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090505-EI

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Subject: Electronic Filing / Docket 090505-EI / FPL's Motion for Reconsideration of Order No. PSC-10-0381-FOF-EI
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Electronic Filing

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b. Docket No. 090505-EI

In Re: Review of replacement costs associated with the February 26, 2008 outage on Florida Power & light's electrical system

c. The document is being filed on behalf of Florida Power & Light Company.

d. There are a total of 15 pages.

e. The document attached for electronic filing is Florida Power & Light Company's Motion for Reconsideration of Order No. PSC-10-0381-FOF-EI

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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: June 30, 2010

**FLORIDA POWER & LIGHT COMPANY'S
MOTION FOR RECONSIDERATION OF ORDER NO. PSC-10-0381-FOF-EI**

Florida Power & Light Company ("FPL"), pursuant to Rule 25-22.060, Florida Administrative Code, hereby moves for reconsideration of the following two issues in Order No. PSC-10-0381-FOF-EI, issued on June 15, 2010 ("Order 0381"): (1) in giving a credit of 27 hours for the repair of the rod position indication ("RPI") system at Turkey Point Unit 3 ("TP3"), the Commission overlooked clear, undisputed record evidence that the outage duration associated with the RPI repair was in fact 126 hours; and (2) the Commission's decision not to provide a credit for the time required to replace and test the malfunctioning relay in the reverse power protection system at Turkey Point Unit 4 ("TP4") is inconsistent with the standard enunciated in Order 0381, because this is an "essential repair," a credit for which is contemplated by Order 0381. FPL respectfully requests that the Commission correct those errors and reduce the refund amount to \$7,840,675.71 as explained herein.

FPL believes that the Commission improperly rejected FPL's "system average" approach to measuring the appropriate replacement power cost ("RPC") refund when power plants come offline due to a remote transmission event and there was no imprudence in the maintenance or operation of those plants. For the reasons explained at hearing, FPL's RPC calculation is the fairest approach for all involved in that it ensures customers are properly credited for the RPC attributable to the February 26, 2008 outage, while avoiding

disincentives to utility investment in energy efficient and environmentally beneficial generation alternatives. Due to the limited scope of reconsideration, however, FPL is not asking the Commission to reconsider its rejection of FPL's system average approach.

I. The Standard for Reconsideration.

1. The Commission has recited the following standard for review of its orders on reconsideration:

The standard of review for a motion for reconsideration is whether the motion identifies a point of fact or law which was overlooked or which the Commission failed to consider in rendering its Order. See Stewart Bonded Warehouse, Inc. v. Bevis, 294 So.2d 315 (Fla. 1974); Diamond Cab Co. v. King, 146 So.2d 889 (Fla. 1962); and Pingree v. Quaintance, 394 So.2d 161 (Fla. 1st DCA 1981). In a motion for reconsideration, it is not appropriate to reargue matters that have already been considered. Sherwood v. State, 111 So.2d 96 (Fla. 3rd DCA 1959); citing State ex. rel. Jaytex Realty Co. v. Green, 105 So.2d 817 (Fla. 1st DCA 1958).

In re: Petition for rate increase by Tampa Electric Company, Docket No. 080317, Order No. PSC-09-0571-FOF-EI, August 21, 2009, at 8.

2. As will be shown below, FPL respectfully submits that the Commission (a) overlooked or failed to consider important facts that led it to conclude incorrectly that the duration of the TP3 RPI repair was 27 hours rather than 126 hours, and (b) overlooked or failed to consider the standard it announced in Order No. 23232, issued July 20, 1990 in Docket No. 900001-EI, and reiterated in Order 0381 when it declined to provide a credit for the time required to replace and test the malfunctioning relay in the TP4 reverse power protection system.

II. The Commission did not consider definitive, undisputed record evidence that the duration of the TP3 RPI repair was 126 hours, not 27 hours as reflected in Order 0381.

