

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Environmental cost recovery clause.

DOCKET NO. 20180007-EI  
ORDER NO. PSC-2018-0594-FOF-EI  
ISSUED: December 20, 2018

The following Commissioners participated in the disposition of this matter:

ART GRAHAM, Chairman  
JULIE I. BROWN  
DONALD J. POLMANN  
GARY F. CLARK  
ANDREW GILES FAY

APPEARANCES:

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On behalf of Florida Power & Light Company (FPL or Company)

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On behalf of Tampa Electric Company (TECO)

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On behalf of Gulf Power Company (GULF)

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FINAL ORDER

APPROVING PROJECTED EXPENDITURES AND TRUE-UP  
AMOUNTS FOR ENVIRONMENTAL COST RECOVERY

BY THE COMMISSION:

BACKGROUND

As part of the Florida Public Service Commission's (Commission) continuing environmental cost recovery clause (ECRC) proceedings, we conducted a hearing in this docket on November 5, 2018. The parties resolved all issues by Type 2 stipulation, except those related to our review of Florida Power & Light Company's (FPL or Company) (1) the Turkey Point Cooling Canal Monitoring Plan project (TPCCMP Project) and "fall out" dollar amounts in other issues related thereto, (2) proposed modifications to the Manatee Temporary Heating System project (MTHS Project), and (3) proposed modifications to the National Pollutant Discharge

Elimination System Permit Renewal Requirements project (NPDES Project). Testimony on these issues was presented at the hearing. On November 16, 2018, FPL, the Office of Public Counsel (OPC), and Southern Alliance for Clean Energy (SACE) filed post-hearing briefs. We have jurisdiction in this matter pursuant to Section 366.8255, Florida Statutes (F.S.).

## REVIEW AND DECISION

### **I. FPL's final environmental cost recovery true-up amounts for the period January 2017 through December 2017**

#### **A. Parties' Arguments**

##### *1. FPL*

FPL asserts that there is an over recovery of \$31,560,081 for the period January 2017 through December 2017. FPL contends that the Company is eligible for cost recovery for the TPCCMP Project expenditures associated with compliance activities for the 2015 Consent Agreement (CA) and 2016 Consent Agreement Addendum (CAA) with the Miami-Dade Department of Environmental Resource Management (DERM) and for the 2016 Consent Order (CO) with the Florida Department of Environmental Protection (FDEP), approved by this Commission in the 2017 Environmental Cost Recovery Clause (ECRC) proceeding.<sup>1</sup> FPL argues that this Commission is not the appropriate regulator to determine if remediation objectives are being met in a timely manner, but rather FDEP and DERM are. FPL asserts that the activities for which it seeks cost recovery are undertaken pursuant to the requirements of the CA, CAA, and/or CO and are prudent and reasonable. FPL argues that it is in compliance with the DERM CAA.

##### *2. SACE*

SACE contests FPL's recovery of TPCCMP Project expenditures and argues that the Company knew or should have known prior to 1993 that its Turkey Point Plant was causing an underground hypersaline plume. SACE asserts that FPL ratepayers should not be responsible for FPL's remediation costs due to the Company's imprudent operation of the Turkey Point Plant. SACE contends that FPL has not met its burden of proof to demonstrate projected costs are reasonable. Specifically, SACE argues that FPL is not timely complying with its requirements under the CAA and, therefore, these costs are not reasonable.

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<sup>1</sup>Order No. PSC-2018-0014-FOF-EI, issued January 5, 2018, in Docket No. 20180007-EI, *In re: Environmental cost recovery clause*.

## **B. Analysis**

### *1. Final ECRC True-Up Amount*

Based on the testimony and exhibits in the record, FPL's environmental cost recovery true-up amount for 2017 for all programs is \$31,560,081. FPL's final total for 2017 expenditures for the TPCCMP Project is approximately \$14.2 million.<sup>2</sup>

### *2. TPCCMP Project Eligibility*

We initially approved recovery through the ECRC of FPL's TPCCMP Project in the 2009 ECRC Proceeding.<sup>3</sup> Subsequently, we approved recovery of additional costs associated with remediation and mitigation activities as required by various environmental regulators.<sup>4</sup> As a result, SACE's argument that FPL's ratepayers should not be responsible for any past or projected expenses associated with these activities ignores our prior decision allowing recovery of reasonable costs for the TPCCMP Project. FPL's actual, estimated, and projected expenditures for the TPCCMP project are tied to remediation and mitigation activities required by its environmental regulators. While SACE also argues that TPCCMP Project costs are unreasonable based upon the allegation that FPL is not timely complying with its environmental requirements, it is not within our jurisdiction to determine whether or not FPL is in compliance with and meeting environmental requirements; that is the role of the environmental regulators. Moreover, the record indicates that FPL is currently in compliance with the CA, CAA, and CO. Upon review, we find that FPL has demonstrated its actual, estimated, and projected costs, including TPCCMP Project costs, are reasonable and that such costs shall be allowed for cost recovery.

