

MINUTES OF October 16, 2009
COMMISSION CONFERENCE
COMMENCED: 9:30 am
RECESSED: 9:58 am
RECONVENED: 10:13 am
RECESSED: 11:12 am
RECONVENED: 11:35 am
ADJOURNED: 1:40 pm

COMMISSIONERS PARTICIPATING: Chairman Carter
Commissioner Edgar
Commissioner Argenziano
Commissioner Skop

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

1 **Docket No. 090009-EI** – Nuclear cost recovery clause.

Critical Date(s): None

Commissioners Assigned: All Commissioners
Prehearing Officer: Pending

Staff: ECR: Breman, Hinton, Laux, Slemkewicz
GCL: Young, Bennett, Williams
SGA: Graves

Issue 2: When a utility elects to defer recovery of some or all of the costs that the Commission approves for recovery through the Capacity Cost Recovery Clause, what carrying charge should accrue on the deferred balance?

Recommendation: Staff recommends that the applicable carrying charge rate on an NCRC regulatory asset that has been deferred from recovery is the pretax AFUDC rate in effect June 12, 2007, as set forth in Rule 25-6.0423, F.A.C. For qualifying projects for which need petitions are submitted after December 31, 2010, the utility's existing pretax AFUDC rate should be used.

DECISION: The recommendation was approved.

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Issue 3: Should FPL and PEF be permitted to record in rate base the incremental difference between Allowance for Funds Used During Construction (AFUDC) permitted by Section 366.93, F.S. and their respective most currently approved AFUDC, for recovery when the nuclear plant enters commercial operation?

Recommendation: No. Staff recommends that utilities not be permitted to record in rate base the incremental difference between carrying costs established in Section 366.93, F.S., and their respective most currently approved AFUDC rate applicable to all other projects, for recovery when the nuclear plant enters commercial operation. Staff recommends the Commission find that Section 366.93, F.S., establishes a fixed project carrying cost to be applied to all nuclear construction projects with need petitions filed prior to December 31, 2010.

DECISION: The recommendation was approved.

Issue 7: Should the Commission find that for the year 2008, FPL's project management, contracting, and oversight controls were reasonable and prudent for the Turkey Point Units 6 & 7 project and the Extended Power Uprate project?

Recommendation: Staff recommends the Commission find FPL's 2008 project management, contracting, and oversight controls were reasonable and prudent for the EPU project and for the TP67 project. FPL's approach to TP67 project EPC contract management is addressed separately in Issue 7A. The feasibility of continuing FPL's TP67 project and FPL's supporting feasibility analysis are addressed in Issue 8.

DECISION: The recommendation was approved. Commissioner Argenziano dissented.

Issue 7A: Is FPL's decision in 2008 to pursue an alternative to an Engineering Procurement Construction (EPC) contract for the Turkey Point 6 & 7 project prudent and reasonable?

Recommendation: Staff recommends that FPL's 2008 decision to create the potential for additional competitive opportunity through an EP/C contractual approach to the TP67 project was reasonable and prudent.

DECISION: The recommendation was approved. Commissioner Argenziano dissented.

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Issue 8: Should the Commission approve what FPL has submitted as its 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.?

Recommendation: Yes. Staff believes that the information and analysis submitted by FPL are sufficient and satisfactory for compliance with Rule 25-6.0423, F.A.C., and Order No. PSC-08-0237-FOF-EI regarding the annual detailed analysis of the long-term feasibility of Turkey Point 6 & 7 project. FPL should be required to file updated capital cost estimates in its next annual NCRC filing.

DECISION: The recommendation was approved. Commissioner Argenziano dissented.

Issue 8A: If the Commission does not approve FPL's long term feasibility analyses of Turkey Point 6 & 7, what further action, if any, should the Commission take?

Recommendation: If the Commission does not approve FPL's May 1, 2009 long-term feasibility analysis of Turkey Point 6 & 7, staff recommends that FPL address the Commission's concerns with the current filing in their May 1, 2010 testimony.

DECISION: Moot.

Issue 11: Are FPL's 2008 actual, 2009 actual/estimated and 2010 projected EPU project costs separate and apart from the nuclear costs that would have been necessary to provide safe and reliable service had there been no EPU project?

Recommendation: Staff recommends that the Commission find FPL's 2008 actual, 2009 actual/estimated and 2010 projected EPU project costs are separate and apart from the nuclear costs that would have been necessary to provide safe and reliable service had there been no EPU project.

DECISION: The recommendation was approved. Commissioner Argenziano dissented.

Issue 12: What system and jurisdictional amounts should the Commission approve as FPL's reasonable actual/estimated 2009 costs for the Extended Power Uprate project?

