

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Petition for approval to) DOCKET NO. 940391-EI
recover Orimulsion project costs) ORDER NO. PSC-94-1106-FOF-EI
through an oil-backout cost) ISSUED: 9-7-94
recovery factor by Florida Power)
and Light Company)
_____)

The following Commissioners participated in the disposition of this matter:

J. TERRY DEASON, Chairman
SUSAN F. CLARK

Pursuant to notice, a Final Hearing was held in the above-styled docket on August 12, 1994.

APPEARANCES:

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On behalf of Florida Power and Light Company.

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On behalf of Office of Public Counsel.

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On behalf of the Commission Staff.

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DOCUMENT NUMBER-DATE

09251 SEP-7

FPSC-RECORDS/REPORTING

ORDER GRANTING PETITION FOR COST-RECOVERY FOR ORIMULSION
CONVERSION PROJECT COSTS

I. CASE BACKGROUND

Historically, Florida's electric utilities relied on oil as the primary fuel for electric generation. After the "oil shocks" of 1973 and 1979, the United States and Florida made the strategic decision to reduce the reliance on oil as an energy source, especially oil from foreign sources.

To implement this strategic decision, the Florida Public Service Commission enacted Rule 25-17.016, Florida Administrative Code, the Oil Backout Cost Recovery Factor. Subparagraph 2(a) states that the purpose of the rule is to provide "for the recovery of costs of implementing . . . supply side oil conservation measures the primary purpose of which is the economic displacement of oil generated electricity in Florida."

Qualified projects include:

1) Conversion of an existing oil-fired, steam cycle, generating unit to also burn a non-oil fuel, a combination of non-oil fuels, or a non-oil/oil fuel mixture.

2) Construction of transmission lines including any related land and land rights, substations, and support electrical equipment, within Florida when the primary purpose of the construction of the lines is to increase the importation or transfer of non-oil derived electrical energy on either a firm or a non-firm basis.

3) At the discretion of the Commission, other major supply-side oil conservation measures whose primary purpose is the economic displacement of oil-fired generation in the State of Florida.

The rule specifically excludes recovery for the costs of a project if "the primary purpose . . . is to serve increased megawatt demand or for the recovery of the costs of a new generating unit."

To qualify under the rule, the utility must prove:

1. The primary purpose of the proposed project is the economic displacement of oil-fired generation in the State of Florida;

2. It has been shown by a preponderance of the evidence that there will be a positive Cumulative Present Value of Expected Net Savings to retail customers in Florida within the first ten (10) years of commercial operation of the proposed project; and

3. It has been shown by a preponderance of the evidence that a proposed project is the most economical alternative available.

The Commission has previously approved two projects for cost recovery under the clause:

1) The accelerated construction of Florida Power and Light Company's two 500 kv transmission lines from the Florida-Georgia interface south to Martin County (Order No. 11217, issued October 1, 1982, in Docket No. 820155-EU). This enabled FPL to purchase significant amounts of lower cost coal-fired capacity from the Southern Companies and thereby displace existing oil-fired generation; and

2) The conversion of Tampa Electric Company's Gannon Units 1-4 to burn coal instead of oil (Order No. 11223, issued October 5, 1982, in Docket No. 820055-EU).

On April 22, 1994, Florida Power and Light Company filed the petition which initiated this docket. FPL requested approval, pursuant to the oil backout rule, to recover the costs of converting its two 783 megawatt Manatee units to burn Orimulsion, rather than oil. Orimulsion is the trademark name for a hydrocarbon (fossil) fuel found in the Orinoco river basin of Venezuela. It is mixed with water and other materials to form an emulsion. It is then transported via pipeline to various ports and shipped in tankers for use as a boiler fuel.