3. On page 8 of Order 0381, the Commission correctly determines that the duration of the TP3 outage for which FPL will be required to make an RPC refund “must take into account the Company’s repair of the rod position indication system.” The Commission addresses the duration of the TP3 RPI repair and concludes as follows:

In response to a production of documents request, FPL provided a document describing the timing of the rod position indication system repair. The document provided by FPL identifies 27 hours in which activities related to repairing the rod position indication system were being performed.

Id. This conclusion reflects a misunderstanding of the document in question and fails to consider undisputed record evidence that definitively establishes the duration of the TP3 RPI repair to be 126 hours, not 27 hours.

4. The document to which Order 0381 refers is a timeline identifying 18 separate steps in the repair of the TP3 RPI system. It is Bates numbered 000405 and was part of Exhibit 31 that was introduced by Staff and admitted into evidence at the hearing (the “RPI Repair Timeline”). *See* Tr. 32. A copy of the RPI Repair Timeline is attached to this Motion as Appendix 1. If one calculates the duration of each of the 18 discrete steps and then totals those separate activity durations, the result is approximately 27 hours, which is the figure that Order 0381 uses as the full duration of the TP3 RPI repair. However, this is an unrealistic and incorrect way to measure the repair duration. Indeed, no witness for FPL or the Office of Public Counsel stated or even implied that the 27 hours spent on the individual repair activities reflects the actual time required to complete the RPI repair. Moreover, the notion that the RPI repair took only 27 hours is directly contradicted by undisputed record evidence

that Order 0381 does not acknowledge or address.

5. The RPI Repair Timeline shows that the repair of the RPI started on February 26, 2008 at 20:00 (*i.e.*, 10:00 PM). It also shows that the final step in the repair was completed on March 3, at 01:59 (*i.e.*, 1:59 AM). This is a period of 126 hours, from start to finish. FPL confirmed twice that 126 hours, not 27 hours, was the duration of the RPI repair, and both of those confirmations are in the record. First, Staff's Interrogatory No. 19 asked FPL "How long did FPL's repair of the Rod Position Indication system take?" FPL's response was as follows:

The Rod Position Indication (RPI) System repair began on February 26, 2008 at 20:00 after the Equipment Clearance Order was issued. The RPI System repair was completed on March 3, 2008 at 01:59 when post maintenance testing was completed.

These are the same starting and finishing times shown on the RPI Repair Timeline, which is a duration of 126 hours. FPL's answer to Interrogatory No. 19 was Bates numbered 000313 and included in Staff's Exhibit 31 that was admitted into evidence at hearing. A copy of FPL's answer to Interrogatory No. 19 is attached to this Motion as Appendix 2. Moreover, FPL witness Art Stall was questioned specifically about the duration of the RPI repair at the hearing, and his testimony confirmed that the repair took 126 hours.¹

6. Thus, there is explicit record evidence that the RPI repair was responsible for 126 hours of the TP3 outage, not 27 hours. Nothing in the record contradicts that testimony. In contrast, the conclusion in Order 0381 that the repair took only 27 hours is based upon a calculation that looks only at the total of the durations shown on the RPI Repair Timeline for

¹ Mr. Stall stated that "it took approximately 127 hours to execute [the RPI repair] during the Flagami transmission event" and further confirmed that "[h]ad we elected to shut the unit down upon receipt of the problem in October [2007], it would have taken a much longer period of time to execute that repair." Tr. 105-106.

each separate step in the repair. It fails to give any consideration to the time that necessarily and unavoidably elapsed between those steps, essentially assuming that each successive step proceeded immediately on the heels of the prior one. There is no evidence in the record that this either did or could have occurred. To the contrary, the sole record evidence is that it is not reasonable to make this simplistic assumption and that, in fact, the duration of the RPI repair was 126 hours.

7. The Commission may not ignore undisputed record evidence and substitute an unsubstantiated assumption in its stead. The Commission should reconsider its decision on the duration of the RPI repair and increase that duration to 126 hours as supported by the record evidence.

III. The Commission did not apply its own standard when it failed to provide a credit for the time required to repair the malfunctioning TP4 reverse power protection system.