Recommendation: Staff recommends the Commission approve, as reasonable, actual/estimated 2009 EPU project construction costs in the amount of \$258,926,772 (\$252,317,529 jurisdictional), O&M expenses of \$568,000 (\$544,467 jurisdictional), carrying charges of \$20,297,390, and a base rate revenue requirement of \$83,460. The Commission should also approve an estimated 2009 EPU project true-up amount of \$4,372,298. These amounts include a \$191 adjustment to FPL's requested base rate revenue requirement.

DECISION: The recommendation was approved. Commissioner Argenziano dissented.

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Issue 13: What system and jurisdictional amounts should the Commission approve as FPL's reasonably projected 2010 costs for the Extended Power Uprate project?

Recommendation: Staff recommends the Commission approve, as reasonable, projected 2010 EPU project construction costs in the amount of \$391,614,248 (\$376,703,895 jurisdictional), O&M expenses of \$2,209,376 (\$2,147,983 jurisdictional), carrying charges of \$41,594,586, and a base rate revenue requirement of ~~\$15,887,677~~ \$15,877,677. The recommended 2010 recovery amount is \$59,620,246. These amounts include a \$113,427 adjustment to FPL's requested base rate revenue requirement.

DECISION: The recommendation was approved as modified by staff at the Conference. Commissioner Argenziano dissented.

Issue 16: What system and jurisdictional amounts should the Commission approve as reasonably estimated 2009 costs for FPL's Turkey Point Units 6 & 7 project?

Recommendation: Staff recommends the Commission approve, as reasonable, estimated 2009 TP67 project preconstruction costs of \$45,640,661 (\$45,444,468 jurisdictional), associated carrying charges of \$3,560,771, and carrying charges on unrecovered site selection costs of \$472,938. The Commission should also approve an estimated 2009 TP67 project true-up amount of negative \$67,916,601.

DECISION: The recommendation was approved. Commissioner Argenziano dissented.

Issue 17: What system and jurisdictional amounts should the Commission approve as reasonably projected 2010 costs for FPL's Turkey Point Units 6 & 7 project?

Recommendation: Staff recommends that the Commission approve, as reasonable, projected 2010 TP67 project preconstruction costs of \$91,730,615 (\$90,654,124 jurisdictional), preconstruction carrying charges of \$973,735, and carrying charges on unrecovered site selection costs of \$233,136. The recommended 2010 recovery amount is \$91,860,995.

DECISION: The recommendation was approved. Commissioner Argenziano dissented.

Issue 18: What is the total jurisdictional amount to be included in establishing FPL's 2010 Capacity Cost Recovery Clause factor?

Recommendation: Consistent with staff's recommendation on all prior issues, the Commission should approve \$62,676,366 to be included in establishing FPL's 2010 CCRC factor.

DECISION: The recommendation was approved. Commissioner Argenziano dissented.

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Issue 21: Should the Commission find that for the year 2008, PEF's project management, contracting, and oversight controls were reasonable and prudent for the Levy Units 1 & 2 project and the Crystal River Unit 3 Uprate project?

Recommendation: Staff recommends the Commission find that during 2008, PEF's project management, contracting, and oversight controls were reasonable and prudent for the Levy Units 1 & 2 and Crystal River Unit 3 Uprate projects.

DECISION: The recommendation was approved. Commissioner Argenziano dissented.

Issue 21A: Was it reasonable and prudent for PEF to execute its EPC contract at the end of 2008? If the Commission finds that this action was not reasonable and prudent, what actions, if any, should the Commission take?

Recommendation: Staff recommends the Commission find that the timing of PEF's decision to execute an EPC contract at the end of 2008 was reasonable. Staff also recommends the Commission not make a finding on PEF's prudence concerning the actual terms and conditions contained within its EPC contract.

DECISION: The recommendation was approved. Commissioner Argenziano dissented.

Issue 23: Should the Commission approve what PEF has submitted as its annual detailed analysis of the long-term feasibility of continuing construction and completing the Levy Units 1 & 2 project, as provided for in Rule 25-6.0423, F.A.C., and Order No. PSC-08-0518-FOF-EI (Determination of Need Order)?

Recommendation: Staff recommends the Commission deny approval of PEF's May 1, 2009 annual detailed analysis of the long-term feasibility of continuing construction and completing the Levy Units 1 & 2 project. However, PEF's responses to staff interrogatories provided the economic analysis necessary to comply with Rule 25-6.0423, F.A.C., and Order No. PSC-08-0518-FOF-EI. PEF should be required to file updated capital cost estimates in its next annual NCRC filing.