FPL estimates the costs of conversion to be approximately \$72 million. Additionally, FPL sought to retain two thirds of the actual net savings (of its system fuel costs using Orimulsion vs. not using Orimulsion) to first recover its capital investment, and then, to establish a funded reserve of approximately \$180 million. The funded reserve would cover the costs of the potential purchase of the pollution control equipment associated with the conversion of the Plant Manatee units to burn Orimulsion. The pollution control equipment will be provided through FPL's contract with Bitor America Corporation. Pure Air of Manatee, Inc. will, under contract with Bitor America Corporation, design, engineer, fabricate, erect, install, finance, own, operate and maintain the

Pollution Control Equipment. Under certain circumstances, FPL could opt or be required to purchase the equipment.

FPL suggests that as an alternative to recovery through the oil backout rule, all these costs could be recovered through the fuel cost recovery clause. FPL cites Order No. 14546, Notice of Proposed Agency Action - Order Approving Cost Recovery Methods for Fuel Related Expenses, issued July 8, 1985 in Docket No. 850001-EI-B. In that Order, the Commission authorized recovery through the fuel clause of costs "normally recovered through base rates but which were not recognized or anticipated in the cost levels used to determine current base rates and which, if expended, will result in fuel savings to customers." The Order indicates that recovery of these costs through the fuel clause would be authorized on a case by case basis.

At the prehearing conference on August 4, 1994, the parties stipulated to the appropriate disposition of most of the issues identified for resolution in this proceeding. These stipulations are reflected in Order No. PSC-94-0973-PHO-EI, the Prehearing Order. At the onset of the Final Hearing, the Office of Public Counsel and FPL advised that they had reached agreement on all remaining issues. A written stipulation reflecting that agreement is attached to this Order as Appendix A. Appropriate modifications to previously agreed-upon dispositions to incorporate the stipulation were made at the final hearing. The case was then presented to the panel as a stipulation. After the panel voted to approve the stipulated resolution, ManaSota-88 voluntarily dismissed its intervention in the docket.

II. SUMMARY OF DECISION

We find that FPL's plan to convert its two Manatee units to burn Orimulsion is reasonable and prudent. FPL shall be authorized to recover the costs of the project through the fuel cost recovery clause, as further described in this Order. If the project produces savings to FPL's system (vs. not burning Orimulsion), one-half the actual net savings shall be applied to the costs of the conversion as additional accelerated depreciation.

No reserve shall be established for the potential purchase of the pollution control equipment. In the event that FPL opts or is required to purchase the pollution control equipment and the facility continues to burn Orimulsion, one-half the actual net savings shall be applied to the acquired costs of the pollution control equipment as additional accelerated depreciation.

III. FUEL CONSIDERATIONS: VIABILITY, AVAILABLE RESERVES, DIVERSITY, PRICE FORECAST, APPROPRIATE INVENTORY LEVEL, SUPPLY CONTRACT

In 1991 FPL conducted an Orimulsion test at FPL's Sanford Plant to determine the technical feasibility of converting one of FPL's generating plants to Orimulsion. FPL's conclusion from the test was that Orimulsion is a viable utility boiler fuel. In addition, at present Orimulsion is being used commercially in two utility boilers of 120 MW and 500 MW, owned by PowerGen plc Company in England, and in two 125 MW power boilers owned by Kashima-Kita Electric Power Corporation and Mitsubishi-Kasei, respectively, in Japan. Therefore, we find that Orimulsion is a viable fuel for purposes of electric generation in Florida.

FPL alleges, that with present technology, the economically recoverable reserves of bitumen in the Orinoco River basin are sufficient to produce an estimated 41 billion metric tons of Orimulsion, which is approximately equivalent to 16% of the proven coal reserves in the entire United States. FPL further alleges that the quantity of Orimulsion that can be produced from these bitumen reserves is sufficient to supply the Manatee Plant for longer than its expected operating life. Therefore, we find that there are sufficient proven reserves of Orimulsion to meet Plant Manatee's fuel requirements for the term of the contract.

We find that Orimulsion is a different fuel than has been used in Florida and, therefore, its use will contribute to fuel diversity in FPL's system and in the State of Florida.