## **C. Decision**

The final true-up amount for the period January 2017 through December 2017, for FPL is an over-recovery of \$31,560,081. There shall be no adjustment to this amount associated with the TPCCMP Project.

## **II. FPL's estimated/actual environmental cost recovery true-up amounts for the period January 2018 through December 2018**

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<sup>2</sup>TPCCMP Project costs include \$11,150,044 for operation and maintenance (O&M) and \$3,042,331 in recoverable costs for capital investment, for a total of \$14,192,375.

<sup>3</sup>Order No. PSC-09-0759-FOF-EI, issued November 18, 2009, in Docket No. 20090007-EI, *In re: Environmental cost recovery clause*.

<sup>4</sup>Order No. PSC-2018-0014-FOF-EI, issued January 5, 2018, in Docket No. 20180007-EI, *In re: Environmental cost recovery clause*.

## **A. Parties' Arguments**

### *1. FPL*

FPL asserts that it has a \$5,614,420 under-recovery for the period January 2018 through December 2018, and that it is eligible for recovery of costs associated with the TPCCMP Project.

### *2. SACE*

SACE argues that we should not approve FPL's request for cost recovery of TPCCMP remediation activities and that FPL's negligence in the operation of the Cooling Canal System (CCS) led to violations of law and the compliance requirements being placed on the Company. SACE contends that FPL is not making timely progress in meeting its compliance requirements. SACE asserts that FPL should not be allowed to recover costs for the TPCCMP Project because the Company engaged in imprudent activity and its projected costs are unreasonable due to the Company being out of compliance with the CAA.

## **B. Analysis**

### *1. Estimated/Actual ECRC True-Up Amount*

Based on the testimony and exhibits in the record, FPL's environmental cost recovery true-up amount for 2018, for all programs, is \$5,614,420. FPL's actual/estimated total for 2018 expenditures for the TPCCMP Project is approximately \$32.8 million.<sup>5</sup>

### *2. TPCCMP Project Eligibility*

As discussed above at Section I, we have previously approved the inclusion of costs for the TPCCMP Project. Upon review, we find that FPL has demonstrated that costs for the activities contested by SACE are associated with the TPCCMP Project and shall be allowed for cost recovery.

## **C. Decision**

FPL's actual/estimated true-up amount for the period January 2018 through December 2018, is an under-recovery of \$5,614,420. There shall be no change to this amount associated with the TPCCMP Project.

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<sup>5</sup>TPCCMP Project costs include \$28,268,375 for O&M and \$4,504,185 in recoverable costs for capital investment, for a total of \$32,772,560.

**III. FPL's projected environmental cost recovery amounts for the period January 2019 through December 2019**

**A. Parties' Arguments**

*1. FPL*

FPL projects environmental costs of \$187,365,910 for January 2019 through December 2019. As discussed above under in Section I, FPL argues that it is eligible for recovery of costs associated with the TPCCMP Project.

*2. SACE*

SACE asserts that we should not approve FPL's request for cost recovery of TPCCMP remediation activities. SACE avers that FPL's negligence in the operation of the CCS led to violations of law and compliance requirements being placed on it and that FPL is not making timely progress in meeting its compliance requirements. SACE argues that FPL should not be allowed to recover costs for the TPCCMP Project because it engaged in imprudent activity and its projected costs are unreasonable because the Company being out of compliance with the CAA.

**B. Analysis**

*1. Projected ECRC Amount*

Based on testimony and exhibits in the record, FPL's environmental cost recovery projected amount for 2019 for all programs is \$187,365,910. FPL's projected cost total includes expenditures for the TPCCMP Project of approximately \$24.3 million.<sup>6</sup>

*2. TPCCMP Project Eligibility*

As discussed above at Section I, we have previously approved the inclusion of costs for the TPCCMP Project. Upon review, we find that FPL has demonstrated that costs for the activities contested by SACE are associated with the TPCCMP Project and shall be allowed for cost recovery.

**C. Decision**

FPL's projected costs for the period January 2019 through December 2019, total \$187,365,910, which includes projected expenditures associated with the TPCCMP Project.