DECISION: The recommendation was approved. Commissioner Argenziano dissented.

Issue 23A: If the Commission does not approve PEF's long term feasibility analysis of Levy Units 1 & 2, what further action, if any, should the Commission take?

Recommendation: If PEF's 2009 detailed long-term feasibility analysis of the LNP project is not approved, staff recommends PEF be directed to file a 2010 detailed annual long-term feasibility analysis in its May 1, 2010 annual filings and testimony. The 2010 detailed long-term feasibility analysis should include updated assumptions and information, an economic analysis, and address the Commission's rationale for denial.

DECISION: Moot.

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Issue 23B: What further steps, if any, should the Commission require PEF to take regarding the Levy Units 1 & 2?

Recommendation: Staff recommends further Commission actions, in addition to those taken in Issues 23 and 23A, are not necessary regarding PEF's 2009 detailed long-term feasibility analysis of completing the LNP project.

DECISION: The recommendation was approved. Commissioner Argenziano dissented.

Issue 26: What system and jurisdictional amounts should the Commission approve as PEF's reasonably estimated 2009 costs for the Crystal River Unit 3 Uprate project?

Recommendation: Staff recommends the Commission approve, as reasonable, estimated 2009 Crystal River Unit 3 Uprate project construction costs in the amount of \$117,537,552 (\$84,322,605 jurisdictional), O&M expenses of ~~\$117,638~~ \$177,638 (\$772,528 jurisdictional), carrying charges of \$14,229,591, and a base rate revenue requirement of \$752,789. The Commission should also approve an estimated 2009 LNP project true-up amount of \$530,215.

DECISION: The recommendation was approved as modified by staff at the Conference. Commissioner Argenziano dissented.

Issue 30: What system and jurisdictional amounts should the Commission approve as reasonably estimated 2009 costs for PEF's Levy Units 1 & 2 project?

Recommendation: Staff recommends the Commission approve, as reasonable, estimated 2009 Levy Units 1 & 2 project construction costs of \$24,596,242 (\$17,235,584 jurisdictional), preconstruction costs of \$291,904,861 (\$262,362,852 jurisdictional), O&M expenses of \$5,513,853 (\$4,931,288 jurisdictional), and carry charges of \$22,278,969. The Commission should also approve, as reasonable, an estimated 2009 LNP project true-up amount of \$141,665,654.

DECISION: The recommendation was approved. Commissioner Argenziano dissented.

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Issue 31: What system and jurisdictional amounts should the Commission approve as reasonably projected 2010 costs for PEF's Levy Units 1 & 2 project?

Recommendation: Consistent with staff's recommendation in Issue 32 to approve PEF's proposed rate management plan, staff recommends the Commission approve, as reasonable, projected 2010 LNP project construction costs of \$64,796,549 (\$43,397,584 jurisdictional), preconstruction costs of \$123,752,490 (\$106,122,607 jurisdictional), O&M expenses of \$5,201,011 (\$4,433,053 jurisdictional), and carrying costs of \$53,620,827. The Commission should also approve the projected 2010 LNP recovery amount of \$164,176,487 for use in fall-out Issue 32A.

DECISION: The recommendation was approved. Commissioner Argenziano dissented.

Issue 32: Should the Commission approve PEF's alternative cost recovery proposal, as set forth in PEF's Petition and supporting Testimony, as to recovery of NCRC costs?

Recommendation: Yes. Staff recommends the Commission approve a rate management plan whereby PEF will be permitted to defer recovery of certain approved site selection and preconstruction costs and then collect those costs during subsequent years. The deferred costs should be treated as a regulatory asset with carrying charges applied, pursuant to Section ~~366.92(1)(f)~~ 366.93(1)(f), F.S., and Rule 25-6.0423(5)(a), F.A.C. Staff recommends the Commission approve \$273,889,606 as the January 1, 2010, beginning balance of the regulatory asset with \$36,618,113 of that balance being approved for inclusion in rates in 2010.

DECISION: The recommendation was approved as modified by staff at the Conference. Commissioner Argenziano dissented.

Issue 32A: If the answer to Issue 32 is yes, what is the total jurisdictional amount to be included in establishing PEF's 2010 Capacity Cost Recovery Clause factor?

Recommendation: Consistent with staff's recommendation on all prior issues, including the rate management plan, staff recommends the Commission approve \$206,907,726 to be included in establishing PEF's 2010 CCRC factor.

DECISION: The recommendation was approved. Commissioner Argenziano dissented.

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Issue 32B: If the answer to Issue 32 is no, what is the total jurisdictional amount to be included in establishing PEF's 2010 Capacity Cost Recovery Clause factor?