In its Prehearing Statement, staff asserts that FPL's base case 1993 fuel-price forecast relies on overstated escalation rates. Overstating the escalation rates would tend to overstate the savings attributable to the conversion project. However, both staff and FPL agree, and we find, that the 1993 low band fuel price forecast is reasonable for planning purposes as confirmed by its consistency with the 1994 FPL/DRI base case forecast.

FPL currently projects that its total inventory of primary fuel will be approximately 1.3 million barrels of Orimulsion. The inventory will be stored at the Manatee Plant and the storage facilities at Port Manatee. This volume is sufficient to provide approximately twenty days of operation at an average capacity factor of 83%. In addition, FPL plans to maintain sufficient 1.0% sulfur residual fuel oil inventory on hand during certain months of the year to operate both units at full power for one-hundred-ninety-two (192) consecutive hours.

We find that it is not necessary or appropriate to predetermine a specific inventory level for the primary fuel at the Manatee Plant. Various factors will impact the level of inventory to be held. These factors will vary on an on-going basis, and include such things as, the size and time of the deliveries, plant maintenance schedules and the projected need for switching to fuel oil.

FPL has obtained contractual commitments from Bitor America to deliver Orimulsion to Plant Manatee at a price equivalent to the cost of coal delivered to St. Johns River Power Park and caps the price of Orimulsion at that of oil or natural gas. Thus, in the unlikely event that coal prices move above those of oil and gas, FPL believes its ratepayers are afforded a measure of protection. FPL maintains that the contract permits FPL to achieve very large fuel savings for its customers. FPL has obtained contractual commitments from Bitor America and PDVSA, its parent company, to deliver residual fuel oil from anywhere in the world to FPL, for at least three years, at the same price as Orimulsion if Orimulsion cannot be delivered. FPL states that the Manatee Plant will retain the capability to use fuel oil after the conversion. FPL suggests that since the additions and enhancements required for the use of Orimulsion will give Manatee Plant greater flexibility in the grades of fuel oil it can use, overall fuel supply reliability will be significantly increased by the project. Therefore, we find that the Fuel Supply Contract between Florida Power and Light Company and Bitor is adequate to ensure Florida Power and Light Company's retail customers a reliable and cost-effective fuel supply.

We find that the proposed pollution control equipment for Plant Manatee consists of mature and viable technologies. The pollution control equipment planned for the Manatee Units is similar to the equipment tested successfully at Northern Indiana Public Service Corporation's Bailey Station under the Federal Clean Coal Technology Program.

IV. SYSTEM PLANNING CONSIDERATIONS

FPL projects the equivalent availability of Manatee Plant using Orimulsion to be 83.0%, slightly lower than the 87.5% projected availability of the Plant on fuel oil, due to increased planned maintenance activities with Orimulsion. FPL plans to address this impact with its demand side management (DSM) programs. If there is a degradation of performance, DSM is one method which could be used to offset the potentially lower equivalent availability.

FPL's economic analysis of this project includes the cost of these additional demand side management programs, at approximately \$146 million, present valued to 1998. Therefore, we find it is appropriate to use demand side management (DSM) for the period 1998-2017 to fulfill equivalent availability shortfalls due to increased planned maintenance from burning Orimulsion in the Manatee units. Further, given that the costs of these DSM measures are included in the analysis, we find that a preponderance of the evidence shows that the proposed Orimulsion project at Plant Manatee does not adversely affect Florida Power and Light Company's 1994 expansion plan.

V. COST-EFFECTIVENESS OF ORIMULSION CONVERSION PROJECT

FPL alleges that it has designed the transaction so that all three parties share the project risk. FPL asserts that by not owning the Pollution Control Equipment, FPL and its customers will not bear most of the direct consequence of any failure, however unlikely, on the part of Bitor America, to deliver fuel. If the Pollution Control Equipment does not perform as required, Pure Air of Manatee would be required to pay significant liquidated damages. If through no party's fault, Orimulsion cannot be used, FPL could terminate the Orimulsion Supply Contract. If the contract is terminated early, it is unlikely that any of the parties would receive the full benefit of the transaction. Therefore, we find that the Conversion Services Contract is adequate to ensure Florida Power and Light Company's retail customers reliable and cost-effective service from Plant Manatee.