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<sup>6</sup>TPCCMP Project costs include \$17,735,378 for O&M and \$6,534,008 in recoverable costs for capital investment, for a total of \$24,269,386.

**IV. FPL's environmental cost recovery amounts, including true-up amounts, for the period January 2019 through December 2019**

**A. Parties' Arguments**

*1. FPL*

FPL asserts that its environmental cost recovery amount for the period January 2019 through December 2019 is \$161,536,472, including prior period true-up amounts and revenue taxes. Consistent with its position discussed above at Section I, FPL argues that it is eligible for recovery of costs associated with the TPCCMP Project.

*2. SACE*

SACE asserts that we should not approve FPL's request for cost recovery of TPCCMP remediation activities. SACE avers that FPL's negligence in the operation of the CCS led to violations of law and compliance requirements being placed on the Company and that FPL is not making timely progress in meeting its compliance requirements. SACE argues that FPL should not be allowed to recover costs for the TPCCMP Project because it engaged in imprudent activity and its projected costs are unreasonable because the Company is out of compliance with the CAA.

**B. Analysis**

*1. Projected ECRC Amount*

Based on the testimony and exhibits in the record, FPL's environmental cost recovery amount, including true-up amounts, is \$161,536,472. FPL's expenditures for the period 2017 through 2019, for the TPCCMP Project are approximately \$71.2 million.<sup>7</sup>

*2. TPCCMP Project Eligibility*

As discussed above at Section I, we have previously approved the inclusion of costs for the TPCCMP Project. Upon review, we find that FPL has demonstrated that costs for the activities contested by SACE are associated with the TPCCMP Project and shall be allowed for cost recovery.

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<sup>7</sup>TPCCMP Project costs include \$57,153,797 for O&M and \$14,080,524 in recoverable costs for capital investment, for a total of \$71,234,321.

**C. Decision**

FPL’s projected amount, including true-ups, for the period January 2019 through December 2019, is a total of \$161,536,472, which includes projected expenditures associated with the TPCCMP Project.

**V. FPL’s appropriate environmental cost recovery factors for the period January 2019 through December 2019, for each rate group**

**A. Parties’ Arguments**

*1. FPL*

FPL argues that it is eligible for recovery of costs associated with the TPCCMP Project and that its factors are as follows:

RATE CLASS	Environmental Cost Recovery Factor (cents/kWh)
RS1/RTR1	0.159
GS1/GST1	0.157
GSD1/GSDT1/HLFT1	0.142
OS2	0.086
GSLD1/GSLDT1/CS1/CST1/HLFT2	0.139
GSLD2/GSLDT2/CS2/CST2/HLFT3	0.121
GSLD3/GSLDT3/CS3/CST3	0.121
SST1T	0.108
SST1D1/SST1D2/SST1D3	0.138
CILC D/CILC G	0.121
CILC T	0.112
MET	0.130
OL1/SL1/SL1M/PL1	0.035
SL2/SL2M/GSCU1	0.113
Total	0.149

*2. SACE*

SACE asserts that FPL’s factor amount should not include any cost recovery for remediation activities related to the TPCCMP because FPL engaged in imprudent activity and

the Company's projected costs are unreasonable due to the Company being out of compliance with the CAA.

### **B. Analysis and Decision**

Having approved the Company's environmental cost recovery amounts, including true-up amounts, for the period January 2019 through December 2019, above at Section IV, we hereby approve FPL's factors which are set forth in the Company's argument above in this Section V.

## **VI. FPL's Petition for Approval of Modification to Manatee Temporary Heating System Project and the recovery of the associated costs through the ECRC**

### **A. Parties' Arguments**

#### *1. FPL*

FPL proposed modifications to the MTHS Project to include an additional heating system at the Plant Fort Myers (Fort Myers). FPL asserts that it must install a new system because Fort Myers is no longer adequately dispatched during manatee season, and thus, the Company is at risk of being out of compliance with environmental requirements. FPL argues that the proposed Fort Myers system is eligible for recovery under the ECRC and represents the most cost-effective solution.

#### *2. OPC*

OPC agrees that FPL has submitted adequate evidence to meet all the criteria necessary to qualify for recovery through the ECRC on a stand-alone basis. However, OPC expresses concern that in its filing the Company relies upon our prior approval of similar projects, instead of seeking independent approval for the "modification." OPC avers that we must independently determine that each cost submitted for recovery meets each element of the statutory requirements for recovery through this clause as set out in Section 366.8255, Florida Statutes. OPC asserts that FPL has not proven that these costs fully meet the statutory test to the extent that the Company relies upon prior approvals of similar types of projects for meeting the Company's burden of proof.

