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January 13, 2010

-VIA HAND DELIVERY -

Ms. Ann Cole
Commission Clerk
Florida Public Service Commission
2540 Shumard Oak Blvd.
Tallahassee, FL 32399-0850

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10 JAN 13 PM 4:29
COMMISSION
CLERK

Re: Docket No. 090505-EI

Dear Ms. Cole:

I am enclosing for filing in the above docket the original and seven (7) copies of the petition of Florida Power & Light Company's Review of replacement fuel costs attributable to the February 26, 2008 outage on the company's electrical system, together with a CD containing the electronic version of same.

Also enclosed for filing are the original and (15) fifteen copies of the prefiled testimony and exhibits of Florida Power & Light Company witnesses T.J. Keith, G. Yupp, J. A. Stall and William E. Avera.

If there are any questions regarding this transmittal, please contact me at 561-304-5639.

- COM _____
- APA _____
- ECR 2
- GCL 1
- RAD** _____
- SSC _____
- ADM _____
- OPC _____
- CLK _____

Enclosure

cc: Counsel for parties of record (w/encl.)

Sincerely,

John T. Butler
John T. Butler

DOCUMENT NUMBER-DATE

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FPSC-COMMISSION CLERK

**BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION**

**IN RE: Review of replacement fuel costs)
associated with the February 26, 2008 outage)
on Florida Power & Light's electrical system)**

**Docket No. 090505-EI
Filed: January 13, 2010**

**FLORIDA POWER & LIGHT COMPANY'S
PETITION TO APPROVE APPROPRIATE AMOUNT OF
CREDIT TO CUSTOMER BILLS**

Florida Power & Light Company ("FPL" or the "Company") pursuant to Order No. PSC-09-0723-PHO-EI, issued October 30, 2009 in Docket No. 090001-EI, hereby petitions the Florida Public Service Commission ("FPSC" or "Commission") to approve a credit to customers' bills in the amount of \$2,024,035 for replacement power costs ("RPC") attributable to the February 26, 2008 outage. FPL's RPC calculation, as described herein and in supporting testimony, is the fairest approach for all involved. It will ensure that customers are promptly credited for RPC attributable to the February 26, 2008 outage, while avoiding disincentives to utility investment in energy efficient and environmentally beneficial generation alternatives. This approach avoids penalizing FPL for investing in nuclear power and other technologies such as solar and wind, with their lower fuel costs, the benefits of which are passed on to FPL's customers. In support of this Petition, FPL incorporates the prepared written testimony and exhibits of witnesses William E. Avera, Terry J. Keith, J.A. Stall and Gerard J. Yupp and states as follows:

1. Any pleading, motion, notice, order or other document required to be served upon FPL or filed by any party to this proceeding should be served upon the following individuals:

John T. Butler, Managing Attorney
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Telephone: (561) 304-5639
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Kenneth A. Hoffman, Vice President
of Regulatory Relations
Ken.Hoffman@fpl.com
Florida Power & Light Company
215 South Monroe Street, Suite 810
Tallahassee, Florida 32301
Telephone: (850) 521-3919
Facsimile: (850) 521-3939

2. FPL is a corporation with headquarters at 700 Universe Boulevard, Juno Beach, Florida 33408. It is an investor-owned electric utility operating under the jurisdiction of this Commission pursuant to the provisions of Chapter 366, Florida Statutes. FPL is a wholly-owned subsidiary of FPL Group, Inc., a registered holding company under the federal Public Utility Holding Company Act and related regulations. FPL provides generation, transmission and distribution services to approximately 4.5 million retail customers.

Background

3. On February 26, 2008, a fault occurred at FPL's Flagami substation in connection with troubleshooting a switch used to connect a shunt indicator to FPL's transmission system. The fault created conditions that, among other things, caused three fossil-fueled generating units and Turkey Point Nuclear Units 3 and 4 to come offline, which is how they are designed to operate in such a situation. This event is referred to herein as the "Flagami Transmission Event."

4. The following issue was identified in Docket No. 090001-EI to be addressed in the 2010 fuel cost recovery proceeding: “With respect to the February 26, 2008 outages, should FPL or its customers be responsible for replacement power costs associated with the outages?” However, the prehearing officer for Docket No. 090001-EI ruled at the prehearing conference that the issue would instead be spun-out and addressed in a separate proceeding. Order No. PSC-09-0723-PHO-EI , dated October 30, 2009, at page 49. This docket was opened in November 2009 to address that issue.

5. On December 4, 2009, FPL and the parties to this docket, the Office of Public Counsel (“OPC”) and the Office of the Attorney General (“AG”), executed a Proposed Resolution of Issues (“PRI”) in which FPL agreed to bear the RPC attributable to the Flagami Transmission Event and, in light of FPL’s agreement, all parties agreed that the scope of this docket should now be limited to determining the appropriate measure of RPC for purposes of calculating the credit to be paid to FPL’s customers. The parties agreed that testimony and discovery in this docket will be limited to the issue of the appropriate measure of RPC. The PRI is attached as Exhibit 1 to this Petition and incorporated herein by reference.

