

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
ORDER NO. PSC-10-0111-FOF-EI
ISSUED: February 25, 2010

The following Commissioners participated in the disposition of this matter:

NANCY ARGENZIANO, Chairman
LISA POLAK EDGAR
NATHAN A. SKOP
DAVID E. KLEMENT
BEN A. "STEVE" STEVENS III

ORDER APPROVING PROPOSED STIPULATION OF ISSUE

BY THE COMMISSION:

On February 26, 2008, a fault occurred at Florida Power & Light Company's (FPL or Company) Flagami substation. The fault created conditions on the transmission grid that caused three of FPL's fossil-fueled generating units and FPL's Turkey Point Nuclear Units 3 and 4 to trip offline. The fault and tripping of generators is referred to herein as the "February 26, 2008, outage."

As a result of the February 26, 2008, outage, FPL was required to: 1) operate several less efficient and costlier peaking units, 2) replace nuclear-fueled generation with more costly gas-fired generation, and 3) purchase power at a cost greater than the Company's marginal cost of power production.

In the 2008 fuel and purchased power cost recovery proceeding (Docket No. 080001-EI), the replacement power costs attributable to the February 26, 2008, outage were included as part of FPL's approved fuel cost recovery factor. The following issue, identified as Issue 2C in the 2009 fuel and purchased power cost recovery proceeding (Docket No. 090001-EI), was raised to address the potential refund of replacement power costs associated with the February 26, 2008, outage:

With respect to the February 26, 2008 outages, should FPL or its customers be responsible for replacement power costs associated with the outages?

By agreement of FPL and the Office of Public Counsel (OPC), consideration of this issue was deferred to the 2010 fuel and purchased power cost recovery proceeding (Docket No. 100001-EI) to allow completion of a Federal Energy Regulatory Commission (FERC) investigation into the causes of the February 26, 2008, outage. FPL and FERC reached an agreement closing the investigation on October 8, 2009.

DOCUMENT NUMBER-DATE

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FPSC-COMMISSION CLERK

On October 30, 2009, the Prehearing Officer in Docket No. 090001-EI issued Order No. PSC-09-0723-PHO-EI, which directed the following:

Issue 2C shall be spun-out and addressed in a separate proceeding as early as practicable in [the] 2010 calendar year. In addition, FPL shall comply with all outstanding discovery requests served by OPC and Staff related to this issue within 30-days of October 20, 2009.

Docket No. 090505-EI was established to satisfy the requirements of Order No. PSC-09-0723-PHO-EI. OPC, the Attorney General (AG), and the Florida Industrial Power Users Group (FIPUG) have intervened in Docket No. 090505-EI.

On December 16, 2009, FPL filed a Proposed Resolution of Issues, Attachment 1 to this order. The Proposed Resolution of Issues, also signed by OPC, and AG, and agreed to by FIPUG, seeks our approval of a resolution agreeing that FPL should bear the cost of replacement power attributable to the February 26, 2008, outage.¹

On December 17, 2009, an informal preliminary issue identification meeting involving our staff, FPL, OPC, and the AG was held. All parties involved verbally identified the following issues for deliberation in this docket:

1. Should FPL credit to customers the replacement power costs attributable to the February 26, 2008 outage?
2. How should the replacement power costs attributable to the February 26, 2008 outage be measured, and what is the amount of such costs?
3. What is the appropriate method to credit customers for the replacement power costs determined pursuant to Issue 2?

In past proceedings we have determined the refunding or crediting responsibilities, such as those discussed in the first issue listed above, based upon a prudence review. By approving the parties' Proposed Resolution of Issues, the first issue listed is moot.

This order addresses the Proposed Resolution of Issues and is not a determination regarding prudence with respect to FPL's actions relative to the February 26, 2008, outage. We have jurisdiction pursuant to Section 366.06, F.S.

By the Proposed Resolution of Issues, FPL and the intervening parties agreed that FPL will be responsible for the cost of the replacement power attributable to the February 26, 2008, outage. While the Proposed Resolution of Issues acknowledged that FPL will pay for replacement power costs, it does not admit imprudence or improper actions on FPL's part. The language found in paragraph 1.a. of the Proposed Resolution of Issues would not preclude further actions against FPL arising from the February 26, 2008, outage in another administrative or judicial forum.

¹ The February 26, 2008, outage is referred to as the Flagami Transmission Event in Attachment 1.

FPL and the parties agreed that, once the agreement is approved by us, then the remaining issues for decision are how much FPL must repay and how that repayment will be refunded to customers.

We find that approving the attached Proposed Resolution of Issues is appropriate as it promotes administrative efficiency. Therefore, we approve the Proposed Resolution of Issues. As discussed above, approval of the Proposed Resolution of Issues will resolve the matter of the first issue listed and will obviate the need for us to make a prudence determination.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that the Proposed Resolution of Issues found in Attachment 1 is hereby approved. It is further

ORDERED that this docket shall remain open to determine the remaining issues in this case.

By ORDER of the Florida Public Service Commission this 25th day of February, 2010.



ANN COLE
Commission Clerk

(S E A L)

LCB

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), 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 Office of Commission Clerk, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, 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 and/or wastewater utility by filing a notice of appeal with the Office of Commission Clerk, 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 Appellate Procedure. The notice of appeal must be in the form specified in Rule 9.900(a), Florida Rules of Appellate Procedure.

**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

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