FPL compared Orimulsion to other cost-effective alternatives to reduce FPL's reliance on oil. The projected savings to be derived from the Orimulsion conversion of the Manatee Plant have been compared to those of (1) converting Martin Units 1 and 2 to use pulverized coal or, alternately, (2) modifying the same Martin Units 1 and 2 to operate at full power on natural gas. FPL suggests that these two alternatives would enable FPL to replace expensive 0.7% Sulfur residual fuel oil with pulverized coal or natural gas, respectively, at FPL's Martin Units 1 and 2. The Martin Units were selected for these analyses as they are comparable in size to the Manatee Units. The Martin Units would also have a lower cost of conversion to operate on natural gas due to their proximity to the gas pipeline. This comparison shows that the net savings generated by the Orimulsion conversion at Manatee Plant are much greater than with either alternative. Therefore, we find that the conversion of the Plant Manatee units to burn Orimulsion represents the most economical alternative available to Florida Power and Light Company.

FPL's system dispatch models show a positive cumulative present value of expected net savings to Florida Power and Light's retail customers within the first ten years, due to displacement of heavy oil, coal and natural gas fired generation, as well as savings in purchased energy and payments for as-available energy. Therefore, we find that a preponderance of the evidence indicates that the Orimulsion project will have a positive Cumulative Net Present Value of Expected Net Savings to retail customers in Florida within the first ten years of commercial operation.

Based on the resolution of the foregoing fuel, system-planning and cost-effectiveness issues, we find that the Plant Manatee Orimulsion conversion project is prudent and reasonable.

VI. ACCOUNTING, DEPRECIATION AND COST-RECOVERY ISSUES

A. Cost Recovery of Conversion, Fuel and O&M Expenditures

The cost of converting Manatee Units 1 and 2 (Plant Manatee) to burn Orimulsion and the additional incremental cost of operating and maintaining Plant Manatee after the conversion, including the cost of fuel, will be authorized for recovery through the Fuel and Purchased Power Cost Recovery Clause. The revenues to be collected through the Fuel and Purchased Power Cost Recovery Clause Factor(s) shall be the sum of the straight line depreciation expense of the Plant Manatee conversion over the "used and useful" life of the conversion components added to Plant Manatee, plus the cost of capital on the undepreciated balance of the conversion components, plus the actual tax expense attributed to the conversion components, plus the operations and maintenance expenses differential of Plant Manatee which would normally be recoverable through base rates and which result from the conversion and operation of Plant Manatee after conversion, plus the fuel expense of Plant Manatee after conversion, plus one-half of the actual net system fuel or purchased power savings associated with the operation of Plant Manatee after conversion (if positive) to be applied as additional depreciation.

No costs of Plant Manatee that are reflected in the base rates of FPL shall be recovered through the Fuel and Purchased Power Cost Recovery Clause Factor(s).

Upon full depreciation of the components to convert Plant Manatee to burn Orimulsion, only the actual operations and maintenance expense differential of Plant Manatee which would normally be recoverable through base rates plus the fuel expense of Plant Manatee after conversion shall be recovered through the Fuel

and Purchased Power Cost Recovery Clause Factor(s) until such time as these costs, other than the fuel expense, are fully recovered or included in the base rates of FPL.

The costs associated with the conversion of Plant Manatee shall continue to be recovered through the Fuel and Purchased Power Cost Recovery Factor(s) until such time as they are included in the base rates of FPL.

The costs associated with the conversion of Plant Manatee shall be estimated every six-months in conjunction with the existing procedure for the Fuel and Purchased Power Cost Recovery mechanism commencing with the first six-month period in which the first unit of Plant Manatee is returned to service after the completion of the conversion. The estimate shall be based on the most current projections of fuel prices, including Orimulsion, other operations and maintenance expense differential, taxes and kilowatt-hour sales and on the actual cost of capital (as calculated in Section C below) for the Plant Manatee conversion components. A true-up adjustment, with interest, shall be made at the end of each six-month period to reconcile differences between estimated and actual data.

