

**BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**

In re: Fuel and purchased power cost recovery  
clause with generating performance incentive  
factor

Docket No. 150001-EI

Filed: September 1, 2015

**FLORIDA POWER & LIGHT COMPANY'S RESPONSE  
TO FLORIDA INDUSTRIAL POWER USERS GROUP'S  
MOTION TO INCLUDE DISPUTED ISSUES OF MATERIAL FACT**

Florida Power & Light Company ("FPL" or the "Company"), pursuant to Rule 28-106.204, Florida Administrative Code ("F.A.C."), hereby files this response to the Florida Industrial Power Users Group's ("FIPUG") Response to Staff Memorandum and Recommendation, filed August 25, 2015. During the August 27, 2015 Agenda Conference, the Commission ruled that FIPUG's filing should be treated as a standalone motion to include disputed issues of fact ("FIPUG's Motion"), rather than as a "response" to Staff's recommendation to deny the Office of Public Counsel's ("OPC") July 8, 2015 motion to include disputed issues of fact ("OPC's Motion"), and that FPL should have an opportunity to respond to FIPUG's Motion. Consistent with that ruling, FPL hereby responds to FIPUG's Motion, showing that it should be denied for the reasons set forth below.

**FIPUG's Proposed Issues Are Irrelevant**

1. FIPUG's Motion relates to the following two issues that FIPUG has proposed to include for resolution in this docket:

**ISSUE 3L:** For the year 2014, what was the total net hedging gain or loss associated with FPL's Woodford hedging activities?

**ISSUE 3M:** Does FPL anticipate reporting a hedging gain or loss for calendar year 2015 related to its Woodford hedging activities, and if so, what is the projected amount of the anticipated hedging gain or loss associated with FPL's Woodford hedging activities?

In Order No. PSC-15-0038-FOF-EI, the Commission approved FPL's Woodford natural gas reserves project. Nothing remains for the Commission to decide regarding the Woodford project in this docket.

2. While the overall results of FPL's and the other IOUs' hedging programs will be evaluated in this docket and there are agreed issues under which the Commission will decide how utilities should proceed with hedging, there is nothing specific about the Woodford project that can or should affect that decision. FIPUG and OPC have appealed Order No. PSC-15-0038-FOF-EI to the Florida Supreme Court, where their appeals are pending and where jurisdiction over the approval of the Woodford Project now lies. FIPUG's proposed issues are nothing more than an unauthorized, collateral attack on an order that it has already appealed.

3. FIPUG has attempted to tie its proposed issues to the Gas Reserves Guidelines, arguing that under the Guidelines FPL must demonstrate the cost-effectiveness of each project. With respect to the Woodford Project, however, the Commission has already made that determination. Neither the order approving the Woodford Project nor the order approving FPL's gas reserves guidelines contemplates that a second examination of the Woodford Project's cost-effectiveness.

#### FIPUG's Proposed Issues Are Also Redundant and Unnecessary

4. Even if FIPUG's proposed issues were relevant to this docket, they would be unnecessary and redundant. On August 27, 2015, the Commission denied OPC's Motion, which sought to include three hedging-related factual issues regarding utilities' gains and losses over time. The Commission found that through the hearing process OPC could address facts related to hedging gains and losses under the hedging-related issues that parties and Staff had already agreed to include for resolution in this docket. Consistent with the ruling on OPC's Motion,

FIPUG's Motion should be denied because – if they were relevant at all – FIPUG's proposed issues would be properly subsumed within hedging-related issues to be addressed in this docket.

5. All parties and Staff have agreed to include the following two issues about FPL's hedging program (the "FPL Hedging Issues"):

**ISSUE 3A:** Should the Commission approve as prudent FPL's actions to mitigate the volatility of natural gas, residual oil, and purchased power prices, as reported in FPL's April 2015 and August 2015 hedging reports?

**ISSUE 3B:** Should the Commission approve FPL's 2016 Risk Management Plan?

The Woodford Project's 2015 results to date are reported in FPL's hedging activity report that was filed in this docket on August 14, 2015 and is the subject of Issue 3A. The Woodford project is likewise addressed in FPL's 2016 Risk Management Plan that was filed on August 4, 2015 and is the subject of Issue 3B. These agreed issues afford FIPUG ample opportunity to present whatever relevant evidence it may have concerning hedging results associated with the Woodford Project. As indicated by the Commission's ruling during the August 27, 2015 Agenda Conference when it denied OPC's Motion, there is simply no need to elevate one party's position to that of an issue for Commission disposition by adding that party's laundry list of sub-issues to the case.

6. The Prehearing Officer<sup>1</sup> has the discretion to exclude issues that are irrelevant, redundant or properly subsumed within other issues that have been included for resolution. *See, e.g.,* Order No. PSC-12-0441-PCO-EI, Docket No. 120009-EI, dated August 27, 2012; Order No. PSC-12-0323-PHO-TP, Docket No. 110234-TP, dated June 22, 2012. *See also* Docket 150001, DN 05344-15 (vote sheet reflecting Commission's denial of OPC's Motion To Include Disputed Issues of Material Fact).

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<sup>1</sup> The Commission has the same discretion, if the Prehearing Officer deferred the matter to the full Commission.

WHEREFORE, FPL respectfully requests that the FIPUG Motion be denied, because its two proposed factual issues are irrelevant to this docket and, even if they were relevant, would be properly subsumed within the FPL Hedging Issues.

Respectfully submitted this 1st day of September, 2015.

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**CERTIFICATE OF SERVICE**  
**Docket No. 150001-EI**

I **HEREBY CERTIFY** that a true and correct copy of the foregoing has been furnished by electronic service on this 1st day of September, 2015 to the following:

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