8. On February 28, 2008, while TP4 was returning to service, an automatic turbine shutdown occurred. A relay for the reverse power protective circuit malfunctioned; specifically, a set of mechanical contacts in the relay failed in the closed position. The malfunction was a random mechanical failure of the contacts, which was not caused by and occurred independently of the Flagami Transmission Event. Replacing and testing the malfunctioning relay and returning to the startup sequence added about eight hours to the TP4 outage. This repair was essential to the operation of TP4; in fact, if the repair had not been performed, the same automatic turbine shutdown would have occurred the next time that TP4 came off line. Tr. 48-49, 419-21 (Stall).

9. Order 0381 re-affirms the standard enunciated in Order No. 23232 for determining whether an RPC calculation should give a utility credit for outage time required

to address other issues that arise during a power plant outage which are distinct from the issue that initiates the outage. The following passage is quoted with approval from Order 23232:

The Turkey Point Unit 3 outage commencing March 29, 1989, was attributed to FPL's nuclear operator's failure to pass [an] NRC requalification exam. Because operator training is directly a management function, we find that this outage was the responsibility of FPL's management. However, the outage concurred with a previously scheduled outage for equipment safeguards testing that was set to begin April 1, 1989. During this planned outage, FPL identified and performed essential repairs. Thus, even though management was responsible for the outage, replacement fuel costs were prudently incurred commencing April 1.

Therefore, only replacement fuel costs for the period March 29 through April 1, 1989, should be disallowed.

Order 0381, at p.8 (emphasis supplied in Order 0381).

10. The Commission correctly concludes in Order 0381 that, in determining "the appropriate duration of the outage [, the Commission] must take into account the Company's repair of the rod position indication system," which is discussed in Section II above. *Id.* However, when it addresses the outage time required for TP4 to replace and test the faulty reverse power protection relay, the Commission fails to make a corresponding adjustment. The only stated rationale for not adjusting the RPC calculation for the 8 hours required to replace and test the reverse power protection relay is that the malfunction of this relay was a "random mechanical failure" and its repair was "typical and not unusual in the operation of nuclear generators." Order 0381, at p.9.

11. The Commission's rationale for not giving FPL credit for the 8-hour relay repair in the RPC calculation either overlooks or misapprehends the standard enunciated in Order No. 23232 and re-affirmed in Order 0381. Replacing and testing the reverse power protection relay was an "essential repair": there is undisputed testimony by Mr. Stall that

failing to make the repair would have resulted in the same sort of automatic turbine shutdown the next time TP4 came offline. Tr. 419-21. Nothing in the Commission's standard turns on whether a repair is occasioned by a "random mechanical failure"; in fact, it is just that sort of unanticipated problem that it is important for a utility to correct when a unit is offline, and for which the utility thus should be given credit in the RPC calculation. Likewise, nothing in the Commission's standard turns on whether the relay malfunction was "typical and not unusual in the operation of nuclear generators." Moreover, there is no record evidence that the failure of mechanical contacts in a reverse power protection relay is "typical and not unusual."

12. In sum, the 8-hour delay in restarting TP4 due to replacing and testing the malfunctioning reverse power protection relay fits the Commission's standard for crediting "essential repair" time against the RPC calculation. Order 0381 provides no valid reason for the Commission failing to do so. Accordingly, the Commission should reconsider its decision on the relay repair and reduce the outage duration used for the RPC calculation by 8 hours.

IV. The amount that FPL must refund to customers should be reduced from \$13,854,054.63 to \$7,840,675.71.

13. As noted at the outset, FPL strongly disagrees with the Commission's rejection of FPL's "system average" approach to measuring the appropriate RPC refund because of the implicit penalty on an operator of a nuclear unit for events that bear no relation to the unit's prudent operation. Due to the limited scope of reconsideration, however, FPL is not asking the Commission to reconsider that aspect of its decision here. FPL is seeking by this Motion only to have the Commission adjust its RPC refund calculation to reflect the lower number of TP3 and TP4 outage hours that will result from correcting to the two errors discussed in Sections II and III above.

