

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Fuel and Purchased Power)
Cost Recovery Clause with)
Generating Performance Incentive)
Factor)
_____)

DOCKET NO. 140001-EI
FILED: August 22, 2014

**OPC'S MOTION TO DISMISS FPL'S JUNE 25, 2014 PETITION
FOR LACK OF SUBJECT MATTER JURISDICTION**

Pursuant to Rule 28-106.204, F.A.C., the Citizens of the State of Florida, through the Office of Public Counsel ("Citizens" or "OPC"), move for an order dismissing the petition that Florida Power & Light Company ("FPL") filed in the above docket on June 25, 2014, on the grounds that the Commission has no jurisdiction over the subject matter of FPL's request. In the petition, FPL describes its ambition to enter the highly competitive business of exploring for, drilling, and producing natural gas in shale formations, over which enterprise the Commission has no jurisdiction. FPL's request, which is to establish capital investments in the unregulated, competitive natural gas production industry as a component of its utility rate base and to collect a guaranteed return on such investments through its fuel cost recovery clause, is therefore beyond the regulatory purview of the Commission, and the Commission has no authority to grant FPL's petition. OPC submits that the non-jurisdictional nature of the proposed enterprise is evident on the face of FPL's request, and that Florida Statutes and applicable precedents require the Commission to dismiss the petition for lack of subject matter jurisdiction.

Inasmuch as this Motion to Dismiss is substantive (rather than procedural) and dispositive in nature, OPC submits that it should be ruled upon by the full Commission. The question of subject matter jurisdiction raised by OPC's Motion to Dismiss is a threshold legal issue. In the event the Commission grants this Motion to Dismiss, its ruling will render moot the

remaining issues associated with the petition, and obviate the need to spend time and resources on preparing for and participating in an evidentiary hearing on the petition. In the interests of efficiency, therefore, OPC respectfully requests the Commission to vote on OPC's Motion to Dismiss prior to the date of the evidentiary hearing that is to be scheduled on FPL's request.¹

FPL'S PROPOSAL

In the first part of its petition, FPL describes a proposed joint venture with PetroQuest Energy, Inc. ("PetroQuest"). PetroQuest is engaged in the exploration, development, and production of natural gas in Oklahoma, Texas, Louisiana, and the Gulf of Mexico. (Petition, at page 15) PetroQuest is not subject to the jurisdiction of the Commission. In its petition, FPL states that USG, an unregulated affiliate of FPL, is currently involved in the exploration and production of natural gas. (Petition, at pages 5, 15) USG is not subject to the jurisdiction of the Commission. As described by FPL in its June 25, 2014 petition, USG and PetroQuest have structured a joint venture ("the Woodford Project"), pursuant to which USG, as a passive participant, will provide capital investments to PetroQuest. (Petition, at page 5) PetroQuest will employ the capital invested by USG in the drilling and hydraulic fracturing of "unconventional" shale formations on specific properties in Oklahoma. (Petition, at pages 11, 12, 16) USG will receive a working interest in the gas that PetroQuest produces with USG's capital contributions. (Petition, at page 16) The cost of USG's share of the gas will be a function of PetroQuest's costs of production. (Petition, at pages 5, 6, 16, 18) The Commission has no authority to audit PetroQuest's production costs, much less disallow any of its production costs. Under the terms

¹ For example, OPC notes that, according to the Commission calendar, the Commission will hold an agenda conference on October 2, 2014. Scheduling the decision on OPC's Motion to Dismiss for October 2, 2014 would provide sufficient time for FPL to file its response to OPC's Motion to Dismiss and for the Commission Staff to submit a written recommendation in advance of that agenda conference.

of the contractual arrangement with USG, PetroQuest will sell the portion of the natural gas to which USG is entitled by virtue of its capital contributions into the competitive market for natural gas on USG's behalf, unless USG affirmatively informs PetroQuest of USG's decision to take the gas "in kind" (i.e., accept delivery of the physical gas produced by a given well). (FPL has asserted confidentiality for the "drilling and development agreement" between PetroQuest and USG; however, the above information was provided in FPL's answer to OPC's Interrogatory No. 12, attached as Exhibit A.) The Commission has no jurisdiction over PetroQuest's marketing and disposition of the gas. If the Commission grants FPL's petition, USG will assign its rights and interests in the transaction described above to a subsidiary of FPL, in which case FPL's subsidiary will stand in the shoes of USG, having rights and obligations in the joint venture that are identical to those of USG. (Petition, at pages 5, 17-18) No part of the contractual arrangements negotiated between and among USG, PetroQuest, and FPL is subject to the jurisdiction of the Commission.² Further, inasmuch as the Commission has no jurisdiction over USG or its contractual arrangements in the joint venture with PetroQuest, and the FPL subsidiary's posture in the joint venture following an assignment would be identical to that of USG, it follows necessarily that the Commission would also have no jurisdiction over the FPL subsidiary's participation in the joint venture with PetroQuest.³

In its proposal, FPL asks the Commission to (1) effectively regard its subsidiary's capital investments in the PetroQuest shale drilling, hydraulic fracturing, and natural gas production activity as a component of its regulated rate base that is entitled to receive the return on equity

² FPL states that the assignment of USG's rights and interests to FPL's subsidiary hinges upon Commission approval of its petition (Petition, at pages 15, 17); however, that is a self-imposed condition created and negotiated by FPL, and not a consequence of jurisdiction over the transaction conferred by the Florida Legislature.

³ This conclusion is compelled, not only by an inescapable syllogism of logic, but also by a 1989 Commission order that is directly on point. See the discussion of Order No. 21847, *infra*.

that the Commission authorizes FPL to earn on its utility assets, (2) declare the capital investments to be eligible for inclusion in its fuel and purchased power cost recovery clause, and (3) authorize FPL to collect the return on its equity investment in the PetroQuest joint venture (as well as production costs and certain expenses) as a component of the price that FPL pays its subsidiary for the natural gas. (FPL states that it “intends” for the subsidiary to take its entitlement share of the gas produced by PetroQuest “in kind”, and then to sell the gas to FPL. See Exhibit A; Petition, at page 22)

If the Commission denies FPL’s petition, USG will not assign its interests to FPL’s subsidiary, but will instead continue as a party to the transaction with PetroQuest on its own behalf, and the Commission would continue to have no jurisdiction or authority over USG or USG’s activities, including the Woodford Project. (Petition, at pages 15-16)

FPL’S PETITION FALLS OUTSIDE THE COMMISSION’S REGULATORY PURVIEW

The Commission’s jurisdiction, powers, and authority are found in Chapter 366, Florida Statutes. The Legislature has conferred on the Commission the power to regulate the rates and service of “public utilities” as they are defined by statute. Section 366.04(1), Florida Statutes. Only utility property that is “used and useful in serving the public” is to be reflected in the rates that customers pay. Section 366.06(1), Florida Statutes. Section 366.02(1), Florida Statutes, defines “public utility” as “every person, corporation, partnership, association, or other legal entity. . . supplying electricity or gas. . . to or for the public within this state” (*exemptions not pertinent here omitted*). As other statutory provisions make clear, “supplying electricity. . . to or for the public” does not include participating, through capital investments, in the competitive industry of exploring for, drilling, and producing natural gas.