### **B. Analysis**

#### *1. MTHS Project and Proposed Modifications*

We initially approved cost recovery through the ECRC of FPL's MTHS Project in the 2009 ECRC proceeding, addressing the Company's Riviera Beach and Cape Canaveral

facilities.<sup>8</sup> Subsequently, we approved recovery of costs associated with the Port Everglades and Dania Beach facilities in the 2012 and 2017 ECRC proceedings.<sup>9</sup>

FPL is seeking to recover costs associated with a heating system for Fort Myers to keep water temperatures high enough to maintain a manatee refuge. The proposed addition includes electric heating equipment and associated intake and pumping systems.

## *2. Eligibility Criteria*

The ECRC, enacted into law in 1993, provides an investor-owned utility with an opportunity to recover the costs associated with changes in environmental regulations between rate cases. The statute authorizes this Commission to review and decide whether a utility's environmental compliance costs are recoverable through an environmental cost recovery factor. When we first implemented the provisions of Section 366.8255, F.S., we identified the criteria required to demonstrate eligibility for cost recovery under the ECRC clause:

- a. Such costs were prudently incurred after April 13, 1993;
- b. The activity is legally required to comply with a governmentally imposed environmental regulation enacted, became effective, or whose effect was triggered after the Company's last test year upon which rates are based; and,
- c. Such costs are not recovered through some other cost recovery mechanism or through base rates.<sup>10</sup>

Pursuant to Section 366.8255, F.S., only a utility's prudently incurred environmental compliance costs are allowed to be recovered through the ECRC.<sup>11</sup> Our review of FPL's proposed modification to the MTHS Project is based upon the information in the hearing record regarding these specific modifications and whether these modifications independently meet the ECRC criteria and reasonableness tests.

## *3. Eligibility Criteria Review*

Because the proposed modification to the MTHS Project was implemented beginning in 2018, it meets the first criterion. FPL is not recovering any MTHS Project costs through an alternate mechanism, and thus, the modification costs meet the third criterion.

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<sup>8</sup>Order No. PSC-09-0759-FOF-EI, issued November 18, 2009, in Docket No. 20090007-EI, *In re: Environmental cost recovery clause*.

<sup>9</sup>Order No. PSC-12-0613-FOF-EI, issued November 16, 2012, in Docket No. 20120007-EI, *In re: Environmental cost recovery clause* and Order No. PSC-2018-0014-FOF-EI, issued January 5, 2018, in Docket No. 20180007, *In re: Environmental cost recovery clause*.

<sup>10</sup>Order No. PSC-94-0044-FOF-EI, issued January 12, 1994, in Docket No. 19930613-EI, *In re: Petition to establish an environmental cost recovery clause pursuant to Section 366.8255, Florida Statutes, by Gulf Power Company*.

<sup>11</sup>Order No. PSC-05-0164-PAA-EI, issued on February 10, 2005, in Docket No. 20041300-EI, *In re: Petition for Approval of New Environmental Program for Cost Recovery Through Environmental Cost Recovery Clause, by Tampa Electric Company*.

The second criterion is dependent upon the timing of the Company's last rate case and the environmental regulation. FPL's most recent rate case was resolved by a settlement between many parties, including FPL and OPC, and was approved by order of this Commission on December 15, 2016.<sup>12</sup> In the instant docket, FPL identifies the environmental regulation requiring the proposed modification of the MTHS Project as FDEP's Industrial Wastewater Facility Permit (Permit) for Fort Myers, issued January 20, 2016. The Permit states, in relevant part, "[t]he permittee shall continue compliance with the facility's Manatee Protection Plan approved by [FDEP] on August 18, 1999." This requires FPL to maintain a warm water manatee refuge during mid-November through the end of March annually, unless doing so endangers the safety or reliability of Fort Myers. FPL argues that operating circumstances have changed since FPL's most recent rate case, effectively triggering the effects of the Permit, due to a combination of scheduled maintenance outages and reductions in the projected economic dispatch of Fort Myers. Therefore, the proposed MTHS Project meets the second criterion.

Regarding the reasonableness of expenditures for the modification to the MTHS Project, FPL evaluated alternatives including (1) operating Fort Myers out of economic dispatch and (2) using a temporary diesel system. No other available alternative was as cost-effective at meeting the environmental requirement as the proposed system at Fort Myers. Therefore, the costs associated with the modification of the MTHS Project appear reasonable at this time.