14. Attached hereto as Appendix 3 is a revised RPC calculation that reflects an additional 99 hours of essential repair time for the TP3 outage (*i.e.*, the difference between the 27 hours that the Commission incorrectly concluded was the duration of the RPI repair and the 126 hours that the repair actually required) and 8 hours of essential repair time for the replacement and testing of the malfunctioning reverse power protection relay at TP4, which the Commission failed to address in Order 0381. FPL has calculated the credit associated with those additional hours of essential repair time by multiplying the hours times the same net RPC per hour that is reflected in the essential-repair credit of \$1,477,864.81 in Order 0381 (*i.e.*, \$76.34/MWh). As shown on Appendix 3, this results in additional essential-repair credits of \$5,418,842.22 for TP3 and \$437,886.24 for TP4. Reducing the total refund of \$13,854,054.63 stated in Order 0381 for these additional essential-repair credits and adjusting the interest calculation accordingly yields a corrected total refund of \$7,840,675.71.

WHEREFORE, for the foregoing reasons, FPL respectfully requests the Commission to reconsider Order No. PSC-10-0381-FOF-EI, to correct the errors in said order as set forth above and to approve an RPC refund amount of \$7,840,675.71 as shown on Appendix 3 hereto, rather than \$13,854,054.63 as stated in said order.

Respectfully submitted,

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and General Counsel
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By: /s/ John T. Butler
John T. Butler
Florida 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 electronic delivery this 30th day of June, 2010, to the following:

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By: s/ John T. Butler
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APPENDIX

#1

U N I T	Activity ID	Description	Start Date	End Date	Run Date	Run Time	Run Duration	Task ID	Task Description
3	U3N028-04H	RPI-3-F2: HANG ECO	26FEB08 20:30A	26FEB08 20:30A			0:00	RPI-3-F2	
3	3702301301	RPI-3-F2: REPAIR CUT SPLICE RATCHET INS P	26FEB08 23:30A	26FEB08 23:30A			0:00	RPI-3-F2	
3	3702301302	RPI-3-F2 REPAIR: REMOVE SPLICES	26FEB08 23:30A	26FEB08 23:30A			0:00	RPI-3-F2	
4	3802452401	RPI-4-J5: TROUBLESHOOT/REPAIR INDICATOR	27FEB08 00:30A	27FEB08 01:30A			0:00	RPI-4-J5	
3	U3JPRP1	HP BRIEF FOR RPI SPLICE REPAIR	27FEB08 07:30A	27FEB08 07:30A			0:00		
3	3702301304	+RPI-3-F2 REPAIR: INSPECT DIGITAL SPLICE	27FEB08 10:30A	27FEB08 11:30A			0:00	RPI-3-F2	
3	U3JCRP1	HP BRIEF FOR RPI SPLICE REPAIR	27FEB08 15:30A	27FEB08 16:30A			0:00		
3	3702301301	RPI-3-F2 REPAIR: RAISE/F2 AND SECURE	28FEB08 03:30A	28FEB08 08:30A			0:00	RPI-3-F2	
3	3702301302	RPI-3-F2 REPAIR: RE-SPACE CONNECTION	28FEB08 23:30A	28FEB08 00:30A			0:00	RPI-3-F2	
3	3702301304	RPI-3-F2 REPAIR: CHAR TEST CABLE	29FEB08 01:30A	29FEB08 02:30A			0:00	RPI-3-F2	
3	U3N028-03R	RPI-3-F2: REL_ECO	29FEB08 08:30A	29FEB08 08:30A			0:00	RPI-3-F2	
3	3702301302	RPI-3-F2 REPAIR: REST PERIOD FROM RCA	29FEB08 16:30A	29FEB08 16:30A			0:00	RPI-3-F2	
3	3702301303	RPI-3-F2 REPAIR: REPAIR DIGITAL SPLICE	29FEB08 16:30A	29FEB08 16:30A			0:00	RPI-3-F2	
3	3702301304	RPI-3-F2 REPAIR: TEST CABLE/TEST CABLE REPAIR AND COIL STACK	29FEB08 18:00A	29FEB08 21:30A			0:00	RPI-3-F2	
3	3702301303	RPI-3-F2 REPAIR: LOWER F2 TO ORIGINAL POSITION	29FEB08 21:30A	29FEB08 21:30A			0:00	RPI-3-F2	
3	3702301307	RPI-3-F2 REPAIR: TORQUE SEISMIC PLATE	29FEB08 22:00A	29FEB08 22:00A			0:00	RPI-3-F2	
3	3702301303	RPI-3-F2 REPAIR: RESTORE FROM TSA GRIPPER VOLT.	01MAR08 10:30A	01MAR08 11:30A			0:00	RPI-3-F2	
3	3702301301	RPI-3-F2 REPAIR: PHAT RPI-3-F2 REPAIR - PMI 02422	03MAR08 07:30A	03MAR08 07:30A			0:00	RPI-3-F2	