For instance: Within the broader category of “public utility,” FPL is an “electric utility” as defined by statute. Section 366.02(2), Florida Statutes, defines “electric utility” as “. . . any municipal electric utility, investor-owned electric utility, or rural electric cooperative which *owns, maintains, or operates an electric generation, transmission, or distribution system* within the state.” (Emphasis supplied) Investing in the exploration, drilling, and fracturing of shale to release gas is not part of “own[ing], maintain[ing], or operat[ing] an electric generation, transmission, or distribution system.”

The regulatory scheme of Chapter 366, Florida Statutes, contemplates the granting of monopolies on the “production and sale of electricity” in the public interest. *PW Ventures, Inc. v. Nichols*, 533 So.2d 281 (1988). In *PW Ventures*, the Supreme Court of Florida discussed the legislative framework from the standpoint of the extent of the Commission’s jurisdiction over sales to or for the public necessary to avoid the uneconomic duplication of the generation, transmission, and distribution facilities employed by the entities that possess the monopolies. *Id.* However, there is no monopoly granted for the production of natural gas, and therefore no regulation by the Commission of investments in that unregulated industry.

Said differently, the reach of regulation is coextensive with the monopoly (“production and sale”) that the utility enjoys. This observation demonstrates the non-jurisdictional nature of FPL’s request. The “production” of electrical power involves converting the energy content of fuel into electricity in a generation facility. The utility procures fuel from suppliers and uses it as an input to that regulated monopoly function. The Commission reviews the costs of the fuel commodity for reasonableness, but the utility’s advantageous monopoly on generation—which is the basis for subjecting the utility to regulation by the Commission—does not extend to producing the fuel that is burned during the generation of electricity. For that reason, capital

investments and ventures in a competitive business undertaken to make profits from the production and sales of fuel are not regulated by the Commission. Therefore, these investments in unregulated ventures do not qualify as a public utility's "property used and useful in serving the public." Section 366.06(1), Florida Statutes.

In its petition, FPL cites Order No. 14546, issued in Docket No. 850001-EI-B on July 8, 1985, in support of its request to include such investments in its fuel cost recovery clause. This Order provides no jurisdictional support for FPL's petition. The reason is simple and straightforward. Order No. 14546 identifies, as candidates for the fuel cost recovery clause, items that are ". . . normally recovered through base rates." Order No. 14546, at page 4. In other words, before an item involving a capital investment can qualify for the alternative ratemaking mechanism of the fuel cost recovery clause, it must first qualify for rate base. For the reasons developed above, investments in the competitive gas production industry do not qualify for rate base, and so are not "normally recovered through base rates." Accordingly, these investments do not qualify for the fuel cost recovery clause under Order No. 14546.

In its petition, FPL mentions Order No. PSC-93-1331-FOF-EI (gas pipeline lateral); Order No. PSC-95-1089-FOF-EI (rail cars); and PSC-97-0359-FOF-EI (power plant modification) as examples of capital items that were allowed to be recovered through the fuel cost recovery clause. (Petition, at pages 21-22) None of these orders support FPL's petition. In each of them, the Commission approved—not a capital investment in a nonutility, competitive fuel production industry—but an investment that made the fuel or the delivery of fuel produced by and procured from suppliers more economical.⁴

⁴ For instance, by supplying its own rail cars, FPL effectively "bought down" the cost of transporting coal to its plant site, but the rail company continued to provide the (nonutility) transportation service.

In 1989, the Commission determined that it has no jurisdiction over subsidiaries or affiliates of utilities engaged in fuel production and/or fuel transportation. The delineation of the jurisdictional boundary set forth in the 1989 order is fully applicable to and dispositive of FPL's petition.

The above conclusion did not originate with OPC's evaluation of FPL's June 25, 2014 petition. The Commission reached the same result in 1989. The subject that the Commission addressed at the time was the manner in which Florida Power Corporation ("FPC," now Duke Energy Florida) created subsidiaries and/or affiliated companies to own and operate coal mines and transport coal to FPC's generation sites. In Order No. 21847, issued in Docket No. 860001-EI-G on September 7, 1989, the Commission first described the corporate arrangements in place to provide coal to FPC:

In March, 1976, Electric Fuels Corporation was established as a wholly-owned subsidiary of Florida Power Corporation and signed a Coal and Supply Delivery Agreement for the purchase and delivery of coal to Crystal River Units 1 and 2. . . . Since 1982, when Florida Progress Corporation, a holding company, was formed, EFC has been an affiliate of FPC.⁵

The Commission then deliberately and unequivocally distinguished between FPC, which was subject to its jurisdiction, and FPC's fuel supply affiliates, over which it possessed no jurisdiction:

Chapter 366, Florida Statutes (1987), provides the statutory basis for the exercise of the Commission's jurisdiction over public utilities. Public utilities are defined as "every person, corporation. . . supplying electricity. . . to or for the public within this state." Section 366.02, Florida Statutes. FPC is a public utility as defined in Chapter 366 and is therefore subject to the jurisdiction of the Commission. EFC and the complex supply and delivery network they have created are not subject to the jurisdiction of the Commission under Chapter 366.

Order No. 21847, at pages 2-3: *See* excerpt attached as Exhibit B

⁵ In Order No. 21847, the Commission described with particularity a complex arrangement that EFC had entered into for the purchase and delivery of a specific coal to FPC, the details of which have been omitted here because they are not pertinent to this Motion. However, it is clear from the order that the Commission was assessing a situation in which EFC, a subsidiary and later an affiliate of FPC, acquired ownership interests in coal reserves that it mined, transported, and sold to FPC.