Given our decisions regarding cost recovery for the conversion project, the issues concerning qualification under, and the establishment of a cost recovery factor pursuant to, the Oil Backout Rule are moot.

B. Cost Recovery of Potential Purchase of Pollution Control Equipment

In the event that FPL elects or is obligated to purchase the Pollution Control Equipment for Plant Manatee as specified by the schedules of cancellation charges in the Contract for Pollution Control Services, we find that the recovery of such costs shall be through the Fuel and Purchased Power Cost Recovery Clause Factor(s) as an added cost item and in accordance with either of the following alternatives:

- a) If FPL elects or is obligated to purchase the Pollution Control Equipment, and Bitor America continues to provide fuel or energy at the price of Orimulsion, then FPL shall commence to recover the cost of capital on the cost of the Pollution Control Equipment and revenue equal to one-half the actual net system Fuel or Purchased Power savings associated with the continued operation of Plant Manatee (if positive) to be applied as additional

depreciation. Any cost remaining for the Pollution Control Equipment after this additional depreciation will be recovered by FPL as straight line depreciation over the remainder of the original term specified for the Orimulsion Fuel Supply Contract (through the year 2017) together with the cost of capital for the Pollution Control Equipment. The actual net savings used as the basis to determine the additional depreciation will reflect the system fuel expense differential for FPL, based upon most current fuel price projections resulting from the use of fuel or energy at the price of Orimulsion at Plant Manatee instead of the fuel that would have been used without the conversion of Plant Manatee; or,

- b) If Bitor America does not deliver fuel or energy at the price of Orimulsion after FPL elects or is obligated to purchase the Pollution Control Equipment then FPL shall commence recovery of the straight line depreciation of that cost together with the cost of capital over the remainder of the original term specified for the Orimulsion Fuel Supply Contract (through the year 2017).

Given our decisions concerning potential recovery of the costs of the pollution control equipment, the issues of the permissibility pursuant to Rule 25-17.016, F.A.C. of, and accounting for, either type of reserve (funded or unfunded) are moot.

C. Calculation of Cost of Capital

We find that the rate of return on the utility's unrecovered investment shall be calculated as follows:

the Rate of Return shall be calculated using the ratio of Long-term Debt, Short-term Debt, Preferred Stock and Common Equity as a percentage of investor sources included in the last rate proceeding, and the actual Deferred Taxes and ITC, if any, directly attributable to the project. The cost rates utilized for Long-term Debt, Short-term Debt and Preferred Stock will be based on the weighted average of the cost rates from the last rate proceeding and the midpoint for Common Equity as approved by the Commission for all purposes. Prepaid deferred income taxes will be included in the rate base rather than the capital structure.

D. Appropriate Depreciation Rates

We find that the appropriate depreciation rate(s) to be used for the investments added as a result of Orimulsion conversion project shall be 5%, based on a projected twenty year life of the project. If there are any interim retirements during the term of the contract, all costs associated with the interim retirement and replacement equipment shall be recovered in the same manner as the original conversion costs.

E. Accounting for Retirement and Removal Costs

We find that Florida Power and Light Company shall recover the undepreciated value of the retirements and the related cost of removal associated with the conversion of Manatee Plant as follows:

The undepreciated value of the retirements and the removal costs associated with the assets being retired as a result of the conversion process, of approximately \$2.1 million, should be accounted for as interim retirements. These costs shall be recovered consistent with the other conversion investment through application of one half of the net savings.

F. Accounting for Conversion, Fuel and O&M Expenditures

For accounting purposes, there are three types of costs associated with the Orimulsion project: (i) the estimated costs FPL will incur to convert the Manatee Plant to burn Orimulsion; (ii) fuel costs that include the costs for the use of the pollution control equipment owned by Pure Air of Manatee under the Pollution Control Service Agreement and; (iii) incremental O&M costs incurred as a result of burning Orimulsion. We find that FPL shall record the capital costs to convert the plant to plant-in-service. We find that the costs of the Orimulsion fuel, including the costs of pollution control services provided by Pure Air of Manatee shall be accounted for as fuel costs. We find that the incremental O&M costs associated with the Orimulsion Project shall be accounted for as O&M expenses. The revenues and expenses associated with the project shall be recorded in subaccounts in a manner consistent with the Oil Backout Rule, 25-17.015, F.A.C., for accounting purposes only.