### **C. Decision**

Based upon the foregoing, we approve FPL's petition; the Company shall be allowed to recover reasonable costs associated with its proposed modification to the MTHS Project through the ECRC.

## **VII. FPL's Petition for Approval of Modification to National Pollution Discharge Elimination System Permit Renewal Requirement Project and the recovery of associated costs through the ECRC pursuant to Section 366.8255, F.S.**

### **A. Parties' Arguments**

#### *1. FPL*

FPL's proposed modification to the NPDES Project includes the replacement of cooling tower packing material at Plant Scherer Unit 4 (Scherer). FPL asserts that Scherer is likely to be required to limit copper discharge in future environmental permits, and the replacement addressed this concern. FPL seeks ECRC recovery of the modifications to the NPDES Project contingent upon the issuance of a future environmental permit including the copper limitation requirement. FPL argues that the modification to the NPDES Project satisfies the requirements of recovery for the ECRC as it is based on an anticipated environmental regulation.

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<sup>12</sup>Order No. PSC-16-0560-AS-EI, issued December 15, 2016, in Docket No. 20160021-EI, *In re: Petition for rate increase by Florida Power & Light Company*.

## 2. OPC

OPC expresses concern that the contingent nature of FPL's request for a modification to the NPDES Project is outside of the scope of Section 366.8255, F.S. OPC contends that the Company's filing appears to rely upon our prior approval of similarly named projects, instead of independent approval. OPC argues that the proposed project is significantly different than the projects previously approved under the NPDES Project. OPC asserts that because the project has already been completed, there is no urgency requiring a contingent approval. OPC argues that we must independently determine that each cost submitted for recovery meets each element of the statutory requirements for recovery through this clause as set out in Section 366.8255, F.S. OPC argues that FPL has not proven that these costs fully meet the statutory test to the extent that the Company relies on prior approvals of similar types of projects for meeting its burden of proof. OPC concludes that this project may not be ripe for approval.

### **B. Analysis**

#### *1. NPDES Project and Proposed Modifications*

We initially approved recovery through the ECRC of FPL's NPDES Project in the 2011 ECRC proceeding.<sup>13</sup> The project was focused on complying with then-new FDEP requirements to establish whole effluent toxicity limits and prepare storm water pollution prevention plans. Subsequently, we approved recovery of costs associated with the St. Lucie facility's renewed permit. Specifically, in 2012, we approved recovery of costs related to a requirement for a total residual oxidants plan of study.<sup>14</sup>

FPL is seeking to recover costs associated with the replacement of cooling tower packing material at Scherer to meet anticipated permit conditions. The replacement of cooling tower packing material began in March 2018, and was completed in May 2018. FPL is a joint owner of Scherer and its requested recovery is proportional to its ownership interest in Scherer. FPL initially estimated its portion of the costs was \$9 million, but the actual cost was \$7.9 million. FPL is not seeking recovery through the ECRC at this time; therefore, the cost of the project does not affect FPL's proposed ECRC expenditures at this time.

#### *2. Eligibility Criteria*

As discussed above at Section VI, the eligibility criteria for cost recovery under the ECRC include whether: (1) costs were prudently incurred after April 13, 1993; (2) the activity is legally required to comply with a governmentally imposed environmental regulation after the Company's last rate case test year; and (3) costs are not recovered through another mechanism or

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<sup>13</sup>Order No. PSC-11-0553-FOF-EI, issued December 7, 2011, in Docket No. 20110007-EI, *In re: Environmental cost recovery clause*.

<sup>14</sup>Order No. PSC-12-0613-FOF-EI, issued November 16, 2012, in Docket No. 20120007-EI, *In re: Environmental cost recovery clause*.

through base rates.<sup>15</sup> Pursuant to Section 366.8255, F.S., only a utility's prudently incurred environmental compliance costs are allowed to be recovered through the ECRC. Our review of the proposed modification to the NPDES Project is based upon the information in the hearing record regarding these specific modifications and whether these modifications independently meet the ECRC criteria and reasonableness tests.

### *3. Eligibility Criteria Review*

Because the proposed modification to the NPDES Project was implemented in 2018, it meets the first criterion. FPL is not currently seeking recovery of costs associated with the proposed modification to the NPDES Project, and the Company plans to recover costs in base capital accounts prior to issuance of the revised permit. The Company requests approval to transfer recovery to the ECRC if the anticipated environmental requirement occurs. As such, current base rates are supporting the expenditures associated with the proposed modification to the NPDES Project.