Under the FPC-related arrangements that the Commission addressed in Order No. 21847, Electric Fuels Corporation (EFC) was involved in the for-profit business of investing in and acquiring ownership interests in coal deposits and in selling the coal that it owned and mined to FPC for FPC's power generation facilities. In the arrangement that FPL describes in its June 25, 2014 petition, a subsidiary of FPL would be involved in the for-profit business of investing in and acquiring ownership of gas reserves to sell to FPL for FPL's power generation facilities. (Petition, at page 5, footnote 1; page 22) With respect to the delineation of the Commission's jurisdictional limits, the difference in fuels does not affect the analysis: the 1989 situation is fully analogous to that described in FPL's June 25, 2014 petition, and the conclusion regarding the Commission's lack of jurisdiction over EFC in Order No. 21847 is directly applicable to FPL's proposal.

Nor does FPL's plan to create a subsidiary to participate in the role now held by USG distinguish its situation from that which the Commission addressed in Order No. 21847. In its 1989 determination, the Commission acknowledged and encompassed in its observations regarding jurisdiction the period during which EFC was a subsidiary of FPC. Further, while FPL says its planned subsidiary would be "fully consolidated with FPL for regulatory. . . purposes,"⁶ this is a unilateral, self-serving, baseless pronouncement. FPL cannot create, by proclamation, regulatory jurisdiction over a subsidiary where none exists. Abraham Lincoln once used a memorable frontier prairie-ism to rebuff some wishful thinking offered by others. Calling a sheep's tail a leg doesn't make it a leg, said Lincoln; the animal will still have only four legs. Similarly, calling a subsidiary involved in a nonutility activity "regulated" does not confer jurisdiction on the Commission—regardless of how eager FPL is to "submit" to that

⁶ Petition, at page 23. In the pre-filed testimony that accompanied the petition, FPL witness Sam Forrest refers to the entity as a "fully regulated FPL subsidiary." Forrest, at page 7.

(nonexistent) jurisdiction.⁷ Nor does FPL's assurance that the planned subsidiary would sell only to FPL alter the result; such a dedicated source relationship was also true of FPC's non-jurisdictional subsidiary-turned-affiliate. A voluntary decision by the subsidiary and FPL to enter into an exclusive contractual arrangement does not alter the competitive nature of the gas production business or modify the limits of the Commission's jurisdiction.⁸

FPL states that it proposes to create a subsidiary solely to minimize tax liabilities, thereby asserting, by implication, that it could choose to participate in the joint venture directly. (Petition, at page 5, footnote 1; page 23) Even if FPL were to follow this path of direct participation, the Commission would have no jurisdiction over the activity. Instead, the Commission would have the *obligation* to segregate FPL's unregulated gas production activity from its regulated utility function to ensure that FPL's customers would not be required to subsidize those non-jurisdictional activities. This legislative intent is seen, for instance, in Section 366.05(2), Florida Statutes, which states: "Every public utility, as defined in s. 366.02, which in addition to the production, transmission, delivery or furnishing of heat, light, or power also sells appliances or other merchandise shall keep separate and individual accounts for the

⁷ FPL justifies its venture into the gas production business on the basis of projected benefits to customers that depend on "forecasted" market prices exceeding its "forecasted" production costs. (Petition, at pages 6-7) However, FPL is not sufficiently confident of its forecasts to accept the risk that its projections may prove to be invalid. At pages 25-26 of its petition, FPL states, ". . .the Commission should acknowledge that there are potential drilling/production risks with pursuing gas assets and as long as the transaction was within the guidelines it cannot be deemed imprudent based on the results." The effect of FPL's proposal would be to place the risk of erroneous projections on customers, and ensure that FPL would receive a return on its investment in the competitive gas industry regardless of what happens to the notably unpredictable market price of gas in the future.

⁸ In the pre-filed testimony of witness Kim Ousdahl, FPL points to two subsidiaries, KPB and FPL Recovery Funding, LLC ("FREC"), as support for the concept of a regulated subsidiary of a public utility. However, such affiliates are explicitly authorized in the provisions of Chapter 366, Florida Statutes, that authorize the Commission to issue a "financing order" for the securitization of special utility bond proceeds. Section 366.8260, Florida Statutes. Moreover, unlike the proposed subsidiary described in FPL's petition, the role of KPB and FREC in the financing of repairs to FPL's storm-damaged system is directly connected to the regulated utility's definitional activities of "own[ing], maintain[ing], or operat[ing] a generation, transmission, or distribution system." Section 366.02(2), Florida Statutes. Therefore, FPL's references to these examples do not support its petition.

sale and profit deriving from such sales. No profit or loss shall be taken into consideration by the commission from the sale of such items in arriving at any rate to be charged for service by any public utility.”

This quoted language is doubly meaningful. First, the phrase “in addition to the production, transmission, delivery or furnishing of heat, light, or power” in context is intended to capture the extent of activities subject to the Commission’s jurisdiction, and so reinforces the Commission’s 1989 distinction between the *purchasing* of fuel as a necessary cost to be incurred as an input to the performance of the regulated monopoly function of generating electricity, on the one hand, and the actual generation of electricity (“production”), on the other. The distinction was valid then, and no change in law has occurred since to render it inapplicable to FPL’s proposal. Second, the provision establishes the Legislature’s intent that the Commission ensure that regulated utility functions are accounted for separately from unregulated activities.

The Commission has stated, and FPL agrees, that public utilities subject to the Commission’s jurisdiction are not allowed to make a profit on fuel costs flowed through the fuel cost recovery clause. This principle derives from, and is consistent with, the statutory definition of utility-related activities and the corresponding limits of the Commission’s jurisdiction. FPL’s proposal would violate this requirement.

Under rate base/rate of return regulation, a utility is entitled to collect from customers the reasonable and necessary expenses that it incurs to operate its system, plus an opportunity to earn a fair return on its investment (“rate base”). Charles F. Phillips, Jr., *The Regulation of Public Utilities*, Public Utilities Reports, Inc., 1984, at page 151. Said differently, the source of a utility’s “profit” is the return that it earns on its investment in plant. A longstanding principle underlying the Commission’s administration of the fuel and purchased power cost recovery clause is that utilities must make no profit on the fuel costs that they roll through the cost recovery clause: “The charge reflected on a customer’s bill each month is designed only to

provide for the recovery of fuel costs experienced by the utility in generating the customer's power. . . . It should be emphasized that a utility does not make a profit on its fuel costs." Order No. PSC-11-0579-FOF-EI, issued in Docket No. 110001-EI on December 16, 2011, at page 6 (quoting Order No. 6357, issued in Docket No. 74680 on November 26, 1974).

By implication, this statement recognizes the distinction between a jurisdictional utility activity, which is the purchasing of fuel for use in the monopoly generation function (the reasonable costs of which are recoverable through the fuel cost recovery clause), and the non-utility-related, non-jurisdictional activity of investing capital in the natural gas exploration and production industry to earn a return (profit) on that investment. Therefore, the Commission's insistence that regulated utilities make no profit on fuel costs that pass through the fuel cost recovery clause is a corollary to the broader jurisdictional premise discussed above.