6. On December 18, 2009, Staff held an informal meeting among the parties to this docket during which the issues to be addressed in this docket were discussed. The parties and Staff agreed that the issues to be addressed are as follows:

- Should FPL credit to customers the replacement power costs attributable to the February 26, 2008 outages?
- How should the replacement power costs attributable to the February 26, 2008 outage be measured, and what is the amount of such costs?

What is the appropriate method to credit customers for the replacement power costs determined pursuant to Issue 2?

Proper Measure of Replacement Power Costs

7. FPL agrees to stipulate to the first issue above on the terms of the PRI. With respect to the second and third issues stated above, and as described in greater detail in FPL's supporting testimony incorporated by reference herein, FPL requests Commission approval for a credit to customers' bills in the amount of \$2,024,035 for the RPC attributable to the February 26, 2008 outage. FPL's RPC calculation reflects (a) costs associated with replacement fuel that was required to off-set the loss of generation that occurred as a result of the event; and (b) costs associated with off-system power purchases that FPL executed in the 8-hour period immediately following the event.

8. FPL's Turkey Point nuclear units (Units 3 and 4) automatically came offline on February 26, 2008 as a result of under-voltage conditions caused by the Flagami Transmission Event. The Nuclear Regulatory Commission operating licenses for Units 3 and 4 require that the units come off-line under such conditions, to protect the reactors against reduced reactor coolant flow with the attendant potential for damage to nuclear fuel and other equipment. Units 3 and 4 remained off-line beyond the initial 8-hour period of the Flagami Transmission Event due to startup requirements and operational issues that are unique to nuclear plants. During the units' outages, FPL took prudent and conservative measures to investigate, inspect, and analyze system components prior to safely restarting them. Notwithstanding the outage time associated with the Flagami Transmission Event, the capacity factor and equivalent availability factor for Units 3 and 4 in 2008 substantially exceeded the industry average, and the units

have operated well since the outages. The prudence of FPL's response to the Flagami Transmission Event at Units 3 and 4 is detailed in the testimony of Mr. Stall.

9. It would be unfair to FPL and serve as a major disincentive to the construction and operation of low fuel-cost generating technologies such as nuclear, solar and wind if FPL were to be penalized for the RPC associated uniquely with Turkey Point Units 3 and 4 that is not a result of any imprudence in the operation of those units. Therefore, FPL has calculated RPC for the initial 8-hour outage period, based on what its system average fuel costs would have been in that period if all generating resources were available and able to operate.

10. Customers receive all of the benefits of low nuclear fuel costs when FPL's nuclear units are operating. FPL constantly strives to operate its nuclear units as much of the time as possible between refueling outages, in order to provide customers with those fuel cost benefits. However, it would be unrealistic and inconsistent with nuclear industry experience to expect nuclear units to operate 100% of the time between their refueling outages (*i.e.*, never to have unplanned outages).

11. If low nuclear fuel costs were used exclusively to calculate the RPC for an outage that is unrelated to nuclear operations, the large differential between the cost of nuclear fuel and replacement fuel would penalize shareholders unjustifiably by creating an asymmetric risk: customers would receive all of the benefits of low nuclear fuel costs, while shareholders would be exposed to substantial risk that they would not recover RPC when nuclear units could not operate. Moreover, this increased and asymmetric risk does not apply just to nuclear capacity, but would carry over to any generating resource with low fuel costs relative to system average (e.g., solar, wind). This is obviously a perverse

incentive, given the efforts of the Commission and Florida leaders to encourage energy efficiency due to its benefits for the environment and economy of Florida. The asymmetric risk and perverse incentives to shareholders are detailed in the testimony of Dr. Avera.

12. A balanced approach to RPC recovery based on average system costs is consistent with Florida's policy that encourages utilities to invest in the high capital costs alternatives of nuclear, wind, and solar, which have lower energy costs and environmental benefits. This energy efficiency policy benefits FPL's customers as well as the environment and the economy of Florida. FPL's calculation of \$2,024,035 in RPC for the Flagami Transmission Event is based on average system costs and is detailed in the testimony of Mr. Yupp.

Credit Methodology

13. FPL suggests that the Commission utilize the traditional fuel cost recovery true-up process in order to implement the RPC refund that is approved in this proceeding. That process will minimize the billing system expense and workload associated with a unique, one-time credit. Using this traditional method for refunds, FPL would reflect the refund in the 2010 net true-up, where it would serve to reduce 2011 fuel cost recovery factors for all customers.

14. If the Commission determines instead that FPL should implement a one-time credit, the credit should be issued to customers of record during the first billing cycle beginning 60 days after the Commission decides the credit amount, based on

customers' consumption in that billing cycle. Using this method would minimize the cost, complexity and delay associated with implementing a one-time credit.