The second criterion is dependent upon the timing of the Utility's last rate case and the environmental regulation. As discussed above at Section VI, FPL's base rates were last established by a settlement approved on December 15, 2016.<sup>16</sup> The Company describes repacking activities in 2018 as the modification to the NPDES Project to address anticipated permit conditions. FPL specifies that the Company's request is contingent upon a possible outcome of a future permit for Scherer. FPL asserts that there are "indications that there is a probability that there is a concern" regarding copper at Scherer.

Based on the record in this docket, we find that it is premature to approve recovery of the proposed modification to the NPDES Project, because the environmental regulation has not yet been enacted, become effective, or had its effects triggered. Therefore, we find that the proposed modification to the NPDES Project fails the second criterion at this time.

### **C. Decision**

The proposed modification to the NPDES Project does not meet the threshold requirement of being incurred to comply with environmental regulations as required by Section 366.8255, F.S. Therefore, we deny recovery of costs through the ECRC at this time.

## **VIII. Stipulations**

The approved language resolving the remaining issues in this Docket is included in Attachment A of this Order which is incorporated herein by reference. Parties either concurred with, or took no position on, the approved language.

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<sup>15</sup>Order No. PSC-94-0044-FOF-EI, issued January 12, 1994, in Docket No. 19930613-EI, *In re: Petition to establish an environmental cost recovery clause pursuant to Section 366.8255, Florida Statutes, by Gulf Power Company.*

<sup>16</sup>Order No. PSC-16-0560-AS-EI, issued December 15, 2016, in Docket No. 20160021-EI, *In re: Petition for rate increase by Florida Power & Light Company.*

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that the stipulated language set forth in Attachment A of this Order is approved. It is further

ORDERED that the final true-up amount for the period January 2017 through December 2017, for Florida Power & Light Company is an over recovery of \$31,560,081. There shall be no adjustment to this amount associated with the TPCCMP Project. It is further

ORDERED that the actual/estimated true-up amount for the period January 2018 through December 2018, for Florida Power & Light Company is an under-recovery of \$5,614,420. There shall be no adjustment to this amount associated with the TPCCMP Project. It is further

ORDERED that the projected amount for the period January 2019 through December 2019 for Florida Power & Light Company is a total of \$187,365,910, which includes projected expenditures associated with the TPCCMP Project. It is further

ORDERED that Florida Power & Light Company the projected cost recovery amount, including true-ups, for the period January 2019 through December 2019 is a total of \$161,536,472. This includes projected expenditures associated with the TPCCMP Project. It is further

ORDERED that we approve the factors for Florida Power & Light Company that are set forth at Section V of this Order. It is further

ORDERED that Florida Power & Light Company's petition and be allowed to recover costs associated with its proposed modification to the Manatee Temporary Heating System Project is hereby approved. Reasonable costs associated with the project shall be allowed to be recovered through the ECRC. It is further

ORDERED that Florida Power & Light Company's proposed modification to the National Pollution Discharge Elimination System Project does not meet the threshold requirement of being necessary to comply with environmental regulations as required by Section 366.8255, F.S. Therefore, we deny recovery of costs through the ECRC at this time. It is further

ORDERED that as reflected in the approved stipulation set forth in Attachment A of this Order, while a separate docket number is assigned each year for administrative convenience, this is a continuing docket and shall remain open.

By ORDER of the Florida Public Service Commission this 20th day of December, 2018.



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CARLOTTA S. STAUFFER  
Commission Clerk  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, Florida 32399  
(850) 413-6770  
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Copies furnished: A copy of this document is provided to the parties of record at the time of issuance and, if applicable, interested persons.

CWM

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.

**ATTACHMENT A. APPROVED STIPULATIONS**

**The final environmental cost recovery true-up amounts for the period January 2017 through December 2017**

FPL		
DEF	\$4,814,791	Over-Recovery
TECO	\$1,498,666	Over-Recovery
GULF	\$3,179,666	Over-Recovery

For FPL see Section I of this Order

**The estimated/actual environmental cost recovery true-up amounts for the period January 2018 through December 2018**

FPL		
DEF	\$4,444,194	Over-Recovery
TECO	\$13,472,483	Over-Recovery
GULF	\$9,436,937	Over-Recovery

For FPL see Section II of this Order.

**The projected environmental cost recovery amounts for the period January 2019 through December 2019**

FPL	
DEF	\$65,034,322
TECO	\$57,919,982
Gulf	\$184,156,532

For FPL see Section III of this Order.

**The environmental cost recovery amounts, including true-up amounts, for the period January 2019 through December 2019**

FPL	
DEF	\$55,815,494
TECO	\$42,980,454
Gulf	\$171,663,438

For FPL see Section IV of this Order.