Significantly, FPL has embraced and espoused this regulatory principle over time. In statements prepared for its customers and the investment community in 2008, FPL stated, "Under Florida law, FPL is not permitted to earn a profit on fuel." See Exhibit C. While the wording has changed slightly, the same message appears in a document titled *How Fuel Cost Recovery Works* on FPL's website as of the filing date of this Motion to Dismiss.⁹ See Exhibit D. Yet, making a profit on fuel (natural gas) is precisely the objective of FPL's specific Woodford joint venture with PetroQuest and, more broadly, the guidelines for future investments in gas exploration and drilling that it wants the Commission to approve.¹⁰ FPL's vision of receiving through its fuel cost recovery clause assured, ratepayer-backed profits from its capital

⁹ <http://www.fpl.com/rates/pdf/fuelrecovery.pdf> (last viewed on August 22, 2014)

¹⁰ FPL claims that the magnitude of FPL's ability under its proposed guidelines to earn a return (profit) on investments in gas exploration and drilling ventures and collect those profits through the fuel cost recovery clause is confidential. (Petition, at page 25) As does FPL in its petition, therefore, OPC refers the reader to the unredacted version of witness Forrest's Exhibit SF-9.

investments in the competitive natural gas production industry is foreign to the regulatory principle that the Commission has implemented and administered *with FPL's explicit concurrence*. The prohibition against profits on fuel, which is a corollary to the broader revenue requirements formula that limits a regulated utility's return opportunity, illustrates further that the Commission has no authority to grant FPL's June 25, 2014 petition. It must dismiss the petition for lack of subject matter jurisdiction.

FPL's proposed guidelines are also outside of the Commission's regulatory purview.

In addition to the proposed Woodford project with PetroQuest, in its petition FPL seeks approval of guidelines, pursuant to which it would proceed with additional capital investments in more ventures with other counterparties. (Petition, at pages 8-9, 25-26) The proposed ventures and guidelines share this in common with the PetroQuest situation: They involve capital investments in the competitive natural gas production industry, and thus are non-jurisdictional for the Commission's regulatory purposes. Accordingly, for the reasons stated above, the Commission should dismiss this portion of the petition as well.

DISMISSING FPL'S PETITION WILL NOT PREJUDICE FPL


Granting OPC's Motion to Dismiss will not prejudice FPL.¹¹ The dismissal will place FPL on notice that if it makes capital investments in the natural gas production industry, its venture into the unregulated gas production business must stand on its own merits, separate and apart from utility-related accounts, and the Commission will apply the appropriate standard of review to prices that FPL pays the affiliate for gas. Thus informed, FPL will be free to decide whether to proceed or not to proceed with the transactions it described in its petition. This

¹¹ FPL has acknowledged that, if its joint venture with PetroQuest does not go forward, it can readily replace the quantity of gas projected for that venture from other sources in the market. See FPL's answer to Staff's Interrogatory No. 20, attached as Exhibit E.

simply is the appropriate posture for a regulated utility embarking on a venture in a competitive, unregulated industry, and the proper relationship between and among the utility, the Commission, and the utility's customers. Dismissing the petition will enforce jurisdictional boundaries, prevent improper transfers of the risks of unregulated activities to FPL's customers, and preserve the Commission's ability to scrutinize transactions between affiliated companies to ensure that customers pay only reasonable costs.

WHEREFORE, the Citizens request the Commission to enter an order dismissing FPL's June 25, 2014 petition for lack of subject matter jurisdiction.

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing **OPC'S MOTION TO DISMISS FPL'S JUNE 25, 2014 PETITION FOR LACK OF SUBJECT MATTER JURISDICTION** has been furnished by electronic mail and/or U.S. Mail on this 22nd. day of August, 2014, to the following:

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Q.

This interrogatory relates to the relationship between the proposal contained in FPL's June 25, 2014 petition in the instant docket and the "asset optimization program" that the Commission approved as a pilot program in Order No. PSC-13-0023-S-EI. Under the terms of the "asset optimization program," and the terms of the proposal that is the subject of FPL's June 25, 2014 petition and related testimony and exhibits filed in Docket No. 140001-EI, would FPL, or the FPL subsidiary formed to participate in the joint venture with an affiliate of PetroQuest, or the PetroQuest affiliate have the ability to sell natural gas produced by the PetroQuest affiliate with capital supplied by the FPL subsidiary to entities other than FPL? If your answer is "yes," under what circumstances could such sales occur? Please explain your answer.

A.

First and foremost, FPL intends that the investment would be for the sole purpose of delivering the Woodford Project gas to Florida to serve its generating facilities. As such, the base case analysis assumes neither FPL, nor FPL's subsidiary nor PetroQuest would be selling the gas from the Woodford Project into the market.

The FPL subsidiary proposed by FPL in the June 25, 2014 petition will sell 100% of the gas received from the Woodford Project directly to FPL. The FPL subsidiary has no capability to make sales into the market, and it is not FPL's intent for its subsidiary to sell gas to any entity other than FPL.

FPL would maintain the flexibility to make sales of the gas from the Woodford Project into the market, if and only if circumstances arose where FPL could thereby lower the overall price of fuel for customers. Generally, such circumstances could arise when the relationship between the market prices at different delivery points and the cost of transportation between those delivery points made it possible to sell FPL's gas at an upstream delivery point and then buy replacement gas at a downstream delivery point for less than the transportation cost. If FPL entered into any such transactions, it would do so pursuant to its asset optimization program, such sales would only take place when there was the potential for generating additional savings for FPL's customers, and the benefits of such transactions would be credited directly to FPL's customers through the Fuel Clause.

EXHIBIT A

**Florida Power & Light Company
Docket No. 140001-EI
OPC's 2nd Set of Interrogatories
Interrogatory No. 12
Page 2 of 2**

Additionally, contractually through the Drilling and Development Agreement presented as Exhibit SF-4, FPL has the option of either taking the gas in kind or allowing PetroQuest (note there is no difference between PetroQuest or a PetroQuest affiliate in this discussion, so we will refer to both as "PetroQuest") to sell it. This option was meant to allow for the transition from USG to FPL should the Commission approve the assignment. During the interim period, USG plans to utilize the existing relationships PetroQuest has to sell the Woodford Project gas into the market. However, if the Commission approves FPL's petition for the Woodford Project, FPL intends to elect to take the gas in kind and will no longer have the ability to have PetroQuest market FPL's share of production. By exercising the one-time option to take the gas in kind, the Woodford Project gas will become part of FPL's larger procurement portfolio and the gas will be treated in the same manner as the rest of the portfolio. As discussed above, FPL may consider selling the Woodford Project gas that it has taken in kind, but only when the potential for generating additional savings for FPL's customers is available.