G. Recovery of Tax Expense

We find that it is appropriate for FPL to recover all taxes associated with the Orimulsion project. Investment tax credit (ITC) amortization related to ITC for the project, if any, should be included in the determination of the recoverable tax expense.

ORDER NO. PSC-94-1106-FOF-EI
DOCKET NO. 940391-EI
PAGE 12

It is therefore,

ORDERED that the stipulations reflected in Order No. PSC-94-0973-PHO-EI, as modified at the final hearing in this docket are approved and accepted. It is further

ORDERED that the stipulation filed by the Office of Public Counsel and Florida Power and Light Company is approved and accepted. It is further

ORDERED that Florida Power and Light Company's Petition for approval to recover Orlimulsion project costs through on Oil-Backout Recovery Factor is approved as modified in this Order. FPL shall be permitted to recover the project costs through the fuel cost recovery clause, consistent with the provisions of this Order. It is further

ORDERED that this docket shall be closed.

By ORDER of the Florida Public Service Commission, this 7th day of September, 1994.

BLANCA S. BAYÓ, Director
Division of Records and Reporting

by: Kay Flynn
Chief, Bureau of Records

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ORDER NO. PSC-94-1106-FOF-EI
DOCKET NO. 940391-EI
PAGE 13

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.59(4), Florida Statutes, to notify parties of any administrative hearing or judicial review of Commission orders that is available under Sections 120.57 or 120.68, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing or judicial review will be granted or result in the relief sought.

Any party adversely affected by the Commission's final action in this matter may request: 1) reconsideration of the decision by filing a motion for reconsideration with the Director, Division of Records and Reporting within fifteen (15) days of the issuance of this order in the form prescribed by Rule 25-22.060, Florida Administrative Code; or 2) judicial review by the Florida Supreme Court in the case of an electric, gas or telephone utility or the First District Court of Appeal in the case of a water or sewer utility by filing a notice of appeal with the Director, Division of Records and Reporting and filing a copy of the notice of appeal and the filing fee with the appropriate court. This filing must be completed within thirty (30) days after the issuance of this order, pursuant to Rule 9.110, Florida Rules of Civil Procedure. The notice of appeal must be in the form specified in Rule 9.900 (a), Florida Rules of Appellate Procedure.

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

IN RE: Petition Of Florida Power) DOCKET NO. 940391-EI
And Light Company For Approval To)
Recover Orimulsion Project Costs) FILED: AUGUST 12, 1994
Through An Oil-Backout Recovery)
Factor)

STIPULATION

This Stipulation is entered into by and among the Office of Public Counsel and Florida Power & Light Company. In order to facilitate the resolution of various issues in this proceeding (Issues 13, 14, 20, 21 and 24 as identified in Order No. PSC-94-0973-PHO-EI, the Prehearing Order) and thus to avoid unnecessary expense and uncertainty, the parties agree to the following:

1. The cost of converting Manatee Units 1 and 2 (Plant Manatee) to burn Orimulsion and the additional incremental cost of operating and maintaining Plant Manatee after the conversion, including the cost of fuel, will be authorized for recovery through the Fuel and Purchased Power Cost Recovery Clause. The revenues to be collected through the Fuel and Purchased Power Cost Recovery Clause Factor(s) shall be the sum of the straight line depreciation expense of the Plant Manatee conversion over the "used and useful" life of the conversion components added to Plant Manatee, plus the cost of capital on the undepreciated balance of the conversion components, plus the actual tax expense attributed to the conversion components, plus the operations and maintenance expenses

differential of Plant Manatee which would normally be recoverable through base rates and which result from the conversion and operation of Plant Manatee after conversion, plus the fuel expense of Plant Manatee after conversion, plus one-half of the actual net system fuel or purchased power savings associated with the operation of Plant Manatee after conversion (if positive) to be applied as additional depreciation.