Recommendation: If a rate management plan is not approved, staff recommends the Commission approve \$416,652,499 to be included in establishing PEF's 2010 CCRC factor.

DECISION: Moot.

Commissioners participating: Carter, Edgar, Argenziano, Skop

Oral modification, Document Number 10566-09, was attached to the vote sheet.

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Policy and Legal - Proposed Category II Stipulated Issue among FPL, PEF, and Staff

Issue 1: Should over or under collections in the Capacity Cost Recovery Clause be included in the calculation of recoverable costs in the NCRC?

Position: No. Rule 25-6.0423 defines the appropriate costs to be recovered in the NCRC. That definition does not include CCRC over or under collections. Over and under collections in the CCRC should remain in the CCRC, because they are the result of over/under collections of actual sales revenues that are greater than or less than costs to be recovered in the CCRC, and will incur interest at the commercial paper rate. Prospectively, if the Commission approves deferral of collection of certain NCRC costs and thereby removes them from rates, they should not be reflected in the Capacity Cost Recovery Clause over or under recovery. Differences between the NCRC actual costs incurred and the actual/estimated or projected costs will be included in the calculation of recoverable costs in the NCRC, and will accrue a carrying charge at the fixed rate provided for, pursuant to Section 366.93, F.S., until recovered in a future period.

Florida Power & Light Company - Proposed Category II Stipulated Issues between FPL and Staff

Issue 4: Should the Commission find that for the years 2006 and 2007, FPL's accounting and costs oversight controls were reasonable and prudent for the Turkey Point Units 6 & 7 project?

Position: For the years 2006 and 2007, FPL's accounting and costs oversight controls were reasonable and prudent for the Turkey Point Units 6 & 7 project.

Issue 5: Should the Commission find that for the years 2006 and 2007, FPL's project management, contracting, and oversight controls were reasonable and prudent for the Turkey Point Units 6 & 7 project?

Position: Yes. For the years 2006 and 2007, FPL's project management, contracting, and oversight controls were reasonable and prudent for the Turkey Point Units 6 & 7 project.

Issue 6: Should the Commission find that for the year 2008, FPL's accounting and costs oversight controls were reasonable and prudent for the Turkey Point Units 6 & 7 project and the Extended Power Uprate project?

Position: Yes. For the year 2008, FPL's accounting and costs oversight controls were reasonable and prudent for Turkey Point Units 6 & 7 project and the Extended Power Uprate project.

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Issue 9: Should the Commission approve what FPL has submitted as its annual detailed analyses of the long-term feasibility of completing the EPU project, as provided for in Rule 25-6.0423, F.A.C.?

Position: Yes. The analyses support a conclusion that completing the EPU project is feasible.

Issue 10: What system and jurisdictional amounts should the Commission approve as FPL's final 2008 prudently incurred costs for the Extended Power Uprate project?

Position: The 2008 prudently incurred system EPU costs are \$99,754,304 in expenses and \$269,184 in O&M expenses. The resultant jurisdictional costs, net of joint owner and other adjustments, are \$95,097,049 for capital expenses, \$2,357,995 in carrying charges, and \$256,091 in O&M expenses.

For purposes of the CCRC, the final 2008 NCRC true up amount, is an over estimate of \$1,375,009 in carrying costs plus an under estimate of \$256,091 in O&M expenses. The net amount of -\$1,118,918 should be included in setting the allowed 2010 NCRC recovery.

Issue 14: What system and jurisdictional amounts should the Commission approve as FPL's final 2006 and 2007 prudently incurred costs for the Turkey Point Units 6 & 7 project?

Position: The 2006 and 2007 prudently incurred system Turkey Point Units 6 & 7 costs are \$8,651,370 (\$8,615,263 jurisdictional) in expenses and \$0 in O&M expenses. The resultant jurisdictional carrying costs are \$155,189.

For purposes of the CCRC, the final 2007 NCRC true up amount, is an over estimate of \$304,739 in expenses and \$7,216 in carrying costs. The net amount of -\$311,955 should be included in setting the allowed 2010 NCRC recovery.

Issue 15: What system and jurisdictional amounts should the Commission approve as FPL's final 2008 prudently incurred costs for the Turkey Point Units 6 & 7 project?

Position: The 2008 prudently incurred system Turkey Point Units 6 & 7 costs are \$47,215,633 (\$47,049,854 jurisdictional) in expenses and \$0 in O&M expenses. The associated 2008 jurisdictional carrying costs are \$2,886,482.