The decision to enter into the PetroQuest transaction was made independent of the incentive mechanism and under the assumption that FPL would accept the gas from the joint venture in kind and have it delivered to Florida. Consequently, the economics assume FPL receives the gas from its subsidiary and delivers the gas to Florida to serve FPL's customers, and there is no sale pursuant to FPL's asset optimization program. It is that analysis that results in projected savings to FPL's customers of \$107 million. Of course, if there were optimization opportunities, the projected benefits would have been even greater than the \$107 million that FPL calculated. As stated previously, while FPL's decision to enter into the gas reserve transaction was made independent of the incentive mechanism, FPL sees no reason not to allow the incentive mechanism to work to benefit FPL's customers in the gas reserve transactions.

1989 Fla. PUC LEXIS 1415

Florida Public Service Commission
September 7, 1989; September 7, 1989
DOCKET NO. 860001-EI-G; ORDERNO. 21847, 89-9 FPSC 159

Reporter: 1989 Fla. PUC LEXIS 1415

In re: Investigation into affiliated cost-plus fuel supply relationships of Florida Power Corporation

Core Terms

coal, ton, fuel, ratepayer, transport, affiliate, barge, proposed findings of fact, bow, imprudent, per year, valley, solicit, ship, tows, refund, conclusions of law, estimate, tonnage, procurement, prudent, spot, ton of coal, delivery, waterborne, supplier, appendix, lease, partnership, seam

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On behalf of the Citizens (OPC).

JOSEPH A. McGLOTHLIN, Esquire, AND VICKI GORDON KAUFMAN, Esquire, 522 E. Park Avenue, Suite 200, Tallahassee, Florida 32301

On behalf of Florida Industrial Powers Users Group (FIPUG).

JOHN C. DAVIS, Esquire, Florida Public [*2] Service Commission, 101 East Gaines Street, Tallahassee, Florida 32399-0863

On behalf of the Commission Staff (STAFF).

PRENTICE P. PRUITT, Esquire, Office of General Counsel, Florida Public Service Commission 101 East Gaines Street, Tallahassee, Florida 32399-0862

Counsel to the Commissioners.

Panel: The following Commissioners participated in the disposition of this matter: MICHAEL McK. WILSON, Chairman; THOMAS M. BEARD; BETTY EASLEY; GERALD L. GUNTER; JOHN T. HERNDON

Opinion

EXHIBIT B

Pursuant to Notice, a public hearing on the above matter was held before the Florida Public Service Commission on December 14-19, 1988 and April 19, 1989.

ORDER GRANTING REFUND

Background

We opened this docket in February, 1986, as a fuel adjustment "spin-off" for the purpose of investigating the affiliated cost-plus fuel supply relationships between Florida Power Corporation (FPC) and Tampa Electric Company (TECO) and their respective affiliated fuel supply corporations. Also, in February, 1986, we established Docket No. 860001-EI-F, Investigation into Certain Fuel Transportation Costs Incurred By Florida Power Corporation in OrderNo. 15895 for the purpose of determining why FPC's costs to transport [*3] coal by its affiliated waterborne system exceeded its costs to transport coal by non-affiliate rail. In September, 1987, we issued OrderNo. 18122, which removed TECO from Docket No. 860001-EI-G, established Docket No. 870001-EI-A for hearing the TECO issues, consolidated the two FPC issues for hearing in Docket No. 860001-EI-G and closed Docket No. 860001-EI-F.

By OrderNo. 18982, issued on March 11, 1988, this Commission determined to bifurcate the hearings in this docket on (1) the policy issue of whether a market price standard should be imposed on the recovery of costs for goods and services purchased from affiliated companies and (2) the separate issue of whether any of the monies FPC had recovered through its fuel and purchased power cost recovery clause for goods and services purchased from affiliates from 1984 to date had been imprudently or unreasonably incurred and should, therefore, be refunded to its customers. Hearings on the policy issue in this docket were held on May 11-13, 1988. Separate hearings were held in Docket No. 870001-EI-A on May 26, 1988, on the advisability of continuing TECO's recovery for affiliated transactions on a cost-plus basis. Hearings on [*4] the prudence issue in this docket were held December 14-19, 1988 and April 19, 1989.

In OrderNo. 20604 issued January 13, 1989, we ordered that as a matter of general policy, market-based pricing for affiliate fuel and fuel transportation services shall be used for the purposes of fuel cost recovery where a market for the product or service is available. We further stated that a market-based price, to be effective April 1, 1989, should be developed for affiliate coal purchased by FPC. The parties in the proceeding were directed to meet in workshops to attempt to develop a methodology by which market-pricing could be adopted for affiliated coal purchases and coal-handling transactions where to do so is reasonably possible. We are scheduled to consider Staff's recommendation on this issue at our October 17, 1989 Agenda Conference.

Our resolution of TECO's case in Docket No. 870001-EI-A, including our acceptance of a stipulation establishing methods for pricing TECO's affiliated coal and coal handling and transportation on a "market-price" basis are reported in OrderNo. 20298.

Due to the complex nature of the relationship between FPC, Electric Fuels Corporation (EFC) and the [*5] network of affiliates and joint ventures which have been created to supply FPC's fuel needs, we believe it is appropriate to examine in detail FPC's fuel supply and delivery network. Therefore, we have included a summary of these complex arrangements in this order prior to our discussion of each transaction at issue in this proceeding.

In March, 1976, Electric Fuels Corporation was established as a wholly-owned subsidiary of Florida Power Corporation and signed a Coal and Supply Delivery Agreement for the purchase and delivery of coal to Crystal River Units 1 and 2 (CR-1 and 2). The contract, in effect until 1991, had a minimum tonnage of 1.9 million tons per year, plus or minus 15% and provided for an adjustable base coal price based on changes in EFC's costs of mining, acquisition, handling and transportation of coal. This agreement was amended in October, 1977, to include in the basis for price adjustment, inclusion of a return on EFC's equity at a rate equal to the mid-point authorized FPC by this Commission. In December, 1978, EFC and FPC executed a similar Coal Supply and Delivery Agreement for CR-4 and 5, which provided for an annual minimum tonnage of 1.0 million tons [*6] for the two units. Since 1982, when Florida Progress Corporation, a holding company, was formed, EFC has been an affiliate of FPC.