Start Date 24FEB08 22:00
 Phat Date 16DEC08 06:59
 Date Date 10JAN08 13:30
 Run Date 21JAN08 14:20
 Task ID U3JPRP1
 Task Description +RPI-3-F2 REPAIR: INSPECT DIGITAL SPLICE

Tutor Point Nuclear Power Station
 U3E3-F2 RPI Repair 2008
 Dual Unit Forward Change

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APPENDIX

#2

**Florida Power & Light Company
Docket No. 090505-EI
Staff's 1st Set of Interrogatories
Interrogatory No. 37
Page 1 of 1**

Q.

How long did FPL's repair of the Rod Position Indication system take?

A.

The Rod Position Indication (RPI) System repair began on February 26, 2008 at 20:00 after the Equipment Clearance Order was issued. The RPI System repair was completed on March 3, 2008 at 01:59 when post maintenance testing was completed.

DOCUMENT NUMBER: DATE
090505 Hearing Exhibits - 000313

5409 JUN 30 2008

FPSC-COMMISSION CLERK

APPENDIX

#3

<i>Overview of Total Refund (Order No. PSC-10-0381-FOF-EI)</i>		
A	Estimate of Replacement Power Costs	16,202,719.36
B	Estimate of Fuel Costs Incurred Assuming No Outages	1,231,649.75
C	<i>Net Replacement Power Costs (A-B)</i>	<i>14,971,069.60</i>
D	Credit for Performance of Essential Repairs (27 Hours)	1,477,864.81
E	<i>Sub-Total 2 (C-D)</i>	<i>13,493,204.79</i>
F	Interest	360,849.84
G	<i>Total Refund (E+F)</i>	<i>13,854,054.63</i>

Note 1 Credit (per Unit) under Part D = $(\$1,477,864.81) / (717 \text{ MW} * 27 \text{ Hours}) = \$76.34/\text{MWh}$

Note 2 Interest Rate (per \$1,000) = $\$360,849.84 / (\$13,493,204.79 / \$1,000) = \26.74

<i>Overview of Total Refund (Corrected Unit 3 and Unit 4 Credits for Essential Repairs)</i>		
A	Estimate of Replacement Power Costs	16,202,719.36
B	Estimate of Fuel Costs Incurred Assuming No Outages	1,231,649.75
C	<i>Net Replacement Power Costs (A-B)</i>	<i>14,971,069.60</i>
D	Credit for Performance of Essential Repairs (27 Hours)	1,477,864.81
E	Additional Credit for Performance of Unit 3 Essential Repairs (99 Hours)	1,371,035.22
F	Credit for Performance of Unit 4 Essential Repairs (8 Hours)	137,886.24
G	<i>Sub-Total 2 (C-D-E-F)</i>	<i>7,636,476.33</i>
H	Interest	204,199.38
I	<i>Total Refund (G+H)</i>	<i>7,840,675.71</i>

Note 1 Credit under Part E = $(\$76.34/\text{MWh} * 717 \text{ MW} * 99 \text{ Hours})$

Note 2 Credit under Part F = $(\$76.34/\text{MWh} * 717 \text{ MW} * 8 \text{ Hours})$

Note 3 Interest under Part H = $(\$7,636,476.33 / \$1,000) * \$26.74$

DOCUMENT NUMBER & DATE

05409 JUN 30 2010

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