**Depreciation rates to be used to develop the depreciation expense included in the total environmental cost recovery amounts for the period January 2019 through December 2019**

The depreciation rates used to calculate depreciation expense shall be the rates that are in effect during the period the allowed capital investment is in service, with the following exception: TECO -- Big Bend Fuel Oil Tanks I & 2, which were retired in 2016, will be depreciated over a five-year period from the date of retirement.

**The appropriate jurisdictional separation factors for the projected period January 2019 through December 2019**

The appropriate jurisdictional separation factors for the period January 2019 through December 2019 are as follows:

<b>FPL:</b>	Retail Energy Jurisdictional Factor - Base/Solar	95.9309%
	Retail Energy Jurisdictional Factor - Intermediate	94.4167%
	Retail Energy Jurisdictional Factor - Peaking	95.5155%
	Retail Demand Jurisdictional Factor - Transmission	89.2071%
	Retail Demand Jurisdictional Factor - Base/Solar	95.7589%
	Retail Demand Jurisdictional Factor - Intermediate	94.2474%
	Retail Demand Jurisdictional Factor - Peaking	95.3443%
	Retail Demand Jurisdictional Factor - General Plant	96.9214%
	Retail Demand Jurisdictional Factor - Distribution	100.0000%

**DEF:** The Energy separation factor is calculated for each month based on retail kWh sales as a percentage of projected total kWh sales. The remaining separation factors are below and are consistent with DEF's 2017 Second Revised and Restated Stipulation and Settlement Agreement ("2017 Agreement") approved in Order No. PSC-2017-0451-AS-EU.

Transmission Average 12 CP Demand –	70.203%
Distribution Primary Demand –	99.561%

Production Demand:	
Production Base –	92.885%
Production Intermediate –	72.703%
Production Peaking –	95.924%
Production A&G –	93.221%

**TECO:** Energy: 100.00%  
Demand: 100.00%

**GULF:** The demand jurisdictional separation factor is 97.18277%. Energy jurisdictional separation factors are calculated each month based on projected retail kWh sales as a percentage of projected total territorial kWh sales

**The appropriate environmental cost recovery factors for the period January 2019 through December 2019, for each rate group**

The appropriate environmental cost recovery factors for the period January 2019 through December 2019 for each rate group are as follows:

**FPL:** For FPL see Section V of this Order.

**DEF:**

<b>RATE CLASS</b>	<b>ECRC FACTORS</b>
Residential	0.143 cents/kWh
General Service Non-Demand @ Secondary Voltage	0.143 cents/kWh
@ Primary Voltage	0.142 cents/kWh
@ Transmission Voltage	0.140 cents/kWh
General Service 100% Load Factor	0.141 cents/kWh
General Service Demand @ Secondary Voltage	0.141 cents/kWh
@ Primary Voltage	0.140 cents/kWh
@ Transmission Voltage	0.138 cents/kWh
Curtable @ Secondary Voltage	0.137 cents/kWh
@ Primary Voltage	0.136 cents/kWh
@ Transmission Voltage	0.134 cents/kWh
Interruptible @ Secondary Voltage	0.138 cents/kWh
@ Primary Voltage	0.137 cents/kWh
@ Transmission Voltage	0.135 cents/kWh
Lighting	0.138 cents/kWh

**TECO:**

<u>Rate Class</u>	<u>Factor (¢/kWh)</u>
RS	0.222
GS, CS	0.221
GSD, SBF	
Secondary	0.220
Primary	0.218
Transmission	0.216
IS	
Secondary	0.217
Primary	0.214
Transmission	0.212
LS1	0.217
Average Factor	0.221

**GULF:**

<b>RATE CLASS</b>	<b>ENVIRONMENTAL COST RECOVERY FACTORS ¢/kWh</b>
RS, RSVP, RSTOU	1.810
GS	1.669
GSD, GSDT, GSTOU	1.483
LP, LPT	1.327
PX, PXT, RTP, SBS	1.272
OS-I/II	0.511
OS-III	1.172

**The effective date of the new environmental cost recovery factors for billing purposes**

The factors shall be effective beginning with the specified environmental cost recovery cycle and thereafter for the period January 2019 through December 2019. Billing cycles may start before January 1, 2019 and the last cycle may read after December 31, 2019, so that each customer is billed for twelve months regardless of when the adjustment factor became effective. These charges will continue in effect until modified by the Commission.