Chapter 366, Florida Statutes (1987), provides the statutory basis for the exercise of the Commission's jurisdiction over public utilities. Public utilities are defined as "every person, corporation . . . supplying electricity . . . to or for the public within this state." Section 366.02, Florida Statutes. FPC is a public utility as defined in Chapter 366 and is

therefore subject to the jurisdiction of the Commission. EFC and the complex supply and delivery network they have created are not subject to the jurisdiction of the Commission under Chapter 366.

In *OrderNo.* 12645, this Commission considered and adopted certain standards for new long-term fuel contracts and concluded that the guidelines adopted should be applied to affiliates and subsidiaries of utilities or utility holding companies engaged in the procurement of fuel or services for a utility. We believe it reasonable then as well as now that purchases by affiliated companies for a utility meet the same standards as purchases by the utility itself. [*7] Therefore, in this proceeding we will review and subject the activities of EFC to the same scrutiny and standards that we would apply to FPC if they had procured their own fuel.

Dulcimer Reserves/Powell Mountain Joint Venture

In 1979, EFC purchased an 80% undivided interest in 33,000 acres of land in Kentucky and Virginia, including the mineral and surface rights. This 33,000 acres was, in turn, leased to the Dulcimer Land Company (Dulcimer), which is a partnership between Little Black Mountain Coal Reserves, Inc. (wholly owned subsidiary of EFC) and Murphy's Coal Company with partnership interests of 80% and 20%, respectively. Dulcimer subleases the coal reserves to various coal producers, one of which is Powell Mountain Joint Venture (PMJV).

PMJV is a 50-50 partnership between Homeland Coal Company, Inc. (wholly-owned subsidiary of EFC) and Angus Minerals Company, Inc. Both Murphy's Coal Company and Angus Minerals Company are wholly-owned subsidiaries of Amvest Corporation, the company from which EFC purchased its interest in these coal reserves.

Under a 1980 coal supply contract executed with EFC, PMJV mines, processes and ships coal to FPC. The contract establishes [*8] a base price per ton for coal, which consists of a base cost plus a base margin for overhead and profit. In addition, the billing price for coal was to be adjusted quarterly to reflect the difference between the specified base cost per ton and the actual cost per ton. In 1984, EFC negotiated a "price cap" with PMJV to constrain the escalating base price of the coal. The dollar difference between the invoiced price using the price cap the calculated base price accumulates in a "recoupable" reserve fund. Repayment of this fund by EFC is triggered when the PMJV price cap is equal to or more than \$ 1.00 per ton less than the average delivered price of domestic compliance coal received by EFC from contract coal suppliers with contract terms of four years or more.

In May, 1987, a letter of agreement was executed by EFC and PMJV establishing a fixed billing price for coal for the period June, 1987 through December, 1988. This agreement amended the "trigger" mechanism for the recoupment fund established in 1984, so that payments from EFC occur when the then current billing price for coal under the Coal Sales Agreement is less than the highest price paid by EFC to a third-party of similar [*9] quality coal. At that time, EFC will pay PMJV one half the difference between the price paid to a third-party supplier and the then-current billing price for coal. This mechanism applies to coal purchased up until May 31, 1987.

During the Fixed Billing Price Period established by this letter of agreement, a second recoupment fund was established, which accumulates the difference between the actual margin and the base margin calculated under the Coal Sales Agreement. Repayment of this fund will be triggered in the same manner as the first recoupment fund.

The issue raised by this transaction may be generally stated as whether given the information available to EFC at the time regarding the Dulcimer reserves and the state of the coal market, was EFC's decision to enter into a long-term contract prudent.

In 1979, EFC purchased an 80% interest in the Dulcimer reserves. According to the testimony, Paul Weir Company (Weirco) was commissioned to review the Dulcimer properties on March 26, 1979, and submitted their preliminary reserve estimate to EFC on June 4, 1979. Weirco advised EFC that the purchase price of 19.3 million was reasonable. Witness Matyas testified that there are [*10] certain steps that a potential purchaser of coal should follow prior to actual purchase which included: (1) determination of the type of coal required; (2) locate and secure access to a prospective property; (3) conduct an initial exploration and prepare a reserve estimate; (4) prepare a preliminary feasibility study of mining the coal; and (5) prepare a mine plan and final feasibility study. The purpose of these five steps is to reduce the risk that coal production from the property could not be produced at a competitive price. We agree with Witness Matyas' testimony.

The record of this proceeding does not demonstrate that EFC followed any of the generally accepted procedures prior to the purchase of the Dulcimer reserves. Rather, the preliminary feasibility study was not prepared by Weirco



FPL

AUGUST RATES 2008

Higher Fuel Costs, What We're Doing and Actions You Can Take

In this brochure, we want to provide to all FPL customers some highlights about changes in your electric rates as well as detailed information about your bill. We also want to give you some ideas on making it easier and more convenient to manage and pay your electric bill as well as tips on how to gain more control over your energy usage.

Higher Fuel Costs Mean Higher Electric Bills –

It takes fuel for us to generate the electricity you use every day in your home. Because fuel costs are a pass-through charge on customer bills, rising fuel costs mean higher electric bills. On July 1, the Florida Public Service Commission approved an adjustment in the pass-through fuel charge that will increase the bills of FPL customers in 2008 and 2009. From August through December 2008, a 1,000 kilowatt-hour monthly residential bill will increase by \$8.14, from \$102.63 to \$110.77 or about 8 percent.* The 2009 rate, which will be available in the rates insert you will receive in January 2009, will depend on factors such as the volatility of world fuel markets, hurricane events and other bill impacts. It's important to note that FPL does not make a single penny of profit on fuel, which represents more than half of a typical bill. Under Florida law, FPL is not permitted to earn a profit on fuel and customers only pay for the fuel needed to produce the electricity they consume.

What We're Doing and What You Can Do – FPL has taken numerous steps to mitigate the impact of fuel costs by improving the efficiency of our plants and building new generation facilities with low or no fuel costs. FPL's fossil fuel power plant fleet is the most fuel efficient among large-scale utilities nationwide, and we continue to improve the fuel efficiency of our plants. As a fossil power plant increases in efficiency, it can generate the same megawatt hour of electricity with less fuel, thus saving money for FPL customers and producing fewer greenhouse gases.

We have proposed power plant modernizations that will save customers roughly \$450 million in fuel and other savings due to increased efficiencies.

We're upgrading our existing nuclear facilities, where fuel costs are dramatically lower than for fossil fuel generation.

And we're planning to build three state-of-the-art solar energy centers in Florida.