For purposes of the CCRC, the final 2008 NCRC true up amount, is an over estimate of \$22,658,001 in expenses and \$1,171,701 in carrying costs. The net amount of -\$23,829,702 should be included in setting the allowed 2010 NCRC recovery.

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Progress Energy Florida, Inc. - Proposed Category II Stipulated Issues between PEF and Staff

Issue 19: Should the Commission find that for the years 2006 and 2007, PEF's accounting and costs oversight controls were reasonable and prudent for the Levy Units 1 & 2 project?

Position: Yes. For the years 2006 and 2007, PEF's accounting and costs oversight controls were reasonable and prudent for the Levy Units 1 & 2 project.

Issue 20: Should the Commission find that for the years 2006 and 2007, PEF's project management, contracting, and oversight controls were reasonable and prudent for the Levy Units 1 & 2 project?

Position: Yes. For the years 2006 and 2007, PEF's project management, contracting, and oversight controls were reasonable and prudent for the Levy Units 1 & 2 project.

Issue 22: Should the Commission find that for the year 2008, PEF's accounting and costs oversight controls were reasonable and prudent for the Levy Units 1 & 2 project and the Crystal River Unit 3 Uprate project?

Position: Yes. For the year 2008, PEF's accounting and costs oversight controls were reasonable and prudent for Levy Units 1 & 2 project and the Crystal River Unit 3 Uprate project.

Issue 24: Should the Commission approve what PEF has submitted as its annual detailed analysis of the long-term feasibility of completing the Crystal River Unit 3 Uprate project, as provided for in Rule 25-6.0423, F.A.C.?

Position: Yes. The analyses support a conclusion that completing the Crystal River Unit 3 Uprate project is feasible.

Issue 25: What system and jurisdictional amounts should the Commission approve as PEF's final 2008 prudently incurred costs for the Crystal River Unit 3 Uprate project?

Position: The 2008 prudently incurred total system costs are \$65,137,303 for capitalized expenses and \$180,076 in O&M expenses. The resultant jurisdictional costs are \$43,898,888 for capital expenses, \$6,133,922 in carrying charges, and \$166,588 in O&M expenses.

For purposes of the CCRC, the final 2008 NCRC true up amount, is an under estimate of \$64,444 in carrying costs plus an over estimate of \$95,044 in O&M expenses plus an under estimate of \$73,606 for base rates associated with a completed phase of the project. The net amount of \$43,006 should be included in setting the allowed 2010 NCRC recovery.

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Issue 27: What system and jurisdictional amounts should the Commission approve as PEF's reasonably projected 2010 costs for the Crystal River Unit 3 Uprate project?

Position: A reasonable projection of 2010 system Crystal River Unit 3 Uprate costs are \$49,872,156 for capitalized expenses and \$244,268 in O&M expenses. The resultant jurisdictional costs, net of joint owner and other adjustments, are \$58,380,739 for capital expenses, \$5,325,702 in carrying charges, and \$214,203 in O&M expenses. The net amount of \$5,539,905 should be included in setting the allowed 2010 NCRC recovery.

Issue 28: What system and jurisdictional amounts should the Commission approve as PEF's final 2006 and 2007 prudently incurred costs for the Levy Units 1 & 2 project as filed in Docket No. 080009-EI?

Position: The 2006 and 2007 prudently incurred system Levy Units 1 & 2 project costs are \$87,406,779 (\$71,828,329 jurisdictional) in expenses and \$707,867 (\$547,473 jurisdictional) in O&M expenses. The resultant jurisdictional carrying costs are \$2,965,965.

Mr. Small has testified that there are three methodologies to allocate costs for the Lybass parcel, and that PEF has used one of those methodologies to make that allocation. Mr. Small does not testify that one methodology is preferable to any other methodology.

The final true up of \$19,780,695 was included in setting PEF's 2009 NCRC recovery amount. Consequently, the net true up amount of \$0 should be used in setting the allowed 2010 NCRC recovery amount.

Issue 29: What system and jurisdictional amounts should the Commission approve as PEF's final 2008 prudently incurred costs for the Levy Units 1 & 2 project?

Position: The prudently incurred 2008 system Levy Units 1 & 2 project costs are \$155,306,978 (\$138,609,648 jurisdictional) in expenses and \$4,167,550 (\$3,784,810 jurisdictional) in O&M expenses. The associated 2008 jurisdictional carrying costs are \$20,717,072.

For purposes of the CCRC, the final 2008 NCRC true up amount is an over estimate of \$65,763,507 in expenses plus an under estimate of \$2,305,178 in O&M expenses plus an over estimate of \$2,317,719 in carrying costs. The net amount of -\$65,776,048 should be included in setting the allowed 2010 NCRC recovery.