No costs of Plant Manatee that are reflected in the base rates of FPL shall be recovered through the Fuel and Purchased Power Cost Recovery Clause Factor(s).

Upon full depreciation of the components to convert Plant Manatee to burn Orimulsion, only the actual operations and maintenance expense differential of Plant Manatee which would normally be recoverable through base rates plus the fuel expense of Plant Manatee after conversion shall be recovered through the Fuel and Purchased Power Cost Recovery Clause Factor(s) until such time as these costs, other than the fuel expense, are fully recovered or included in the base rates of FPL.

The costs associated with the conversion of Plant Manatee shall continue to be recovered through the Fuel and Purchased Power Cost Recovery Factor(s) until such time as they are included in the base rates of FPL.

The costs associated with the conversion of Plant Manatee shall be estimated every six-months in conjunction with the existing procedure for the Fuel and Purchased Power Cost Recovery mechanism commencing with the first six-month period in which the

first unit of Plant Manatee is returned to service after the completion of the conversion. The estimate shall be based on the most current projections of fuel prices, including Orimulsion, other operations and maintenance expense differential, taxes and kilowatt-hour sales and on the actual cost of capital for the Plant Manatee conversion components. A true-up adjustment, with interest, shall be made at the end of each six-month period to reconcile differences between estimated and actual data.

2. In the event that FPL elects or is obligated to purchase the Pollution Control Equipment for Plant Manatee as specified by the schedules of cancellation charges in the Contract for Pollution Control Services then the recovery of such costs shall be through the Fuel and Purchased Power Cost Recovery Clause Factor(s) as an added cost item and in accordance with either of the following alternatives:

- a) If FPL elects or is obligated to purchase the Pollution Control Equipment, and Bitor America continues to provide fuel or energy at the price of Orimulsion, then FPL shall commence to recover the cost of capital on the cost of the Pollution Control Equipment and revenue equal to one-half the actual net system Fuel or Purchased Power savings associated with the continued operation of Plant Manatee (if positive) to be applied as additional depreciation. Any cost remaining for the Pollution Control Equipment after this additional depreciation will be recovered by FPL as straight line depreciation over the remainder of the original term specified for the Orimulsion Fuel Supply Contract (through the year 2017) together with the cost of capital for the Pollution Control Equipment. The actual net savings used as the basis to determine the additional depreciation will reflect the system fuel expense differential for FPL, based upon most current fuel price projections resulting from the use of fuel or energy at the price of Orimulsion at Plant Manatee instead of the

fuel that would have been used without the conversion of Plant Manatee; or,

- b) If Bitor America does not deliver fuel or energy at the price of Orimulsion after FPL elects or is obligated to purchase the Pollution Control Equipment then FPL shall commence recovery of the straight line depreciation of that cost together with the cost of capital over the remainder of the original term specified for the Orimulsion Fuel Supply Contract (through the year 2017).


3. It is understood that the Stipulation set out in Paragraph 1 hereof shall be the basis for resolving Issue No. 20 of the Prehearing Order and that Issue No. 21 is therefore moot.

4. It is understood that the Stipulation set out in Paragraph 2 hereof shall be the basis for resolving Issue No. 13 of the Prehearing Order and that Issues No. 14 and 24 are moot.

5. Each party to this Stipulation maintains that the various points of law and factual conclusion that it has and could advocate in this proceeding that are addressed by this Stipulation are correct and does not concede the correctness of any other party's points of law or factual conclusions. Accordingly, this Stipulation relates only to the specific issues as identified above and does not necessarily represent the position of any party to this Stipulation should the same or similar issues arise in another docket or proceeding.

6. This Stipulation shall be effective upon the Commission's approval of the entire Stipulation.

WHEREFORE, as noted by the signatures of their undersigned counsel, the parties stipulate on this 12th day of August, 1994.



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