In this brochure, you'll find information on a variety of easy and convenient FPL billing and payment options. You'll also find tips for getting more control over your energy usage, while protecting the environment and saving money at the same time. To get started, please visit www.FPL.com/toolkit.

*Amount will vary based on customer usage.

Tips to Help Manage Your Electric Use

There are a number of ways you can get more control over your energy usage.

1. On hot days, cool your home at 78° or warmer with the thermostat fan switch on "auto." For additional savings, raise your thermostat to 82° or warmer when you're away from home.
2. Install a programmable thermostat to adjust the temperature automatically and maximize energy savings. When cooling, try programming the thermostat to 82° while you are gone in the daytime and return it to 78° two hours before you get home.
3. Clean or replace your air conditioner's filter every month to trim your cooling and heating costs and help your unit run more efficiently.
4. Turn off your ceiling fan when you leave the room. A fan that runs constantly can cost up to \$7 a month depending on size and age. For more energy saving tips, visit www.FPL.com/toolkit.

EXHIBIT C



News Release

PSC Approves FPL Mid-Year Fuel Adjustment

JUNO BEACH, Fla., Jul 01, 2008 (BUSINESS WIRE) -- Florida Power & Light Company today received Florida Public Service Commission (PSC) approval to adjust the pass-through fuel surcharge on customers' bills and recover \$746 million in unanticipated fuel costs. Dramatic increases in world oil and natural gas prices made it necessary for the company to file a mid-year fuel correction as required by the PSC.

The company will recover 50 percent of the additional \$746 million in fuel costs between August and December of 2008 and the remaining 50 percent over the 12 months of 2009. A 1,000 kilowatt-hour monthly residential bill would increase beginning in August 2008 by \$8.14, from \$102.63 to \$110.77, or about 8 percent. Based on current market prices for fuel, a 1,000 kilowatt-hour monthly residential bill in 2009 would increase to approximately \$122, or about 10 percent. This 2009 rate is a projection and may vary depending on factors such as the volatility of world fuel markets, hurricane events, and other bill impacts.

Under Florida law, FPL is not permitted to earn a profit on fuel and customers only pay for the fuel needed to produce the electricity they consume. When fuel prices go up, the additional costs are passed through to customers, and when fuel prices go down, the savings are also passed through to customers.

We recognize that higher electric bills will be a burden on our customers. We never like having to increase the price customers pay for electricity, and it's especially painful during difficult economic times. We are doing everything we can to mitigate the impact of higher fossil fuel costs -- modernizing older plants, increasing the output at our nuclear facilities, and proposing to build three solar energy centers. However, the increase in fuel prices that we have been experiencing is extraordinary. This is not unique to FPL; utilities across the country are experiencing the same issue, said FPL President, Armando J. Olivera.

In its mid-year fuel correction filing, the company reported that the cost of natural gas has jumped from \$8.17 per million BTU in July 2007 (which formed the basis of FPL's 2008 fuel filing) to \$10.75 per million BTU in May 2008, a 32 percent increase. Fuel oil, which powers 8 percent of FPL's electricity generation, went up for the same period from \$57.81 per barrel in July of 2007 to \$89.02 per barrel in May of 2008, a 54 percent increase. The cost of fuel has continued to go up since the company filed its petition in early June, and at this point FPL is projecting an additional \$300 million under-recovery at the end of 2008. This projection may vary depending on factors such as the volatility of world fuel markets, hurricane events, and other bill impacts.

FPL's fleet is fuel efficient and continues to improve

FPL has taken numerous steps to mitigate the impact of fuel costs by improving the efficiency of its existing plants and building new generation facilities with low or no fuel costs:

- FPL's fossil fuel power plant fleet is the most fuel efficient among large-scale utilities nationwide. The company has improved fleet fuel efficiency by 10 percent in the past five years and by 18 percent since 1990. As a fossil power plant increases in efficiency, it can generate the same megawatt hour of electricity with less fuel, thus saving money for FPL customers and producing fewer greenhouse gases.
- FPL has proposed to modernize its power plants at Riviera Beach and Cape Canaveral, a move that will save customers roughly \$450 million in fuel and other savings over the life of the project. The new units will be considerably more efficient than the existing facilities, using 33 percent less fuel to produce the same amount of power.
- FPL is upgrading its existing nuclear facilities to produce an additional 400 megawatts of power, which is the equivalent of a medium-sized fossil fuel plant. Fuel costs for nuclear plants are dramatically lower than for fossil-fuel generation, costing roughly half a cent per kilowatt hour compared to 7 cents for natural gas and 10 cents for fuel oil.
- FPL has proposed to build three solar energy centers in Florida with a capacity of 110 megawatts. The fuel used to power these sites will be free.

FPL offers programs to help customers

FPL offers many programs and tips to its customers to help them manage their monthly electric bills. (Information is available on FPL's website at www.fpl.com). For example, customers can sign up for Budget Billing, which allows them to smooth out the amount of their monthly bill over the course of the year. In addition, FPL offers programs to help customers control their energy use, such as:

- Home Energy Surveys. A personalized analysis of home energy usage, along with a report providing energy-saving tips and recommendations.
- On Call(R). A program that automatically turns off major appliances when electricity demand is at its highest. Customers can save up to \$8 a month.
- A/C Buying Program. Because air conditioning alone can amount to more than half of total energy consumption in the summer months, FPL offers customers an incentive to install high-efficiency heating and cooling systems for homes.
- Duct System Test and Repair. For a nominal fee, FPL will inspect a home's cooling and heating ducts for costly leaks and even help pay to have them repaired.
- Photovoltaic Systems. FPL is committed to helping environmentally conscious customers offset some of their electricity costs by providing the means to interconnect their small photovoltaic systems to FPL's power grid.
- Energy Savings Toolkit. Customers can learn about common causes for high bills and solutions to help control energy usage and lower their bills.
- Building Envelope Program: FPL will pay incentives to reduce the cost of installing new insulation on homes built before 1982 and to install a roof that reflects the sun's rays.
- BuildSmart(R). FPL certifies new construction homes save up to 30 percent on energy bills when built to the FPL BuildSmart standard.

Tips for reducing your electricity usage

FPL also offers its customers a host of tips they can use to control their energy use. For example:

- Cool your home at 78 degrees or warmer with the thermostat fan switch on auto. For additional savings, raise your thermostat to 82 degrees or warmer when you're away from home.