15. FPL does not recommend calculating a one-time credit based on the prior 12 months of consumption, due to the time and expense entailed in performing the necessary computer programming and testing. If the Commission were to require the credit to be implemented using 12 months of consumption, FPL would not be able to implement the credit before the August 2010 billing cycle and would incur approximately \$120,000 to perform the programming and testing. Moreover, basing the credit on one month's consumption will better match the timing of the credit to the duration of the event prompting the credit, which was a very short period of time.

16. Under any method for calculating the credit, customers will receive the entire amount of the credit as determined by the Commission in this proceeding. FPL's recommendations on the credit methodology are detailed in the testimony of Mr. Keith.

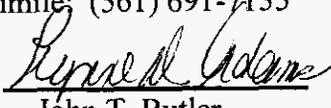
Conclusion

WHEREFORE for the foregoing reasons FPL respectfully requests that the Commission approve a credit to customers' bills in the amount of \$2,024,035 for replacement power costs attributable to the February 26, 2008 outage. Further, FPL requests that the Commission utilize the traditional fuel cost recovery true-up process to implement the RPC refund that is approved in this proceeding. Alternatively, if the Commission determines that a one-time credit is appropriate, the credit should be issued to customers of record during the first billing cycle beginning 60 days after the

Commission decides the credit amount, based on customers' consumption for that billing cycle.

Respectfully submitted,

R. Wade Litchfield, Esq.
Vice President and Chief Regulatory Counsel
John T. Butler, Esq.
Managing Attorney
Florida Power & Light Company
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By 
for John T. Butler
Fla. Bar No. 283479

CERTIFICATE OF SERVICE
Docket No. 090505-EI

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by hand delivery* and electronic delivery this 13th day of January, 2010, to the following:

Lisa Bennett, Esq.*
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Florida Public Service Commission
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By: 
John T. Butler
Fla. Bar No. 283479

**PROPOSED RESOLUTION OF ISSUES ("PRI")
DOCKET NO. 090505-EI
DECEMBER 4, 2009**

Background

On February 26, 2008, a fault occurred at FPL's Flagami substation in connection with troubleshooting a switch used to connect a shunt inductor to FPL's transmission system. The fault created conditions that, among other things, caused three fossil-fueled generating units and Turkey Point Nuclear Units 3 and 4 to trip offline, which is how they are designed to operate in such a situation. This event is referred to herein as the "Flagami Transmission Event."

The Federal Energy Regulatory Commission ("FERC") and the North American Electric Reliability Council ("NERC") conducted investigations of the Flagami Transmission Event. On October 8, 2009, FPL agreed with FERC and NERC to settle claims that FPL allegedly violated certain FERC and NERC transmission-reliability standards. As part of the settlement agreement, FERC does not conclude that FPL violated any reliability standards or laws, and FPL does not admit any violations or liability in connection with the outage.

Docket 090001-EI contained the following issue: "With respect to the February 26, 2008 outages, should FPL or its customers be responsible for replacement power costs associated with the outages?" This docket was opened in November 2009 to address that issue by itself. In light of FPL's agreement herein to bear the cost of replacement power attributable to the Flagami Transmission Event, FPL proposes and the other parties to this PRI agree that the scope of this docket should now be limited to determining the appropriate measure of replacement power costs.

Components of the PRI

FPL will ask the Commission to approve the following, and the other parties to this PRI agree to support FPL's request:

1. FPL agrees to bear the cost of replacement power attributable to the Flagami Transmission Event; provided, however, that:
 - a. FPL does not admit imprudence or any other improper action or failure with regard to the Flagami Transmission Event and reserves all of its rights and defenses with respect to the propriety of its actions in connection with the Flagami Transmission Event; and
 - b. the appropriate measure of replacement power costs that are attributable to the Flagami Transmission Event remains an issue to be determined by the Commission in this docket.

2. All parties to this PRI and Staff may each take any position that it wishes concerning the proper measure of replacement power costs, if any, that FPL should refund to customers as a result of the Flagami Transmission Event. Testimony and discovery will be limited to the issue of the appropriate measure of replacement power costs.
3. This PRI is a one-time response to an extraordinary situation. All of the parties to this PRI acknowledge, and the Commission finds, that approval of this PRI will establish no precedent with respect to any matter resolved herein.
4. This PRI may be executed in counterparts, and all such counterparts will constitute one instrument binding on the signatories, notwithstanding that all parties may not be signatories to the original or the same counterpart. Facsimile transmission of an executed copy of this PRI will be accepted as evidence of a party's execution of the PRI.

Agreed and accepted on behalf of:

Office of Public Counsel
c/o The Florida Legislature
111 W. Madison Street, Room 812
Tallahassee, FL 32399-1400

Florida Power & Light Company
700 Universe Boulevard
Juno Beach, FL 33408

By: Charlie Beck
Charlie Beck, Esq.

By: John T. Butler
John T. Butler, Esq.

Office of the Attorney General
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Tallahassee, FL 32399-1050

By: Cecilia Bradley
Cecilia Bradley, Esq.