendation was approved.

Issue 28B: What system and jurisdictional amounts should the Commission approve as reasonably projected 2012 costs for PEF's Levy Units 1 & 2 project?

Recommendation: Staff recommends the Commission approve as reasonable the following LNP projected 2012 costs: Capital Costs of \$ [REDACTED] (\$39,583,863 jurisdictional), O&M expenses of \$1,545,388 (\$1,405,073 jurisdictional) and Carrying Costs of \$48,466,132. Further, staff recommends the Commission approve \$75,324,920 as reasonably projected LNP costs for use in determining the 2012 NCRC recovery amount.

DECISION: The recommendation was approved.

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Issue 36: What amount from the deferred balance of the Rate Management Plan approved in Order No. PSC-09-0783-FOF-EI should the Commission approve for recovery in 2012?

Recommendation: Staff recommends the Commission approve the withdrawal of approximately \$115 million from the RMP deferred balance, and \$15.1 million in associated carrying costs for inclusion in the 2012 NCRC recovery factor.

DECISION: The recommendation was denied and the Commission voted to approve OPC's position on this issue.

Issue 37: What is the total jurisdictional amount to be included in establishing PEF's 2012 Capacity Cost Recovery Clause factor?

Recommendation: Staff recommends the Commission approve a total jurisdictional amount of \$140,919,397 for the 2012 NCRC recovery amount. This amount should be used in establishing PEF's 2012 Capacity Cost Recovery Clause factor.

DECISION: The recommendation was approved, with direction for staff to make the necessary adjustments, in light of the decision made on Item No. 36.

Commissioners participating: Graham, Edgar, Brisé, Balbis, Brown