8/12/2014

NexEra Energy, Inc. | Investor Relations: Wind Energy Stocks, Solar Energy Stocks, FPL Stock | News Release

- Install a programmable thermostat to adjust the temperature automatically and maximize your energy savings.
- Clean or replace your air conditioner's filter monthly to trim your cooling costs.
- Turn off your ceiling fan when you leave the room. A fan that runs constantly can cost up to \$7 a month depending on size and age.
- Avoid pre-rinsing dishes before putting in dishwasher. It can save nearly \$6 a month.
- Limit the time you run your pool pump to six hours a day in summer and four a day in winter.
- Adjust the water level on your washing machine to match the load size, especially when using hot water. Always use a cold rinse.
- Clean the lint filter in your dryer before every load to dry your clothes faster and save money.
- Use the auto sensor function on your dryer, if you have one, to conserve energy by not over-drying your clothes.

Florida Power & Light Company is a subsidiary of FPL Group, Inc. (NYSE:FPL), nationally known as a high quality, efficient and customer-driven organization focused on energy-related products and services. With annual revenues of over \$15 billion and a growing presence in 27 states, FPL Group is widely recognized as one of the country's premier power companies. Florida Power & Light Company serves 4.5 million customer accounts in Florida. FPL Energy, LLC, FPL Group's competitive energy subsidiary, is a leader in producing electricity from clean and renewable fuels. Additional information is available on the Internet at www.FPL.com, www.FPLGroup.com and www.FPLEnergy.com.

Note to Editors: High-resolution logos and executive head shots are available for download at <http://www.fpl.com/news/logos.shtml>.

SOURCE: Florida Power & Light Company

Florida Power & Light Company, Juno Beach
Mayco Villafana, 305-552-3888



How Fuel Cost Recovery Works

Summary

- » The Florida Public Service Commission (PSC) regulates public utilities, including electric utilities.
- » Various types of fuel are used to make electricity. Currently, the cost of fuel represents about half of a residential customer bill.
- » The fuel charge on the electric bill is regulated through a cost recovery clause. **Utilities make no profit on fuel.**

Background

The PSC created the fuel cost recovery clause March 7, 1980 (Docket Number 74680-CI, Order Number 9273). Until that time, utilities would present proposed fuel charge changes to the PSC at monthly public hearings. These were based upon recovery of costs two months after they were incurred.

This process was problematic for all parties involved.

- » For customers, bills were confusing and volatile because fuel charges varied widely from month to month. Another issue was created by the two-month lag: Charges for fuel costs incurred two months prior had no relationship to customers' current month electricity usage. Customers had no way to easily understand the relationship between fuel costs and their electricity usage.
- » For the PSC, the monthly hearing format did not give them adequate time to fully investigate the charges.
- » For utilities, the monthly over and under-recoveries were erratic and varied widely from month to month because of volatility in fuel prices.

The Fuel Cost Recovery Clause

The revised fuel cost recovery clause regulatory process benefits all parties. The primary advantage of the clause is bill stability. Both customers and the utility benefit from having a predictable fuel charge for a year's time. Furthermore, the revised regulatory process enables the PSC and utility more time for analysis of the fuel charges.

At the direction of the PSC, FPL adjusts its fuel charge in January of each year. The fuel charge that customers pay reflects a blend of fuel prices expected for the coming year (taking into account that prices rise and fall during the year due to a variety of market factors) as well as a true up of actual prices for the prior year and revised estimates for the current year. This enables stability of pricing for customers throughout the year.

The PSC oversight ensures that customers only pay for the fuel used to generate electricity and does not allow Florida utilities to make a profit on the fuel portion of the electric bill. When fuel prices go up, the costs are passed through to customers. When fuel prices go down, the savings are passed through to customers.

The fuel clause is managed through three annual filings with the PSC. Additional fuel filings occur only when extreme highs or lows in market pricing dictate a mid-course correction.

Filing Type	When Filed	Purpose
Final true-up	Late March	Calculates the actual amount spent on fuel the prior year versus the actual amount collected through customer bills during that year. The difference (surplus or deficit) is included in the following year's projection to prevent a sudden impact to the bill.
Estimated / Actual true-up	Early August	Calculates the actual fuel costs incurred during the first six months of the current year and revises projections for the remainder of the year. Any dollars not collected or over-collected will be included in the following year's projection to prevent a sudden impact in the bill.
Projections	Early September	Based on costs and sales forecasts for the upcoming year. It also includes the true up amounts identified during the previous two filings. Once approved, this filing sets the fuel charge and impacts customer bills in January.
Mid-course correction	Conditional	If the utility expects that fuel revenues will be 10 percent greater or less than the projected fuel revenues during a recovery period, the utility is required to notify the PSC through this filing. This filing does not occur on an annual basis – it depends on market conditions.

EXHIBIT D

Q.

For the following interrogatories, please refer to the testimony of FPL witness Sam Forrest:

Please refer to page 6, line 12, where the testimony refers to a figure of 600 billion cubic feet (Bcf) of gas that FPL may purchase annually for all natural gas generation.

a. Assuming Commission approval of FPL's Petition, and that 600 Bcf was the forecasted need for 2015, what proportion of 2015's forecasted amount will be met with gas from the Woodford Project?

b. As it awaits Commission approval of FPL's Petition, does FPL or an affiliated entity have a long-term supply contract arranged to provide needed gas for FPL's gas-fired generating plants? Please explain your response.

A.

a. Based on an annual consumption of 600 Bcf, the Woodford Project would meet approximately 2.52% of FPL's daily needs. However, based on FPL's 2014 Ten Year Site Plan, which projects a 2015 annual gas consumption of 544.7 Bcf, the Woodford Project would meet 2.78% of FPL's daily needs.

b. FPL currently procures 100% of its natural gas needs from over 40 non-affiliated entities. FPL maintains a portfolio of purchases that range from three years in advance down to next day. Long-term purchases (annual purchases up to 3 years in length) provide a base load supply of natural gas for FPL's generation portfolio. Medium-term (monthly and seasonal) purchases allow FPL to manage the variations in natural gas requirements that happen from season to season and month to month. Daily procurement activities are utilized to handle the swings in required volume (typically above long-term and medium-term supply) due to load fluctuations caused by weather, generation availability, etc. All of these physical purchases, whether made well in advance or day ahead, are made at market prices – prices that are entirely dictated by the market. There is no shortage of opportunities to procure gas at market prices. If FPL does not receive approval for the Woodford Project by January 1, 2015, given the liquidity and availability of gas at the Perryville Hub, it will have little difficulty in replacing this relatively minor volume of gas in the market by procuring on a day-to-day basis or even longer term, depending on the length of delay or a denial of the petition. FPL and its customers would, however, forego savings from the Woodford Project during the delay in approval.