**Whether the Commission should approve DEF's FGD Blowdown Pond Closure Project and the recovery of the associated costs through the ECRC pursuant to Section 366.8255, F.S.**

Yes. In Order No. PSC-2015-0536-FOF-EI, the Commission found that DEF's Coal Combustion Residual Rule ("CCR") Program (Project 18) met the criteria for recovery through the Environmental Cost Recovery Clause ("ECRC"). DEF's FGD Blowdown Pond Closure Project is reasonable, meets the CCR rule requirements for the Crystal River facility, and complies with the requirements of section 366.8255, Florida Statutes and Order No. PSC-1994-0044-FOF-EI.

**How costs associated with DEF's proposed Crystal River FGD Blowdown Pond Closure project shall be allocated to rate classes**

Consistent with CCR O&M costs approved in Order No. PSC-2015-0536-FOF-EI, O&M costs associated with the FGD Blowdown Pond Closure shall be allocated to rate classes on an energy basis.

**Whether the Commission should approve FPL's Petition for Approval of the Solar Site Avian Monitoring Project and the recovery of the associated costs through the ECRC pursuant to Section 366.8255, F.S.**

Yes. FPL is required to obtain a siting permit from the Alachua County Department of Growth Management ("Alachua DGM") for its Horizon Solar Energy Center ("HSEC"). Pursuant to the Development Review Committee Order DR-17-04 issued by the Alachua DGM on February 16, 2017, FPL is required to conduct avian mortality monitoring and report the results of that monitoring as a permit condition for the HSEC.

**How costs associated with FPL's proposed Solar Site Avian Monitoring and Reporting project should be allocated to rate classes**

O&M costs associated with FPL's proposed Solar Site Avian Monitoring and Reporting project shall be allocated to rate classes based 100% on Energy. FPL does not expect to incur any capital costs associated with this project.

**Whether the Commission should approve Gulf's 316(b) Cooling Water Intake Structure Regulation Project and the recovery of the associated costs through the ECRC pursuant to Section 366.8255, F.S.**

Yes, the 316(b) Cooling Water Intake Structure Regulation project meets the criteria for recovery through the Environmental Cost Recovery Clause. Recovery of related costs through the ECRC shall be approved.

**How costs associated with Gulf's proposed 316(b) Cooling Water Intake Structure Regulation project should be allocated to rate classes**

Capital costs for the 316(b) Cooling Water Intake Structure Regulation program shall be allocated to the rate classes on an average 12-MCP demand and 1/13<sup>th</sup> energy basis. O&M cost for the program shall be allocated on a demand basis.

**Whether the Commission should approve TECO's petition for approval of the Big Bend Unit 1 Section 316(b) Impingement Mortality project and the recovery of the associated costs through the ECRC pursuant to Section 366.8255, F.S.**

Yes, the Big Bend Unit 1 Section 316(b) Impingement Mortality project meets the criteria for recovery through the Environmental Cost Recovery Clause. Recovery of related costs through the ECRC shall be approved.

**How costs associated with TECO's proposed Big Bend Unit 1 Section 316(b) Impingement Mortality project should be allocated to rate classes**

The capital expenditures shall be allocated to rate classes on a demand basis, and operation and maintenance expenses shall be allocated to rate classes on an energy basis. For 2018 and 2019, only capital expenditures are projected, so all costs will be allocated on a demand basis.

**Whether the Commission should approve TECO's petition for approval of the Big Bend Station Effluent Limitations Guidelines (ELG) Rule Compliance project and the recovery of the associated costs through the ECRC pursuant to Section 366.8255, F.S.**

Yes, the Big Bend Station effluent Limitations Guidelines (ELG) Rule Compliance project meets the criteria for recovery through the Environmental Cost Recovery Clause. Recovery of related costs through the ECRC shall be approved.

**How costs associated with TECO's proposed Big Bend Section ELG Rule Compliance project should be allocated to rate classes**

The capital expenditures shall be allocated to rate classes on a demand basis, and operation and maintenance expenses shall be allocated to rate classes on an energy basis. For 2018 and 2019, only capital expenditures are projected, so all costs will be allocated on a demand basis.

**Whether the Commission should approve revised tariffs reflecting the environmental cost recovery amounts and environmental cost recovery factors determined to be appropriate in this proceeding**

Yes. The Commission shall approve revised tariffs reflecting the environmental cost recovery factors determined to be appropriate in this proceeding. Staff shall verify that the revised tariffs are consistent with the Commission's decision.

**Whether this docket should be closed**

No. While a separate docket number is assigned each year for administrative convenience, this is a continuing docket and shall remain open.